

Trust Administration System

Department of the Interior

➤ Final Trust Recommendations Report



Grant Thornton

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Executive Summary

➤ Study Background

The Grant Thornton team conducted a baseline and assessment of the DOI Trust Administration System (TAS) to gauge how well DOI is meeting its fiduciary trust responsibilities to Indians and Alaska Natives. As detailed in Sections 1 and 2 of the *Comprehensive Assessment* report, TAS currently provides trust services across multiple DOI bureaus/offices. While the processes employed by these bureaus/offices are producing intended outputs (e.g., appraisals), poor coordination among individual bureaus/offices is causing unnecessary delays for beneficiaries.

This report posits a future state organizational structure for DOI TAS, as well as the future state of the Office of the Special Trustee for American Indians (OST) that mitigates many of the coordination and communication problems currently causing delays in trust services. Figure 1 conveys the current state organizational structure for DOI TAS, and the shaded organizational boxes note the degree of trust responsibility within each DOI bureau/office. This graphic serves as the reference point to understand all structural changes suggested in this report.

Current State DOI Trust Administration System (TAS)

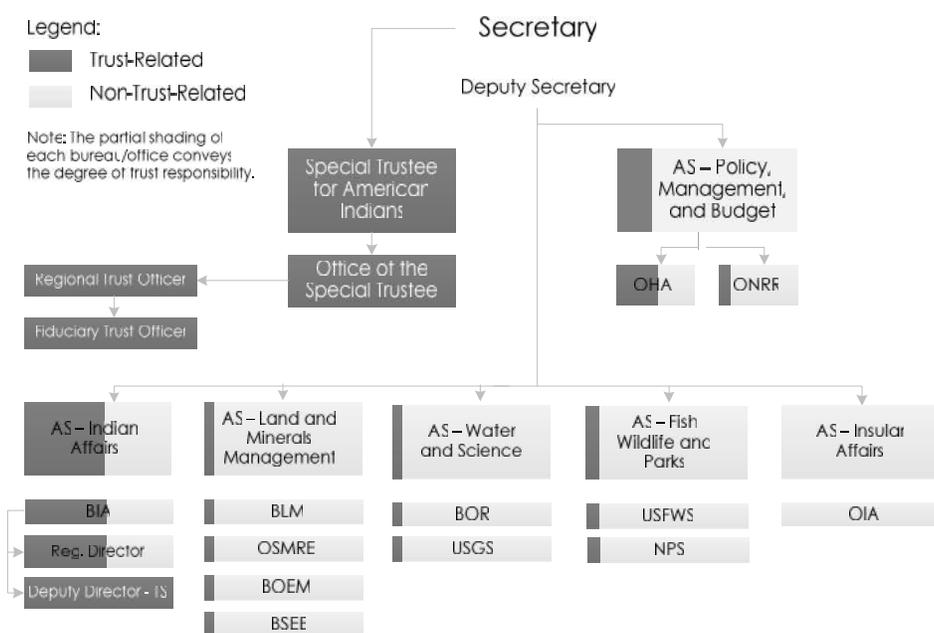


Figure 1: Current State DOI Trust Administration System (TAS) Organizational Structure¹

¹ All DOI bureaus/offices will maintain federal trust and Tribal Government Consultation responsibilities as defined by the Constitution, Treaty Agreements, Executive Orders (EO), Secretarial Orders (SO), and previous legal decisions including but not limited to EO 13175, SOs 3206 and 3317, Section 106 of the Historic Preservation Act, Native American Graves Protection and Repatriation Act (NAGPRA), and National Environmental Policy Act (NEPA). An example of continued

➤ Recommended Future Governance Structure Overview

To determine the best future state organizational structure for DOI TAS, the Grant Thornton team evaluated the proposed models from the *Comprehensive Assessment* report using several criteria:

- To what degree does the proposed organizational structure address the significant coordination problems identified in DOI TAS?
- How feasible is the proposed organizational structure in terms of economic, legislative, and managerial considerations?
- What degree of autonomy would the proposed organizational structure have from DOI?
- Does the structure mitigate tribal/beneficiary concerns about conflicts of priorities between trust programs and other DOI responsibilities?

The Grant Thornton team concluded that a modified version of the *Comprehensive Assessment's* independent commission (alternative 3) is the optimal organizational structure for DOI TAS. This conclusion was based on several considerations:

- An independent commission centralizes management of DOI trust functions and withdraws trust responsibilities from DOI bureaus/offices. By establishing a single point of accountability, Indian Trust Administration Commission (ITAC) will dramatically improve coordination and the efficiency of services provided to tribes and beneficiaries.
- Significant and relevant legislative precedent exists for establishing independent commissions to manage politically sensitive and important governmental functions.
- The independent commission would benefit from functional and budget autonomy from DOI, thus mitigating tribal/beneficiary concerns about conflicts of priorities.
- The proposed commission would maintain cabinet-level advocacy through the Secretary of the Interior by virtue of its continued relationship with DOI.

The proposed future state model is based on the Federal Energy Regulation Commission (FERC) and its relationship with the Department of Energy (DOE). FERC is a fully independent commission that regulates the interstate transmission of electricity, natural gas, and oil. However, it is still located within the Department of Energy because FERC fills such an important role in arbitrating energy-related conflicts among states and other parties, conducting rulemakings, and establishing standards. Congress' intent was to consolidate all energy-related organizations into one cabinet-level agency.

In the Congressional hearings for the Department of Energy Organization Act which produced FERC, it was noted that having an independent commission that could overrule the DOE Secretary might produce inefficiencies and strife. Congress concluded, however, that having an independent commission within DOE would serve as a check on "executive excess," and

Tribal Consultation at non-TAS bureaus/offices include the need for BLM to notify tribes of potential health risks before spraying for noxious weeds and consult with tribes as this may impact tribal activities such as grasses and other foods for used for subsistence, religious ceremonial gatherings, or sacred sites.

establish a means of regulation that was fair and objective.² Housing ITAC within DOI will provide a similar benefit to trust administration management, as well as service delivery to beneficiaries.

Indian Trust Administration Commission Summary Graphic

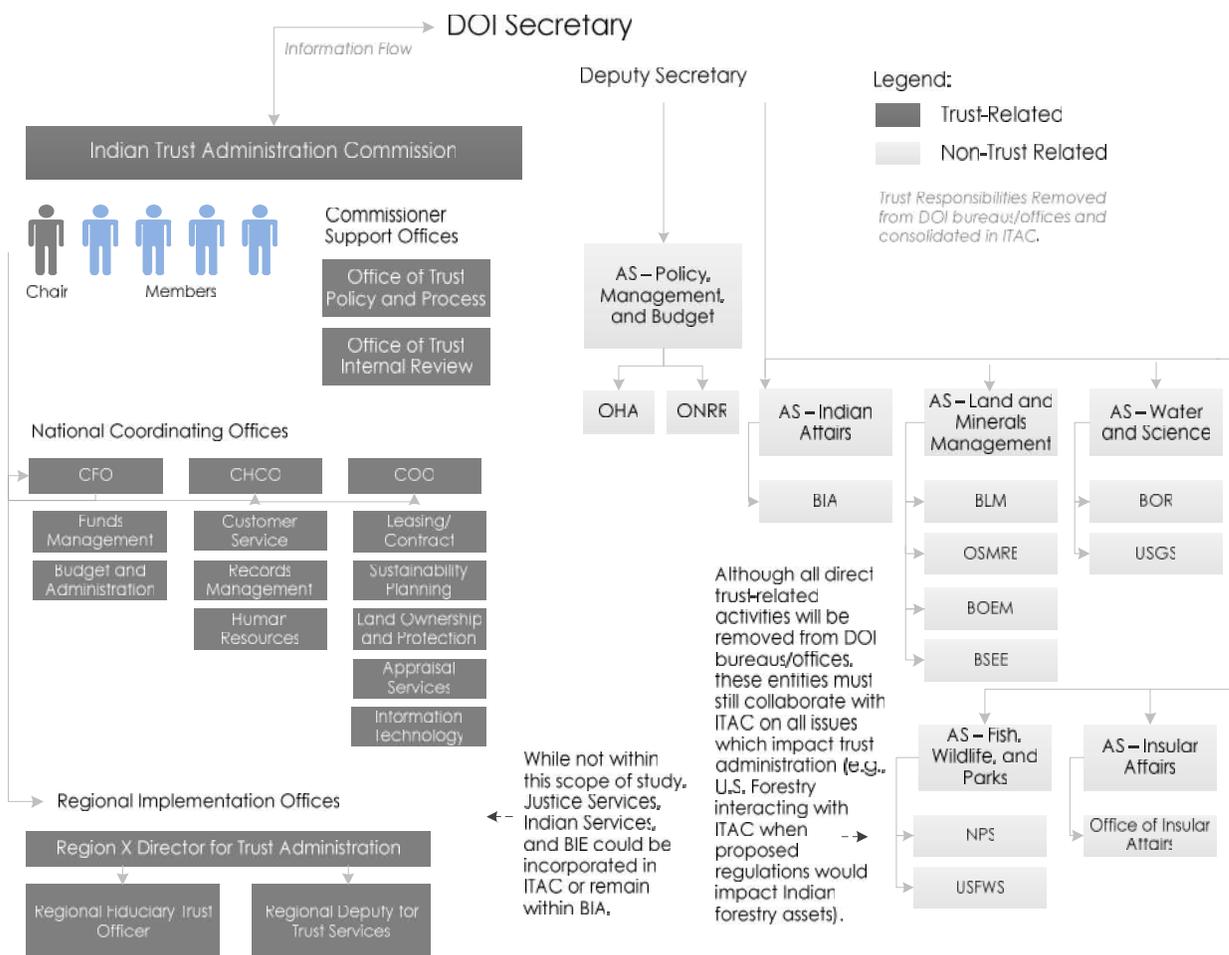


Figure 2: ITAC Summary Graphic and Depiction of Post-ITAC DOI

Figure 3 details the proposed ITAC structure, including the four major tiers of the organization (e.g., commissioners, commissioner support offices, national coordinating offices, and regional implementation offices). This report is organized around each organizational tier, and discusses the rationale for why each entity is needed, proposed roles and responsibilities, as well as existing sources of staff within DOI TAS.

²Grenier Jr., Edward J. and Robert W. Clark III. "The Relationship Between DOE and FERC: Innovative Government or Inevitable Headache?" *Energy Law Journal* Vol. 1:325. Electronic. http://www.felj.org/elj/Energy%20Journals/Vol1_No2_1980_The_Relationship_Between_DOE_and_F.pdf

Indian Trust Administration Commission (ITAC)

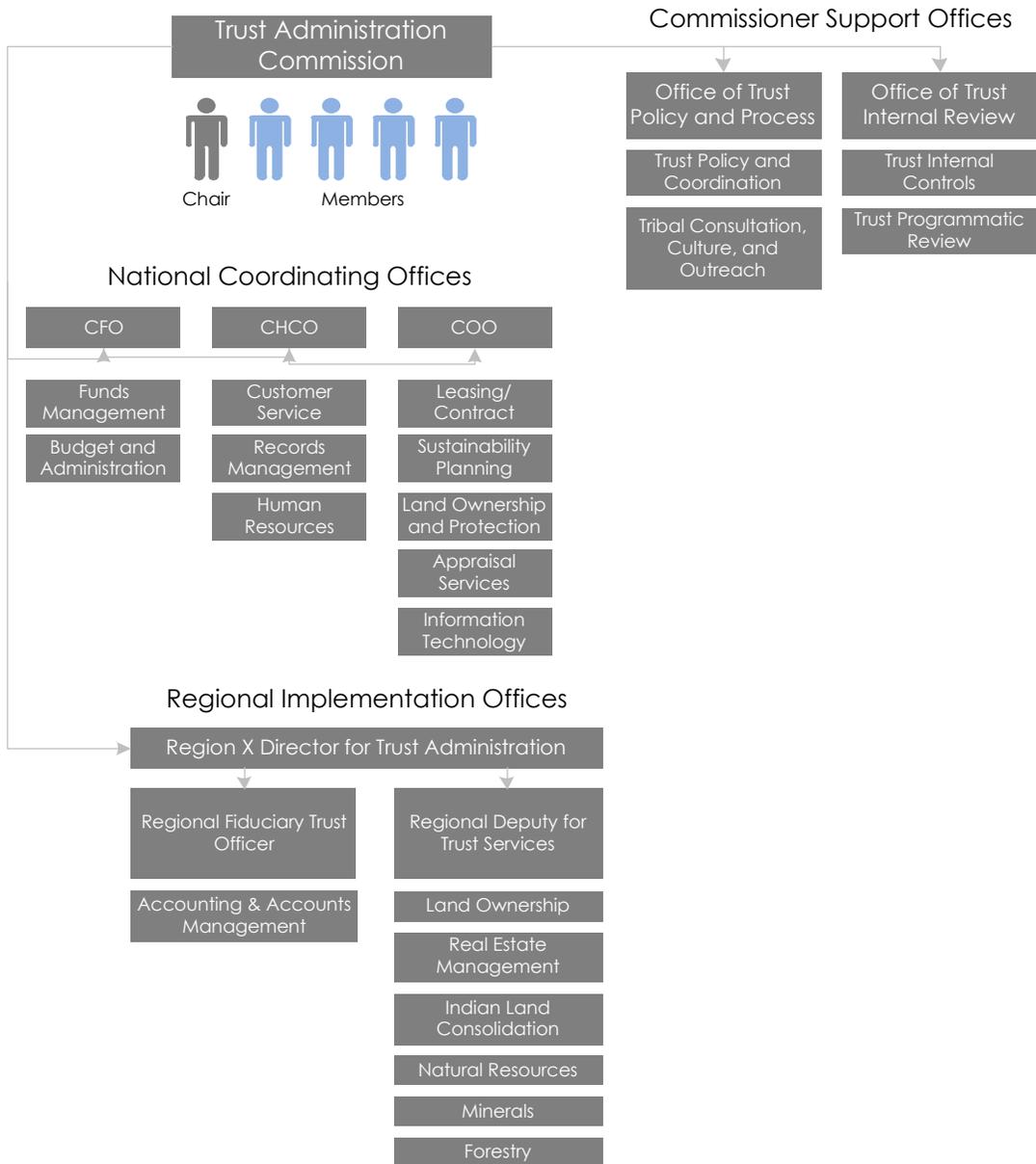


Figure 3: Indian Trust Administration Commission (ITAC) Proposed Organizational Structure

➤ Organization of the Phase 5 Report

Figure 4 summarizes the final trust recommendations provided in this report. Recommendations are presented as structural, managerial, or procedural fixes.

Structural recommendations are generally long-term, and aim to improve overarching TAS coordination problems addressed in the baseline and assessment phases of this study. Structural recommendations include the establishment of ITAC; definition of roles and responsibilities across national coordinating offices; and realignment of regional implementation offices.

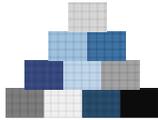
Managerial recommendations provide the necessary foundation to implement larger-scale, structural changes needed to improve the delivery of trust services. These recommendations unify disparate trust management strategies and support the consistent and collaborative delivery of service, including ITAC-wide strategic and operational planning; change management and communication planning; standardization of trust management policies, procedures, and information technology systems; information technology requirements analysis; performance measure development and monitoring; and human capital planning.

Procedural recommendations allow TAS to make process-level fixes within current areas of bureau/office-level ownership, and/or in the proposed ITAC governance structure (e.g., funds management, information technology, land ownership and protection).

Phase 5: Final Trust Recommendations

Recommendation Type	Section 1: ITAC Leadership	Section 2: ITAC Commissioner Support	Section 3: National Coordination Offices	Section 4: Regional Implementation	Appendix A
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STRUCTURAL



(Long-term structural fixes to TAS coordination problems)

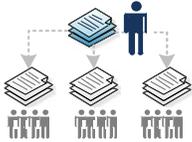
ITAC Commissioner responsibilities, appointment process, removal process, and delegated authority.

ITAC Commissioner Support Office responsibilities and avenues for increasing TAS-wide consistency and collaboration, specifically policy, consultation, and internal review.

ITAC National Coordination Offices to streamline TAS operations (by function), and oversee regional implementation.

ITAC Regional Implementation Office structure and responsibilities related to direct service delivery.

MANAGERIAL



(Medium-term managerial fixes to enable long-term structural fixes)

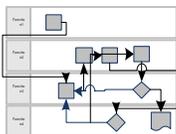
- Authorizing legislation
- Finalizing scope of ITAC rulemaking authority
- Governance and SOPs for interactions with DOI

- ITAC / TAS-wide strategic planning
- TAS to ITAC change management planning
- Communications and stakeholder consultation planning.
- Performance monitoring and measure development
- Standardization of policies and procedures

- Future-state workforce assessment
- ITAC organizational requirements analysis
- Performance monitoring and measure development
- Human capital planning

- Performance monitoring and measure development
- Human capital planning

PROCEDURAL



(Short-term procedural fixes which impact service delivery)

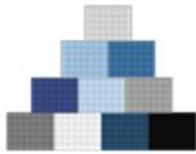
Best-practice based procedural recommendations presented by future ITAC functional areas (e.g., funds management).

Figure 4: Final Trust Recommendations Report Summary

1 ITAC Leadership

A. Ensuring ITAC Independence

STRUCTURAL



ITAC is intended to be functionally independent from DOI. One method of ensuring this independence is the inclusion of specific legislative language in the act authorizing the creation and funding of ITAC.

Although the final language of any proposed

authorizing legislation falls under the purview of the act's

sponsor(s) and the Office of the Legislative Counsel in either the House of Representatives or U.S. Senate, the Grant Thornton team recommends an independence statement similar to that used for FERC. Specifically, Section 401 (d) of the Department of Energy Organization Act states, "In the performance of their functions, the members, employees, or other personnel of the Commission shall not be responsible to or subject to the supervision or direction of any officer, employee or agent of any other part of the Department."³

Another key element of maintaining the autonomy of an independent commission is ensuring a funding mechanism that mitigates the impact of partisanship and political pressure. Like other federal independent commissions, ITAC should submit its budget request concurrently to both the Office of Management and Budget (OMB) and Congress. Liaisons and staff from both branches would then determine the budget allocation. In the event that the same political party controls both the legislative and executive branches, individual Senators can serve as a block on partisanship and guarantee the independence of the commission by exercising or threatening to exercise a filibuster.⁴



Figure 5: ITAC Commissioners

³ ITAC's independence would also be supported by the President's limited ability to remove commissioners once installed in office. The President generally has to demonstrate independent commissioners are removed for cause, as compared to other executive branch officials who serve at the pleasure of the President. The exact removal powers of the President would depend on the specifics of ITAC's authorizing legislation.

⁴ Consolidating the trust responsibilities of DOI bureaus/offices into an independent agency was first suggested in 1977 by the American Indian Policy Review Commission (the Commission). After a two-year study, the Commission concluded that four changes could increase the quality of trust services: 1) consolidation of "federal administration" into an independent agency; 2) zero-based budgeting that delivered tribal requests directly to Congress; 3) revisions in federal laws to provide domestic assistance to Indians; and 4) increased focus on self-governance and direct service delivery to tribes. Although a confluence of factors ultimately stalled the 1977 Commission's recommendations, political considerations were the foremost in importance.

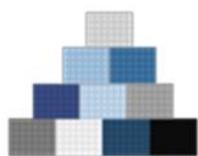
This report avoids the pitfalls of the 1977 report by suggesting only the first change – establishing an independent commission. This recommendation will dramatically increase the quality of trust services, while largely avoiding many of the politically-charged attendant issues like tribal, state, and federal jurisdiction, and tribal self-governance.

<http://www.lakotalaw.org/wp-content/uploads/2012/12/>

[American%20Indian%20Policy%20Review%20Commission,%20Final%20Report,%201977.pdf](http://www.lakotalaw.org/wp-content/uploads/2012/12/American%20Indian%20Policy%20Review%20Commission,%20Final%20Report,%201977.pdf)

2. Defining ITAC's Relationship with DOI

STRUCTURAL

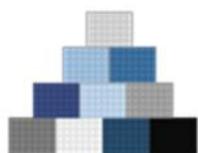


ITAC should remain housed in DOI, similar to how FERC is a part of DOE. This represents the optimal arrangement because DOI will still be administering important and costly services to Indian Country. This will allow the Secretary of the Interior to advocate for the totality of Indian needs at cabinet-level meetings. If ITAC, however, were made fully independent like the Federal Election Commission (FEC), and shifted outside DOI, ITAC would lose its advocate in cabinet-level meetings – barring the unique and unlikely creation of a special cabinet seat for the ITAC Chair.

The relationship between DOI and ITAC should be limited to just cabinet-level advocacy and general information sharing. As depicted in Figure 2, information would flow between the ITAC Chair and the Secretary of the Interior. This information could include budget needs (as long as OMB and Congress received original ITAC justifications to maintain independence), issues regarding conflicts with other executive agencies, or potential areas of collaboration or shared services agreements.

3. Appointing ITAC Commissioners

STRUCTURAL



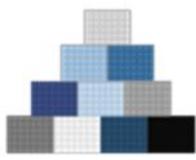
Again using FERC as the recommended model, up to five ITAC Commissioners should be appointed by the President with the advice and consent of the Senate. The Grant Thornton team recommends more than one Commissioner to better represent the diverse responsibilities and tribes within the trust. One of the five Commissioners should be designated as the Chair, with the Chair empowered to appoint a designee in their absence. For the initial set of Commissioners, terms should be staggered, wherein two Commissioners would serve one year, two would serve three years, and one would serve five years. After the initial commissioner terms end, the duration should be set at five years.⁵

ITAC's autonomy and the professionalism of its leaders are ensured by the dual requirements of Senate confirmation and staggered Commissioner terms. The Senate confirmation process generally improves the quality of nominations because the minority party can threaten to filibuster particularly partisan or otherwise unqualified candidates. Also, while a president will eventually have the opportunity to appoint all ITAC members, the time which elapses before he/she could complete the task protects ITAC from short-term political pressures and rushed decision making.

⁵ *Department of Energy Organization Act*. Sec. 401(b). August 4, 1977.

4. Determining the Future Role of OST

STRUCTURAL



Stipulated by the Act of June 24, 1938 (U.S.C. 162a) and reinforced by the American Indian Trust Fund Reform Act of 1994 (Reform Act), the federal government must fulfill the following trust responsibilities:

1. Providing adequate systems for accounting for and reporting trust fund balances.
2. Providing adequate controls over receipts and disbursements.
3. Providing periodic, timely reconciliations to assure accuracy of accounts.
4. Determining accurate account balances.
5. Preparing and supplying account holders with periodic statements of their account performance, and balances available on a daily basis.
6. Establishing consistent, written policies and procedures for trust fund management and accounting.
7. Providing adequate staffing, supervision, and training for trust fund management and accounting.
8. Appropriately manage the national resources located within the boundaries of Indian reservations and trust lands.

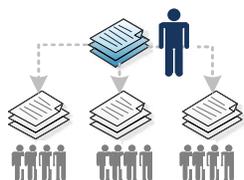
Title III, Section 301 of the Reform Act established OST, with the primary purpose to oversee and ensure the fulfillment of the trust responsibilities outlined above. Also, OST is tasked with establishing management practices that carry out these responsibilities in a “unified manner,” and ensuring that “reforms of the policies, practices, procedures, and systems of [BIA, BLM, and ONRR], which carry out such trust responsibilities, are effective, consistent and integrated.”⁶

As discussed in the baseline and assessment phases of the *Comprehensive Assessment*, it is clear that while the inherent functions of OST must remain intact, TAS (including OST) struggles to provide trust services that are “effective, consistent, and integrated” across DOI bureaus/offices. To address this disparity in quality and effectiveness of services provided across regions, bureaus, and offices, the recommended future organization consolidates BIA Trust Services, OST, and trust-related responsibilities from AS-IA, BLM and ONRR into ITAC. Consolidation of trust services under one independent commission centralizes management and administration of trust assets and operations.

⁶ S. 4239, 103d Cong. (1994) (enacted). Print.

5. Precursory Steps to Establishing a Successful ITAC Commission

MANAGERIAL



A. Determine the Scope of ITAC's Rulemaking Authority

ITAC requires the ability to issue regulations to provide consistent, effective trust administration services. For example, regulation is required to standardize thresholds and methods for funds disbursement to IIM accountholders. The authority to issue regulations is derived from an agency's authorizing legislation, thus the scope and subject matter of ITAC's rulemaking powers is a critical input to the founding of the commission. Before drafting the ITAC authorizing legislation, DOI and DOJ legal counsel should be consulted to help define the scope of ITAC's rulemaking authority.

Once the scope of ITAC's rulemaking authority is determined, the agency should prioritize which areas of trust administration are most in need of regulation. The following inputs should be considered when developing the regulation plan:⁷

1. New technologies, performance data, and emerging trends
2. Concerns arising from highly publicized examples of poor performance
3. Recommendations from Congressional or other federal advisory committees
4. Petitions from beneficiaries, the public, or other interest/stakeholder groups
5. Presidential directives
6. Pending lawsuits
7. Studies and recommendations of agency staff
8. Recommendations by the Office of Management and Budget (or the U.S. Government Accountability Office)

B. Facilitate the Drafting and Passage of ITAC Authorizing Legislation

Considerable groundwork would have to be laid to draft authorizing legislation for ITAC and ultimately achieving its passage. This would include:

1. An informal investigation to determine if a Congressional sponsor would be willing to support a legislative proposal.
2. Extensive consultation with the Commission.
3. Consultation sessions with leaders in Indian Country, as well as other key stakeholders to determine their receptivity.
4. Further research to evaluate the success and shortcomings of past and current efforts to manage Indian trust assets.
5. Obtaining opinions from legislative and regulatory experts regarding reasonable approaches to take in establishing sufficient statutory authority.

⁷ https://www.federalregister.gov/uploads/2011/01/the_rulemaking_process.pdf

C. Analyze Potential Short-Term Solutions for Sunsetting OST

The Trust Fund Management Reform Act of 1994 established OST to oversee and coordinate DOI's implementation of trust fund management reforms. The Act included a sunset provision for OST, requiring the Special Trustee to develop a strategic plan with a timetable for implementing trust reforms. No formal date for enacting the sunset provision has been established; however, a 2006 GAO report noted that OST's estimated completion date for trust reforms was November 2007.⁸ In the period since November 2007, OST has continued its role in implementing trust reforms and monitoring tribal accounts, as well as providing financial services to beneficiaries.

Full implementation, funding, and deployment of ITAC will likely require several years. During which, OST's financial functions will continue to be required, but its trust fund reform responsibilities arguably will not. To hasten the migration of these financial functions, DOI should examine its options for "sunsetting" OST. One strong temporary option would be to move all OST functions under the Assistant Secretary – Indian Affairs (AS-IA). While this option would not address the conflicting priorities and independence issues remedied by ITAC, it would serve as an interim solution for consolidating trust responsibilities, increasing accountability, and fostering process improvement.

⁸ http://www.doi.gov/ost/trust_documents/upload/GAOReportonOST.pdf

1. Commissioner Support Offices

The current state assessment conducted in Phase 2 of this study concluded that TAS' fundamental challenge is insufficient coordination between DOI bureaus/offices. The proposed operating model provided in Figure 2 addresses this challenge in two ways. First, it proposes national coordinating offices to develop and deploy guidance to regional offices in several discrete functional areas (e.g., funds management and information technology). Second, the model proposes national-level Commissioner Support Offices. These entities will provide guidance in areas that cut across the functional areas governed by the coordinating offices. For example, the funds management and records management coordinating offices will both need support in developing policies and standards – thus necessitating the Trust Policy and Coordination Division described in Figure 6. Likewise, all national coordinating offices will benefit from consistent guidance on tribal consultation and outreach.⁹

Commissioner Support Offices

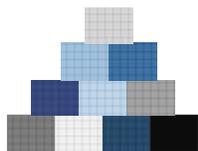


Figure 6: Commissioner Support Offices

The Office of Trust Internal Review will establish cross-functional internal controls and monitor activities within the national coordinating offices and regional implementation offices.

2. Office of Trust Policy and Process

STRUCTURAL



The Office of Trust Policy and Process (OTPP) will provide the Trust Administration Commission with analytical support in two key areas: 1) policy and standards development and 2) tribal and beneficiary outreach. In addition to the responsibilities detailed in the division descriptions below, the OTPP will provide ad-hoc analytical services to meet time-sensitive Commissioner information needs.

⁹ Alternatives 1-3 from the Phase 3 report also included support offices for process and systems integration. These offices were removed from the organizational structure proposed in Figure 3 because they are duplicative with the responsibilities of the national coordinating offices. The Information Technology coordinating office will assume responsibility for systems integration, and each functional area (e.g., funds management) will be responsible for relevant process improvement initiatives.

Trust Policy and Coordination

Key Responsibilities:

- Assess policy options, frame policy discussions and advise Commissioner(s) on major trust issues such as land use, treaty rights and inter-agency policy boundaries.¹⁰
- Establish uniform standards to guide program operations (e.g., definition of a trust asset, standardized penalties for non-compliance with lease agreements, standardized terminology, and uniform protocols for working with states on jurisdictional disputes).
- Assist the Commissioner in coordinating and prioritizing policy issues.
- Coordinate with key trust stakeholders, including tribes, states, DOI, OMB and Congressional committees in shaping support for policies that are in the best interest of Indians and Alaska Natives.
- Serve as legislative drafting service in areas where major new policy directions must be grounded in statute; and keep apprised of proposed new trust initiatives emanating from Congress, the Administration, Tribal organizations and other external sources.
- Maintain relationship with the DOI Office of the Solicitor.
- Establish independent legislative authority to deliver lawsuits directly to the Department of Justice for review and prosecution.

Proposed Resource Composition:

1. Division Director to assist Commissioners in coordinating a policy agenda and manage the Division
2. Legislative specialist to liaise with Congress and provide input to draft legislation when necessary
3. Policy Analyst to frame policy issues and options

Existing Sources of Division Staff:

1. AS-IA
2. OST

¹⁰ The responsibilities proposed for the Trust Policy and Coordination Division were modeled after the Environmental Protection Agency's (EPA) Office of Policy (OP). The OP serves multiple roles to directly support the Office of the EPA Administrator, including shaping the policy and regulatory development processes, facilitating the rulemaking process, and assisting regional staff as needed. For more information on the EPA OP visit <http://www2.epa.gov/aboutepa/about-office-policy-op>.

Tribal Consultation, Culture, and Outreach

Key Responsibilities:

- Establish and update formal consultation policies that will guide tribal consultation meetings.
- Coordinate the scheduling of outreach sessions so that tribes have sufficient advanced notice; and can assure that appropriate Tribal leaders participate.
- Prepare agendas for consultation and outreach meetings; and ensure that all participants have necessary materials.
- Create a tracking system that monitors each request from tribal organizations and individuals; and ensure timely responses from appropriate Trust organizations.
- Develop communication channels and processes that allow Tribal organizations and individual to provide input to Commission policy, budget and strategy decisions.
- Promote the trust responsibilities outside of ITAC through the interaction with the Tribal Liaison Officers¹¹ and advancement of bureau specific consultation policies.
- Coordinate with the Tribal Liaisons in each of the federal agencies, Joint Federal-Tribal Team, and with the White House to facilitate coordination of Administration trust policies and strategies.
- Support the recently-formed White House Council on Native American Affairs, particularly in its mission to protect "tribal lands, environments, and natural resources, and promot[e] respect for tribal cultures."¹²
- Administer tribal self-governance programs.

Recommended Resources:

1. Division Director to assist Commissioners in prioritizing and coordinating the implementation of consultation and outreach initiatives
2. Tribal Cultural Attaché responsible for ensuring Commission actions are consistent with/sensitive to tribal traditions, practices, symbols and language requirements
3. Policy Analyst to facilitate and promote tribal self-governance initiatives

Existing Sources of Division Staff:

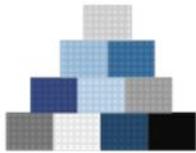
1. AS-IA – Office of the Assistant Secretary
2. AS-IA – Office of Public Affairs
3. AS-IA – Office of Tribal Governance

¹¹ Salazar, Ken. "Department of the Interior Policy on Consultation with Indian Tribes." Executive Order No. 3317 of December 1, 2011. Electronic. <http://www.bia.gov/cs/groups/public/documents/text/idc015809.pdf>

¹² Obama, Barack. "Establishing the White House Council on Native American Affairs." Executive Order of June 26, 2013. Electronic. <http://m.whitehouse.gov/the-press-office/2013/06/26/executive-order-establishing-white-house-council-native-american-affairs>.

4. Policy Analyst responsible for coordinating the establishment and enhancement of formal consultation policies
 5. Outreach Management Officer to coordinate and schedule consultation and outreach sessions; and manage an inquiry and response tracking system
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STRUCTURAL 3. Office of Trust Internal Review



The *Phase 4: Audit Functions* report closely examined the oversight and review processes employed by DOI to ensure the department fulfills its trust responsibilities to Indian beneficiaries. The report concluded that the effectiveness of existing review processes is negatively impacted by poor coordination among DOI bureaus/offices.¹³ For example, DOI has established an Internal Control Program (ICP) that is implemented on a per bureau/office basis. No entity exists, however, to conduct internal controls testing across TAS, and DOI management thus lacks an accurate, objective assessment of whether trust assets are appropriately managed TAS-wide.

The Office of Trust Internal Review will provide ITAC with the tools to mitigate the challenges identified in the Phase 4 report. Specifically, the Office will include two separate sub-offices, the Trust Internal Controls Division and the Trust Programmatic Review Division. These divisions will be responsible for ensuring TAS-wide compliance with applicable laws, regulations, and treaties, as well as objectively monitoring TAS-wide fulfillment of DOI trust responsibilities.

Trust Internal Controls

Key Responsibilities:

- Maintain compliance with Federal Managers Financial Integrity Act (FMFIA) and OMB Circular A-123, *Management's Responsibility for Internal Controls* requirements.
 - Develop, implement, execute trust-specific A-123 program by performing internal control assessments in accordance with laws, regulations, and guidance.
 - Provide general oversight, including trust records management, Indian Trust Rating System development and maintenance, independent reviews of Indian fiduciary trust programs, and risk management and compliance efforts (e.g., internal controls and other risk management initiatives of both monetary and non-monetary trust assets).
 - Ensure tribal government compliance with the Single Audit of 1984, also known as OMB Circular A-133.
-

¹³ For the complete listing of recommendations on the audit and oversight functions, please refer to the *Phase 4: Audit Functions* report.

Recommended Resources:

1. Director to oversee the execution of the trust-specific A-123 program
2. Policy analyst to establish and maintain a trust-specific A-123 program
3. Supervisory auditors responsible for overall project management. The Lead auditor will direct and review the work of senior and staff auditors
4. Senior audit to direct and review the work of staff auditors
5. Staff auditor to perform specific actions under the supervision of the senior auditor

Existing Sources of Division Staff:

1. ONRR – Audit and Oversight Program
2. BLM – Evaluations and Management Services Division
3. BIA – Office of Internal Evaluation and Assessment
4. OST – Office of Risk Management

Trust Programmatic Review

Key Responsibilities:

- Develop, implement, and execute a trust-specific programmatic review methodology to ensure trust programs are achieving intended results and complying with applicable laws, regulations, policies, and procedures.
- Provide review schedules, standard operating procedures (SOPs), work paper templates (checklists, test plans, document deficiencies, and final reports), and a detailed corrective action tracking process to facilitate commission-wide reviews.
- Determine the scope of the trust-specific programmatic review process, and define national and regional office reporting responsibilities.

Recommended Resources:

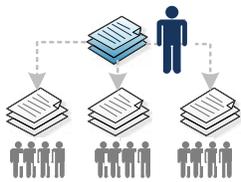
1. Director to oversee execution of the trust-specific programmatic review
2. Policy analyst to assist the Commission in establishing and maintaining programmatic reviews.

Existing Sources of Division Staff:

1. OST – Trust Review and Audit

4. Precursory Steps to Establishing Successful Commissioner Support Offices

MANAGERIAL



➤ Develop an ITAC strategic plan that establishes goals, organization direction, and intended outcomes to improve the management and administration of trust services. A unified trust management strategic plan allows ITAC to assign accountability and address performance gaps experienced when trust services (e.g., probate, appraisal, leasing) are delivered by several bureaus/offices.

- Establish performance metrics that align with the ITAC strategic plan to assign accountability in meeting performance targets. This provides ITAC with a framework for improved performance monitoring and management to support decision-making, including budget justifications and resource allocation and realignment.
- Develop a TAS-to-ITAC change strategy and management plan to introduce and implement new trust management and administration policies, initiatives, and systems. ITAC should employ a change management approach to assess TAS' change readiness, establish ITAC's culture and attitudes, and define behaviors of new leadership and staff.
 - Conduct communications planning and tribal/stakeholder consultation on the transition from TAS to ITAC. Communications and tribal/stakeholder consultation planning allows ITAC to determine the best method of message delivery to gain staff and stakeholder support for this initiative.
 - DOI's Office of Hearings and Appeals (OHA) exercises the delegated authority of the Secretary of Interior to conduct hearings and decide appeals from bureau/office decisions. OHA consists of five offices including the White Earth Reservation Land Settlement Act (WELSA) Hearings Division, Probate Hearings Division, Departmental Cases Hearings Division, Interior Board of Land Appeals, and Interior Board of Indian Appeals. Each of these organizations has jurisdiction over a different facet of DOI's trust administration services. For example, the Probate Hearings Division determines rightful heirs in Indian probate cases. The Interior Board of Indian Appeals (IBIA) and Interior Board of Land Appeals (IBLA) then exercise appellate jurisdiction over cases decided by the Probate Hearings Division, WELSA Hearings Division, and Departmental Cases Hearings Division. These appellate bodies serve an important function within DOI, as they provide finality to existing bureau/office decisions and an impartial forum to consider Indian concerns.

The optimal future location of trust-related OHA divisions is within the ITAC Office of Trust Policy and Process, as many of the issues that will come before OHA will arise from the work conducted by ITAC's coordinating offices, particularly land ownership. Leaving all of OHA within DOI would likely diminish the independence of ITAC, as an agency of DOI could then directly overrule ITAC's management decisions. Additional analysis is required to determine the exact subject matter jurisdiction of the divisions that remain in DOI OHA and which divisions should be migrated to ITAC. For example, issues that currently fall within the IBIA purview (e.g., BIE decisions) will remain the responsibility of DOI and should therefore stay in DOI OHA. Likewise, IBLA jurisdiction over Indian minerals management appeals should likely be migrated to ITAC.

3 ITAC Coordinating Offices

1. National Coordinating Offices

In the existing TAS structure, key processes involve input from several DOI bureaus/offices (e.g., the probate process). With no point of authority to establish priorities and monitor throughput, process inefficiencies abound and beneficiary services are delayed. The national coordinating offices depicted in Figure 7 will mitigate the existing TAS challenge of poor coordination between individual bureaus/offices.

Generally, the coordinating offices accomplish four key goals:

National Coordinating Offices

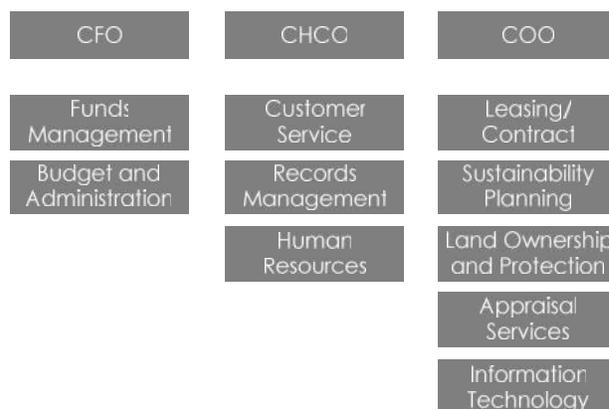
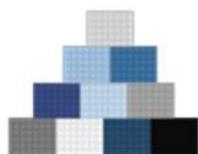


Figure 7: National Coordinating Offices

1. Develop guidance to support staff at regional implementation offices and ensure ITAC-wide compliance with applicable laws and regulations. For example, the Accounting and Accounts Management Division (regional) would interface with the Funds Management Division for mission-related activities, and the Information Technology, Customer Service, Records Management, Human Resources, and Budget and Administration Divisions for administrative guidance.
2. Develop, deploy, and monitor process efficiency and effectiveness metrics at both the national and regional levels to ensure beneficiaries are receiving timely service that adheres to established quality standards.
3. Conduct process improvement initiatives for areas of ITAC operations related to their function (e.g., the Funds Management Division should review the funds disbursement process).
4. Establish priorities for each functional area, assist in ITAC planning as requested by coordinating office executives (CFO, CHCO, and COO), and provide data to meet ad-hoc reporting needs.

2. Executive Leadership

STRUCTURAL



As noted in Figure 7, the proposed ITAC model posits three new executive leaders to monitor national-level performance and carry out Commissioner directives. The three positions generally align with existing DOI bureau/office leadership (CFO/OST) (CHCO/AS-IA) (COO/BIA). In addition to responsibility for the daily operations of their respective coordinating offices, the CFO, CHCO, and COO will be responsible for collaborating and producing ITAC's strategic plan, operating budget, operational plans, and information technology plans. As a

key element of long-term planning, the proposed executive positions (and their staff) will also need to act as ITAC's foresight function. These additional foresight responsibilities will include:

- Establishing a foresight system that uses techniques such as scenario building, Delphi surveys, and technology forecasting to uncover emerging trends, risks and opportunities that might impact ITAC policies and strategies.
- Facilitating foresight meetings with key trust stakeholders.
- Establish a performance framework that allows the Commission to monitor progress toward strategic goals through the use of meaningful metrics, and comparing performance against external benchmarks.
- Assisting the Commission in formulating risk management strategies.

The specific responsibilities of the proposed executive positions are as follows:

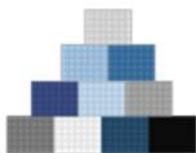
Chief Financial Officer (CFO) – has responsibility for both mission-critical and administrative functions. The Chief Financial Officer will directly oversee all activities related to funds management, while also fulfilling the responsibilities associated with the Budget and Administration Division.

Chief Human Capital Officer (CHCO) – has responsibility for most ITAC administrative functions including the Customer Service, Records Management, and Human Resources Divisions.

Chief Operating Officer (COO) – has responsibility for non-monetary, mission critical functions including the Leasing/Contract, Sustainability Planning, Land Ownership and Protection, and Appraisal Services Divisions.

3. National Coordinating Office Descriptions

STRUCTURAL



The following descriptions detail the responsibilities of each of the ten proposed national coordination offices. The descriptions also include sources of staff from within the existing TAS structure that could be leveraged for each division.

Funds Management

Key Responsibilities:

- Develop and maintain long-term business plans to determine financial goals for each fund management program (e.g., IIM account, debit cards, electronic statements, and investment portfolios).
- Collaborate with the Office of Trust Policy and Coordination to set and adjust policy regarding critical issues (e.g., investment of idle funds, closing of inactive accounts, timeliness of funds disbursement and collection).
- Maintain the commonly accepted duties of trustees, including but not limited to: (1) duty to maintain loyalty and avoid conflicts of interest; (2) duty of administration and maintenance of accurate account records; (3) duty to protect trust assets; (4) duty to remain impartial with respect to investment, management, and distribution of trust assets; (5) duty to furnish information upon request and reasonably inform beneficiaries about the administration of the trust and material facts necessary for them to protect their interests; and (6) duty to enforce and defend claims.¹⁴
- Provide historical accounting services and litigation support for trust fund related litigation filed by Indian tribes against the United States.
- Provide policy guidance to the regional offices for the following trust administration services:
 - Maintain register of land and account owners
 - Prepare periodic (monthly, quarterly, annual) account statements
 - Distribute income, manage applicable expenses, and advise land/account owners on trust management activities
 - Monitor and advise land/account owners on annual planning and contract management
 - Manage unclaimed or idle money in a common fund
 - Prepare periodic reconciliations and US Treasury Reports

Existing Sources of Division Staff:

1. OST – Historical Trust Accounting
2. OST – Office of Budget, Finance and Administration
3. OST – Trust Funds Management
4. OST – Reporting and Reconciliation
5. OST – Trust Funds Investment
6. AS-IA – Office of Financial Management
7. ONRR – Financial and Program Management
8. Personnel responsible for management of Lockbox

¹⁴ Sackley, Jan. "Duties of Trustees and Other Fiduciaries." *Fiduciary Foresight LLC*. April 2010. Electronic. <http://www.fidfore.com/articles/Duties-of-Trustees-NSCP-Apr-2010.html>

Information Technology

Key Responsibilities:

- Establish a mission, vision, goals, objectives, and performance framework to define long-term ITAC-wide information technology strategy.
- Implement new information technology platforms, and maintain existing systems to assist ITAC in meeting its trust commitments.
- Respond to regional office requests for IT support.
- Coordinate integration and consolidation efforts for systems not fully migrated to the Trust Administration Commission and that involve shared use with DOI bureaus/offices.
- Develop and implement change management plans to guide the planning, coordination, and implementation of system/software releases and upgrades.
- Evaluate and implement strategies for increasing compacted/contracted tribe access to DOI and Trust Administration Commission systems (e.g., TAMS, TFAS, and ProTrac).
- Perform requirements analysis and feasibility studies as requested by the Commission to determine the desirability of consolidation and integration efforts.

Existing Sources of Division Staff:

1. OST Chief Information Officer (CIO)
 2. BIA Indian Affairs Information Technology (IAIT) under Acting Assistant Director, Information Resources (ADIR)
 3. BLM Assistant Director, Information Resources Management (AD, IRM)
 4. OHA Director's Office
 5. ONRR – Financial and Program Management
 6. ONRR – Information Management Center
-

Customer Service

Key Responsibilities:

- Promulgate ITAC-wide standards for direct interactions with beneficiaries (e.g., email, phone calls, and written correspondence), as well as indirect interactions (e.g., website, educational materials, and account statements).
- Conduct periodic assessments of beneficiary satisfaction with ITAC customer service in conjunction with the Tribal Consultation, Culture, and Outreach Division.
- Consolidate disparate call centers into a national-level, centralized call center to provide timely, accurate information to beneficiaries.
- Support regional implementation office customer service staff through targeted training, infrastructure support, and access to ITAC information technology systems (as appropriate).
- Develop, monitor, and report national and regional-level customer service metrics.
- Reconfigure existing TBCC customer/case tracking system so all national coordinating offices have access. This should refocus the entire agency on monitoring and resolving beneficiary issues while increasing accountability for fulfilling responsibilities.

Existing Sources of Division Staff:

1. BIA – Agency Superintendents
2. Federal Indian Minerals Office (FIMO)
3. OST – Field Operations
 - a. Regional Trust Administrators
 - b. Fiduciary Trust Officers
4. Trust Beneficiary Call Center (TBCC)

Records Management

Key Responsibilities:

- Develop records management program guidelines that can be applied consistently to paper and electronic records. The guidelines should establish processes that safeguard information from document creation to final disposition according to established policies and procedures.
- Establish roles and oversight responsibilities for records management.
- Communicate records management policies throughout ITAC.
- Create a recordkeeping and/or filing system to track records using standardized coding manuals.¹⁵
- Coordinate, as appropriate, with the Office of Trust Internal Review to evaluate records management program activities (e.g., conducting site assessments of trust programs and/or ensuring compliance with the Federal Records Act, ITAC policies and procedures, and other federal laws and regulations).
- Create disposition schedules to identify the length of time required to maintain records that considers statutory, fiscal, and/or administrative uses.
- Coordinate the transfer of records to offsite storage facilities, Federal Records Centers (FRCs) and/or the American Indians Records Repository (AIRR).
- Establish procedures for identifying and mitigating Records in Jeopardy.¹⁶

Existing Sources of Division Staff:

1. OST – Trust Records
 2. DOI bureau/office staff with records management responsibilities.
-

¹⁵ The use of standardized coding manuals provides several key benefits: 1) quicker access to files; 2) reduced financial costs associated with locating a record; and 3) reduced litigation stemming from ITAC's inability to meet record retrieval requirements.

¹⁶ Records in jeopardy are defined as any media that can potentially deteriorate, or are already in a dangerous state of deterioration.

Human Resources

Key Responsibilities:

- Ensure all ITAC offices and divisions are in compliance with Federal laws and regulations related to equal employment, affirmative employment, hiring, and a discrimination-free working environment.
 - Develop comprehensive policies to guide all aspects of human resources management including workforce analysis and succession planning, classification and position management, employee development, staffing and retention, employee relations, labor relations, and ethics.
 - Interface with the ITAC Information Technology Division to develop, implement, and maintain personnel information systems and personnel security/suitability programs.
 - Provide guidance to HR-designated staff located in regional implementation offices.
 - Monitor and evaluate equal employment and Indian preference laws for staffing, promotions, reassignments, and employee transfers within ITAC.
-

Existing Sources of Division Staff:

1. AS-IA – Office of Human Capital Management for Indian Affairs
 2. Deputy Assistant Secretary – Indian Affairs (Management) (DASM)
-

Budget and Administration

Key Responsibilities:

- Foster tribal participation in Trust Administration Commission budget formulation and justification through continued interaction with the Tribal/Interior Budget Council (TIBC).
- Complete the ITAC annual budget request and justification.
- Maintain compliance with the Government Performance and Results Act Modernization Act (GPRAMA) requirements, as well as all other federal budget/performance standards.
- Implement and maintain cost management systems and processes to monitor current expenses and future requirements, as well as leverage current cost management systems and DOI Financial and Business Management System (FBMS).
- Monitor ITAC-wide acquisitions, collaborating as necessary with other national and regional-level entities.
- Provide Commission-wide guidance and support for accounts payable and expenses associated with travel, property, space, facilities support, safety, health, worker compensation, vehicles, charge card program, and supplies.

Existing Sources of Division Staff:

1. AS-IA – Office of the Chief Financial Officer
 2. AS-IA – Office of Planning and Performance Management
 3. OST – Budget, Finance, and Administration Division
 4. Budget and performance management staff from existing DOI bureaus/offices.
-

Leasing/Contracting

Key Responsibilities:

- Develop and advise on policy including oversight, monitoring, coordination, and compliance of lease, contract, and permit management on Indian-owned lands.
- Assure Regional Implementation Offices consistently employ and enforce policy concerning compliance activities such as rights-of-way violations and trespass inspections; standard and timely correspondence; consistent, reliable, and timely leasing monitoring including site inspections, financial compliance and payment processing, and violation resolution.
- Collaborate with the Office of Trust Policy and Coordination to design standard policy on surface leasing and permitting (e.g., agricultural, farming, grazing, hay; business; and residential) and subsurface leasing and permitting (e.g., hard rock minerals, fluids).

Existing Sources of Division Staff:

1. BIA – Division of Real Estate Services
 2. BIA – Division of Natural Resources
 3. BIA – Division of Forestry and Wildland Fire Management
 4. BIA – Division of Irrigation, Power, and Safety of Dams
 5. ONRR/BLM staff with leasing/contracting responsibilities for Indian assets held in trust
-

Sustainability Planning

Key Responsibilities:¹⁷

- Provide guidance to regional implementation offices, and define ITAC compliance requirements for ensuring long-term sustainability of Indian trust assets.
- Coordinate and monitor the completion of external organization compliance requirements related to sustainability planning at the regional level (e.g., EPA environmental assessments).
- Conduct predictive analyses to determine the future impact of environmental / market trends on sustainability of Indian trust assets.
- Coordinate efforts in operating divisions with senior managements' policies and practices to ensure that sustainability strategies are linked to mission-critical activities.
- Develop sustainability action plans focused on efficient energy usage.
- Ensure compliance with Section 103 of the Energy Policy Act of 2005 and other acts mandating adherence to national renewable energy goals.

Existing Sources of Division Staff:

1. BIA – Division of Natural Resources
 2. BIA – Division of Forestry and Wildland Fire Management
 3. BIA – Division of Irrigation, Power, and Safety of Dams
 4. Other bureau/office staff with existing trust management/sustainability planning responsibilities
-

¹⁷ Several public sector organizations were identified and leveraged to develop the proposed list of responsibilities for the ITAC Sustainability Planning Division. For example, the National Oceanic and Atmospheric Administration (NOAA) forecasts future “ocean productivity” including a recent study by the Northwest Fisheries Science Center to determine oceanic salmon levels. NOAA uses this data to conduct long-term planning related to restocking and establishing fishing limitations. Additionally, the U.S. Forest Service has partnered with local officials in British Columbia to assess the future impact of global warming on 15 common and commercially valuable tree types. This assessment informs the replanting guidelines for Canadian timber companies to ensure long-term sustainability. The Sustainability Planning Division should adopt a forward-looking approach similar to these examples, and conduct studies related to emerging issues in trust administration.

Land Ownership and Protection

Key Responsibilities:

- Develop and deploy policy regarding the title portion of TAAMS.
- Develop and manage GIS-enabled land ownership database that provides current ownership and land boundary information; and trust asset information per land parcel (e.g., forested lands, mineral extraction sites).
- Provide program policy and guidance regarding regulatory development, interpretation, and dissemination.
- Develop standard program training and define certification requirements, if applicable; including consistent regional and national trust-related training or meetings regarding land ownership and protection.

Existing Sources of Division Staff:

1. BIA – Probate
 2. BIA – Land Title and Records Office
 3. BIA – Division of Real Estate Services
 4. BIA – Division of Natural Resources
 5. BIA – Division of Forestry and Wildland Fire Management
 6. BIA – Division of Irrigation, Power, and Safety of Dams
 7. BLM – Minerals and Realty Management
 8. ONRR – Coordination and Enforcement Management
-

Appraisal Services

Key Responsibilities:

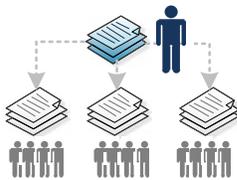
- Conduct appraisals, appraisal reviews, and appraisal consulting of real property interests.
- Provide impartial estimates of value for specific real property interests on land owned in trust of restricted status.
- Develop standard appraisal policy and procedures and certification requirements to regional appraisal staff and Supervisory Appraisers.
- Train and certify DOI-approved independent appraisers to expedite the appraisal process through third-party agreements.

Existing Sources of Division Staff:

1. OST – Office of Appraisal Services (OAS)
-

4. Precursory Steps to Establishing Successful ITAC National Coordinating Offices

MANAGERIAL



- Assess future-state workforce needs and develop a workforce management plan. Workforce planning allows ITAC to forecast attrition rates through retirement eligibility; identify and correct competency gaps; align organization and individual performance; develop and measure meaningful metrics; and establish change management techniques to successfully implement organizational and cultural changes.
- Conduct a workforce planning study to determine future ITAC resource requirements, including workforce and technology. Workforce requirements include resource allocation, workload assessments, and staffing standards development. Information technology requirements include the development of short and long-range strategies to continuously improve system platforms and architecture, improve customer service, provide appropriate governance, and conduct cost studies of infrastructure needs.
- Conduct human capital strategic planning to determine the most effective and cost-efficient blend of federal employees, tribal governments, and non-federal partners.
- Develop human resources services to help transform ITAC's workforce through 1) targeted training services to provide specialized workforce with core competencies needed to perform their responsibilities; and 2) knowledge management services to mitigate retirements and attrition.

4 ITAC Regional Offices

1. Regional Leadership

Regional implementation offices are responsible for: 1) executing the full range of trust administration policies formulated by the Commission leadership; 2) administering specific trust activities; and 3) ensuring that the delivery of trust services to beneficiaries is carried out in a cost-effective and timely manner.

The Regional Director for Trust Administration represents ITAC in all trust matters and translates national trust policies into actionable strategies tailored to meet regional needs. The Regional Director integrates the fiduciary trust and trust services responsibilities into a seamless trust administration function that serves the best interest of beneficiaries in the short run, while preserving trust assets for future generations. Integration of trust services will be accomplished while preserving an independent fiduciary trust responsibility. Regional Fiduciary Trust Officers will carry out their responsibilities similar to their current roles in the existing TAS structure. However, the integration of monetary and non-monetary trust asset management will be guided by the Regional Director who will work closely with both staffs to ensure that regional trust priorities are established, appropriately resourced, and pursued through unified actions.



Figure 8: ITAC Regional Leadership

Regional Directors will also be responsible for implementing integrated regional trust action plans. These plans will be formulated with input from tribal leadership in the respective regions and the Commissioner Support Offices. The plans will be based on an assessment of current and emerging conditions in the region, and implications of these conditions for the future direction of regional strategies. Key characteristics of integrated regional trust action plans include the following:

- Identification of priority initiatives for the coming year
- Funding assigned to implement each initiative
- Assignment of responsibilities to accomplish each initiative
- Metrics to evaluate progress toward accomplishing each initiative
- Identification of key risks and the associated mitigation strategy associated with each initiative

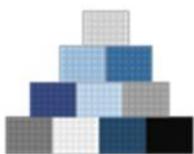
The Regional Directors will also be responsible for establishing a periodic, data-driven program review process. This process will be modeled after the OMB standard for conducting quarterly performance reviews, which are consistent with requirements outlined in the 2010 Government

Performance and Results Modernization Act. Although ITAC will not necessarily be required to respond to these legislative requirements, the principles of substantive and systematic program reviews are a useful function for closing the loop between trust administration planning, reporting, and evaluation activities.

An integral part of the regional trust planning process will be determining the proportion of regional resources that must be set aside for contingencies. As is the case with any comprehensive planning effort, reserve resources must be allocated to address unforeseen events that may require diversion of resources to meet unexpected needs. Examples of such contingencies are: unexpected increases in lease applications due to an emerging economic opportunity such as alternative energy development prospects or a surge in fee-to-trust applications because of an unexpected change in tax policy at a state or local level

2. Trust Administration Regional Autonomy

STRUCTURAL



The Regional Directors for Trust Administration will establish a collaborative relationship with the ITAC National Coordinating Offices. As part of that collaboration, certain functions will be centralized and others decentralized. The following characteristics identify key aspects of the national-regional relationship:

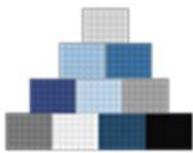
- **Trust policy formulation:** National trust policy will be formulated by the Commissioner Support Offices and its policy coordination arm. Trust policy will be implemented through the regional directors. Policy implementation will require some latitude in interpretation and tailoring to meet the specific needs of each region. Regional reporting on the success of policy implementation will inform the National Coordinating Offices of any need to adjust national policies based on changing conditions. For example, national policies on how fiduciary funds are managed may need to be tailored to meet unique needs of beneficiaries in remote regional locations.
- **Establishing trust administration plans and priorities:** The establishment of national and regional priorities will be a joint undertaking between national and regional offices. An integrated planning process will ensure that regional and national priorities are aligned.
- **Issue identification and resolution:** Regional offices will serve as the main conduit for identification and resolution of key issues raised within the region. It is critical for Regional Directors to establish a systematic process for issue identification and resolution. This entails collecting, organizing, and prioritizing the issues raised by tribal leaders and beneficiaries; analyzing and identifying issue options; and recommending solutions. The Regional Directors will determine which issues can be resolved within the region and which issues are sufficiently large in scope, requiring resolution by the Commission and their supporting offices.

Although Regional Directors will be coordinating their actions with all ITAC national offices, each of the above functions will involve more intensive collaboration with specific National Coordinating Offices. The table below specifies these unique relationships:

National Coordinating Offices and Regional Implementation Offices Relationship	Commission Support Offices
Trust Policy Formulation	Trust Policy and Coordination
Trust Plans and Priorities	CFO, CHCO, COO
Issue Identification and Resolution	Tribal Consultation, Culture, and Outreach

3. Regional Implementation Office Descriptions

STRUCTURAL



The following descriptions detail the responsibilities of each of the proposed regional implementation centers. The descriptions also include sources of staff from within the existing TAS structure that could be leveraged for each division. This report recommends an office within each regional implementation center for each of the TAS functional areas identified in the *Phase 1: Baseline* report.

Accounting and Accounts Management

Key Responsibilities: Oversee, manage, and execute the processes and controls needed to collect, invest, safeguard, account for, and ultimately distribute proceeds to the beneficial owner (resulting from real estate sales, judgments or leasing activities like agricultural and range management, forestry, and minerals). Provide any historical accounting (and associated litigation support) required to accurately discern ownership rights. Activities include:

- Provide customer service to beneficiaries, including inquiry/request handling and processing and technical advice/assistance to beneficiaries related to topics such as investment management; financial plan development, and trust fund investment strategy
- Perform trust fund accounting, including cash flow management and account maintenance to support documentation and compliance; management reporting (e.g., regulatory, financial, and managerial reports), accounts reconciliation (e.g., subsidiary and controlled accounts), and financial statement preparation (e.g., internal and external audited financial statements)
- Perform Lockbox processing, aging report processing, suspense account research, and Indian trust reconciliation with the US Treasury (receipts and disbursements)
- Manage revenue (collections, disbursements) resulting from American Indian mineral assets (predominantly oil/gas) and Indian trust reconciliation with the US Treasury (receipts and disbursements)

Existing DOI Bureaus/Offices to be Consolidated:

1. BIA – Land Titles and Records Office
 2. BIA – Lockbox Operations
 3. BIA – TAAMS Administrators
 4. ONRR – Asset Management
 5. ONRR – Financial and Program Management
 6. OST – Field Operations
 7. OST – Trust Services
 8. OST – Program Management
 9. OST – Business Management
 10. OST – Office of Historical Trust Accounting
-

Land Ownership

Key Responsibilities: Oversee, manage, and execute the processes needed to determine appropriate distribution of a decedent's estate, compile inventories of trust assets and family information, and coordinate the timely distribution of trust assets. Activities include:

- Prepare probate case file through collection of accurate and complete family history data (associated with the deceased beneficiary)
- Notify intended heirs of decedent's estate, and conduct reasonable attempts to locate potential heirs classified as whereabouts unknown
- Prepare land distribution through creation of title owner records for new owners; monitor estate inventory; and compile supporting documentation needed to distribute trust land interests
- Receive, prepare, and store title document; encode probate and non-probate ownership into title system; receive and examine chain of title; and issue certified title
- Maintain and update official record to record actions taken on behalf of estate
- Submit documentation required to create new IIM accounts for new account holders
- Monitor status of land distributions and submit supporting documentation required for the Accounting and Accounts Management Division to distribute IIM funds and close associated accounts
- Close estate
- Prepare probate case for adjudication

Existing DOI Bureaus/Offices to be Consolidated:

1. BIA – Land Titles and Records Office
 2. BIA – Office of Probate
-

Real Estate Management

Key Responsibilities: Oversee, manage, and execute the processes needed to protect, manage, and develop trust land assets (non-mineral), including surveys, mortgages, Rights of Way (Service Line Agreements, Utilities), land titles and records services (title encumbrances), conveyances (Trust-to-Trust; Fee-to-Trust; Trust-to-Fee), leasing and permitting, lease compliance, appraisals, land acquisition and disposal, and recording and maintaining land records. Activities include:

- Protect Indian-owned lands; acquire, transfer, and dispose of federally-owned excess and surplus land
- Educate and conduct outreach on land use and land use contracts
- Revise and approve land use contracts; assure compliance related to land use contracts and enforcement of contract violations
- Perform leasing/permitting and compliance and enforcement activities (full lifecycle) related to various lease types (e.g., agricultural and grazing, residential, business, wind and solar energy, oil and gas, permitted use agreements, mortgages, surface and subsurface, gift deeds, service line agreements, rights of way, easements, land disposals, etc.)
- Manage the Fee-to-Trust Program
- Prepare Grants of Easement for Right of Way
- Complete the official recordation of the legal description, owners, and existing encumbrances of Indian lands; issue certified Title Status Reports
- Perform cadastral surveys
- Provide historical trust and account information and appraisal services necessary for completion of leases; real property transactions include, but are not limited to: acquisition and disposal, exchanges, negotiated and supervised sales, partitions, leases, and right of ways and easements

Existing DOI Bureaus/Offices to be Consolidated:

1. BIA – Land Titles and Records Office
2. BIA – Real Estate Services
3. BLM – National Operations Center
4. Office of Hearings and Appeals
5. OST – Office of Historical Trust Accounting
6. OST – Office of Appraisal Services

Indian Land Consolidation

Key Responsibilities: Oversee and manage initiatives that effect the consolidation of trust land assets, including the resolution of tract ownership interests. This includes but is not limited to initiatives such as American Indian Probate Reform Act (AIPRA), Indian Land Consolidation Act (ILCA), and the Land Buy-Back program. Activities include:

- Manage all land consolidation programs, including the planning, coordination, and execution of land acquisitions and title-related activities
- Establish land consolidation program policies; develop and implement cooperative agreements; provide technical assistance; and provide oversight, direction, monitoring, and program evaluation
- Coordinate with the Appraisal Services Division to determine fair market values for trust or restricted tracts with fractional ownership interests (i.e., appraisals). Liaison with the Appraisal Services Division to initiate appraisals, appraisal reviews, and appraisal consulting of real property interests
- As appropriate, post payments from the acquisition of fractionated interests to IIMs (e.g., Land Buy-Back Program)
- Perform mineral assessments and market analyses to determine the minerals contribution that supports the appraisal process for the fair market value of Indian lands
- Provide program management for the Land Buy-Back Program (and other programs as applicable), including direct leadership, coordination, communication, management, reporting, and oversight; maintain strong, collaborative government-to-government relationships with tribes, in part by establishing cooperative agreements with tribes and by active consultation; manage the Fund in accordance with the Settlement; and establish performance-based reimbursable support agreements or memorandums of understanding to facilitate fund expenditures by bureaus/offices
- Coordinate with the Tribal Nations Land Buy-Back Oversight Board, which provides policy guidance, ideas for improvement, oversight, and other assistance to the program

Existing DOI Bureaus/Offices to be Consolidated:

1. Assistant Secretary – Indian Affairs
 2. Assistant Secretary – Land and Minerals Management
 3. Assistant Secretary – Policy, Management and Budget
 4. BIA – Indian Land Consolidation Center (ILCC)
 5. DOI – Land Buy-Back Program Office
 6. DOI – Office of the Secretary
 7. DOI – Office of the Solicitor
 8. OST – Office of Appraisal Services
 9. DOI – Office of Minerals Evaluation
-

Natural Resources

Key Responsibilities: Oversee, manage, and execute the processes needed to manage, develop, and protect natural resource assets (i.e., parks, wildlife, and fisheries, agriculture, and range), water resources (i.e., irrigation, power, and dam safety (IPDS)), and water resource management capabilities (i.e., water resources). Activities include:

- Protect natural resources derived from trust assets
- Provide damage assessments and restoration services
- Manage Rights Protection and Tribal Development Programs to address on and off-reservation rights protection
- Plan and manage water resources through provision of funding to operation, maintenance, and rehabilitation of irrigation infrastructures
- Manage and develop irrigation projects
- Manage, develop, and operate Power Generation Facilities
- Provide assistance to beneficiaries to improve water resource management capabilities, and protection of water rights and resources
- Coordinate with tribes as well as other federal (Environmental Protection Agency, US Fish and Wildlife Service, US Forest Service, US Geological Survey, etc.) and state agencies as necessary

Existing DOI Bureaus/Offices to be Consolidated:

1. BIA – Division of Irrigation, Power and Safety of Dams
2. BIA – Agriculture and Range
3. BIA – Division of Natural Resources
4. BIA – Division of forestry and Wildland Fire Management
5. Bureau of Land Management
6. Fish and Wildlife Service
7. US Geological Survey

Minerals

Key Responsibilities: Oversee, manage, and execute the processes needed to manage, develop/enhance, regulate, and protect/retain Indian surface and sub-surface mineral assets (e.g., gravel, oil, gas, coal). Activities include:

- Advertise and conduct lease sales; receive bonus monies and rentals (prior to production)
- Maintain current mineral ownership records and disseminate copies of approved Leases, Permits and Mineral Agreements to Lessees and other stakeholders as necessary
- Approve assignments, communitization and unitization agreements, farmouts, and rights-of-way; subsequently, approval of any agreement changes, such as successor operators, sub-operators, amendments, contraction and termination of agreements
- Approve downhole abandonment procedures
- Cancel leases, permits and minerals agreements for due cause (i.e., violation of Lease terms)
- Perform cash management activities such as approval of distribution of monies from producing leases to tribal accounts and IIM accounts
- Assist in the assumption of marginal wells by tribes
- Conduct pre-sale and post-sale evaluation of tracts, including evaluation of leases derived from direct negotiations
- Issue drilling permits and prescribe types and frequency of form submittals required by operator
- Monitor all production activities; perform temporary shutdown of operations for violation of regulatory requirements
- Prepare environmental assessments for drilling wells and other surface disturbing activities (using input from other surface managing agencies)
- Enforce compliance of environmental requirements, including producing operations, plugging of wells and restoration of disturbed areas
- Provide engineering and technical assistance
- Advise and provide determination of bond adequacy
- Identify drainage and due diligence issues (provide remediation recommendations)
- Verify production; i.e., Detailed Production Accounting Inspection (DPAI)
- Support the Accounts and Accounts Management Division as necessary to perform billing, collection, accounting for, and paying out monies owed on producing leases that will be distributed to Indian mineral owners; reconciling production volumes with revenue received
- Publish the quarterly bankruptcy list

Minerals

- Support ITAC in negotiation of settlements for disputed royalties

Existing DOI Bureaus/Offices to be Consolidated:

1. BIA – Division of Real Estate Services
 2. BIA – Lockbox operations
 3. BLM – National Operations Center
 4. Federal Indian Minerals Office
 5. ONRR – Asset Management Division
 6. ONRR – Audit and Compliance Management
 7. ONRR – Financial and Program Management
 8. OST – Trust Services
-

Forestry

Key Responsibilities: Oversee, manage, and execute the processes needed to manage, develop/enhance, regulate, and protect/retain Indian forestlands. Activities include:

- Develop, prepare and revise forest inventory and management plans, including: aerial photography, mapping, field inventories and re-inventories; growth studies, inventory analysis and annual harvest calculations; environmental assessment and forest history
- Provide forest land development services, including: forestation and thinning; tree improvement; and silvicultural activities
- Facilitate protection against insects and disease
- Assess damage caused by trespass, infestation or fire
- Administer and supervise timber sale contracts, free and paid use permits and other types of harvest sales, including: cruising, product marketing, appraisal, silvicultural prescription and harvest supervision; forest marketing assistance and advice to tribes; environment, historical and archeological reviews; advertising, executing and supervising contracts; marking and scaling of timber; and collecting and recording and distributing receipts
- Provide financial assistance for Indians enrolled in postsecondary forestry related classes
- Participate in and implement tribal integrated resource plans
- Provide research into improving management of Indian forest lands

Existing DOI Bureaus/Offices to be Consolidated:

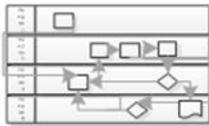
1. BIA – Division of Forestry and Wildland Fire Management
-

Procedural Recommendations

This section contains a list of procedural recommendations that aim to 1) improve existing TAS operations under the current bureau/office-level ownership structure; and 2) support the future implementation of the proposed ITAC governance structure under the recommended trust service taxonomy (e.g., funds management, information technology, land ownership and protection). In contrast to the structural and managerial recommendations, these procedural fixes are intended to impact trust service delivery in the shorter term. These recommendations were developed by researching best practices from the public and private sector, international organizations with indigenous affairs missions, and other federal trust-related service providers that address the issues noted during our Baseline and Assessment phases. Each recommendation is structured as a specific action that DOI can take and contains an example best practice to substantiate how the recommendation will improve service delivery.

1. TAS-Wide Recommendations

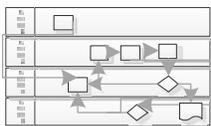
PROCEDURAL



- Maximize the sharing of recommendations between BIA and Tribal Realty employees to identify possibilities for improvement of outreach, coordination and customer service activities. Tribal Realty employees can provide a wealth of operational and cultural knowledge to federal employees when performing their duties. In addition, this joint team can provide meaningful options for improvement for how to address the administrative burdens placed on individual beneficiaries, such as the need to provide multiple agencies (including the tribal office and OHA) with copies of marriage and divorce decrees for probate documentation. This team can provide meaningful ways to centralize records management processes related to probate; modernize processes including data collection and sharing between BIA and Tribal Realty Offices; and encourage the use of MOUs between BIA and Tribal Realty Offices to explicitly define roles and responsibilities.
- At the regional-level, separate and further distinguish the role of the BIA Superintendents and agency staff with that of the Fiduciary Trust Officers (FTO) to reduce beneficiary confusion about their roles and responsibilities. This can be accomplished by increasing the marketing of the FTO's offered services (via messages on account statements, website messages, etc.).

2. Funds Management Recommendations

PROCEDURAL



- Establish a resource sharing agreement or MOU with the IRS, SSA, HUD and/or VA to help expand the search capabilities for whereabouts unknown. The IRS, for instance, has a Locator Services program¹⁸ that OST could leverage to locate beneficiaries and heirs. In addition, standardize the efforts across all regions to use tribal enrollment offices to find whereabouts unknown (WAU).
- Establish an electronic, mobile database of WAU names for use at conferences and public meetings, versus the use of physical binders. This would aid in the effectiveness and efficiency of WAU searches. In addition, reference the current website used to find WAUs at these events (<http://www.doi.gov/ost/wau.index.cfm>).
- Enhance the current online WAU list (see website link above) by including last known address, contact information, and tribal affiliation, and a link that allows the beneficiary to contact OST if he/she finds his/her name on the WAU list and wishes to be contacted by OST. In addition, this page should be enhanced by supplementing the "Information Needed to Request OST Forms" section by adding information about what forms beneficiaries can request and for what purpose, and a link to those actual forms.
- For WAU cases, establish an investigation time period, after which the following options may commence for managing these accounts. The Department of Veterans Affairs, as an example, pays benefits to an heir of a missing beneficiary if his/her whereabouts remain unknown for a period of 90 days.¹⁹ In addition, an option for managing small accounts²⁰ may include pooling the amounts in an interest bearing account, thereby eliminating the maintenance of multiple small accounts, e.g., there are approximately 18,000 WAU accounts with less than \$1. If the WAU is subsequently found, disburse the principal with the corresponding interest to the beneficiary.
- Allow holders of adult unrestricted IIM accounts to personally perform transfers of funds between their IIM account and an outside account of his/her designation. Currently, the process requires beneficiaries to notify OST where and when to make the transfer, on their behalf, via OST Form 01-004. Once online account access is granted to individual beneficiaries (see Information Technology recommendations below), functionality of the online application (StrataWeb) into TFAS should be incorporated so individuals can personally perform account transfers online, similar to a funds transfer request completed online through a commercial bank. Adequate promotion of this functionality helps achieve one of the true intents of the Reform Act, providing beneficiaries with adequate resources and tools to manage their own trust funds.

¹⁸ Yarborough, Gerald. "How Does the IRS Find People?." *Blog Spot*. BlogSpot, August 29, 2012. Accessed June 10, 2013. Electronic. <http://geraldyarboroughcpa.blogspot.com/2012/08/how-does-irs-find-people.html>

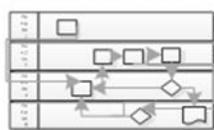
¹⁹ Department of Veterans Affairs, M21-1MR, Part III, Subpart vi, Chapter 8, Subchapter 3: *Payments to Dependents Upon the Disappearance of a Veteran*

²⁰ OST has established a minimum threshold of \$15 (\$5 minimum for oil and gas royalty payments) for distributing IIM account funds to beneficiaries. This same threshold should define the "small" WAU accounts..

- Establish policies and processes necessary to ensure all funds processed for Indian trust land are reported through TFAS. For instance, the seven largest oil and gas revenue-generating tribes rely on BIA, BLM and ONRR to lease, bill and ensure compliance for their oil and gas revenues. These funds are deposited directly into the tribes' bank accounts (Direct-Pay), rather than trust funds held by OST and accounted in TFAS. Processes and policies should ensure that funds that benefit these Direct-Pay tribes and the Osage tribe (which has its own CFR sections, and BIA manages a separate IT system to track Osage oil and gas funds) flow through TFAS. This will ensure that OST has complete visibility into the total liability facing the government regarding Indian trust assets and can be accomplished by posting a flow through journal entry into TFAS as BIA confirms receipt of funds by the tribe.

3. Information Technology Recommendations

PROCEDURAL



- Automate manual work processes such as work ticket processing and approval. Current efforts to automate accounting/general ledger work ticket processing include the use of scanners at some agencies to submit work tickets to OST (Albuquerque office), rather than fax machines; this has reduced the workload of OST field operations personnel such that they do not have to re-key the accounting information into TFAS. Further efforts to automate this process may include an update to TFAS that allows agency personnel to input work ticket information directly into the system.
- Perform a cost-benefit analysis on the use of electronic oil/gas well monitoring. Electronic monitors on oil and natural gas wells can facilitate real-time data on production, and lead to more efficient and timely reporting of information. Data from these monitors should be accessible by landowners/lessors online. An example solution/provider of electronic well monitoring systems is Baker Hughes.²¹
- Promote and expand the use of automated payment options for beneficiaries, including direct deposit and pre-paid debit cards for those IIM account holders that do not live close to a commercial bank (versus the use of paper checks for accounts that reach a minimum threshold of \$15). This will align ITAC business processes with other agencies such as the Social Security Administration, who no longer mails paper checks to its beneficiaries.²²
- Collaborate with DOI's current task force, which is reviewing the possibility to combine revenue system needs across DOI bureaus/offices into a single or integrated system. The task force is expected to develop a roadmap to implementation in September 2013. TAS should collaborate with this task force relative to trust management and administration needs and evaluate options to enhance existing revenue systems that manage Indian oil and gas revenues, which include People Soft (ONRR), TAAMS (BIA), NIOGEMS (BIA Office of Indian

²¹ Baker Hughes Incorporated. *Well Monitoring Services*. Baker Hughes Incorporated. 2013. Accessed August 1, 2013. <http://www.bakerhughes.com/products-and-services/production/intelligent-production-systems/well-monitoring-services>

²² Effective May 1, 2011, applicants filing for Social Security and Supplemental Security Income (SSI) benefit payments must choose either direct deposit or the Direct Express® debit card. Social Security Administration. "Frequently Asked Questions." Official Social Security Website. <http://www.ssa.gov/deposit/DDFAQ898.htm#a0=1>

Energy and Economic Development (IEED)), Osage Suite (BIA), TFAS (OST) and AFMSS/WIS (BLM). These existing systems function in largely independent environments, with many overlapping data and document needs between agencies. Resources required to support current information systems are critical to the management of the Indian trusts' oil and gas resources, but some of these existing systems are inefficient, duplicative and are prone to data inconsistencies (e.g., multiple lease number systems) among the agencies requirements to share, store, manage and retain document data and legal documents. Additionally, each agency's system is in a different stage of its life cycle; with development, maintenance and upkeep of the systems the independent responsibility of each agency. Creating a comprehensive, integrated system would require agencies to perform additional system cost-benefit and functional/program/customer needs assessments, as well as obtaining funding and establishing interagency agreements/MOUs. It is acknowledged and understood among the agencies that each data element has a primary "owner" (i.e., the originator of the data element, such as a lease number and corresponding legal property description), and that efficiency is defined by the original "data owner" being responsible for the validity of this data element in all agencies' systems. This approach would require planning to ensure that the data needs of each agency are captured, clear lines of responsibility are established to ensure proper system and data maintenance, and limitations placed on what data agencies can update or view. For example, under this approach the initiator of a document should be the one responsible to input key information onto the system, image the original source document onto the system, and audit the data and document. Once on the system all agencies would be able to view the source data and documents for their functional needs, but would no longer have to input or interface that information onto their current system or request a copy of the document.

- Implement an integrated system that can track backlogs of Communitization Agreements (CA) and Applications for Permit to Drill (APD). With the improved technology, the oil and gas industry is booming and leasing on Indian trust land has accelerated at an alarming rate. The agencies have lacked adequate resources to meet the expanded leasing demand. A tracking system similar to what agencies use to track probates and appraisals (e.g. ProTrac) may help identify how to better monitor and track these backlogs. Additionally, this tracking system should also identify and track moneys held in escrow by Payors who are pending final approval. In the current TAS environment, backlog workarounds in North Dakota consist of an agreed-upon informal pre-CA process where an unsigned CA receives a cursory review by BLM then production is started and payments are processed to beneficiaries. This pre-CA process needs to be further explored and formal policies and procedures need to be established to help reduce backlogs.

Regulatory/Legislative/Policy Considerations

- In the assessment of a comprehensive, integrated oil and gas system, special consideration must be given to those tribes who have additional specific MOUs or CFR sections relative to them. For example, BIA currently provides all oil and gas services that are typically performed by ONRR and BLM relative to the Osage Tribe's oil and gas activities, via an in-house system (Osage Suite). The Osage Suite may not fully meet the needs of the agency to properly

execute their fiduciary trust duties and additional consideration must be given as to how best upgrade, replace or integrate this system.

4. Customer Service Recommendations

PROCEDURAL



- Conduct more training sessions to individuals about how to read statements, and provide written guidance on how to read statements with the mailed statement. This training needs to be presented in a consistent, reliable format, and available in multiple languages (e.g., English, Navajo). Although an explanation of the IIM and trust asset statement is provided on OST's website²³, the guidance is not sufficiently explanatory. Teachers

Insurance and Annuity Association–College Retirement Equities Fund Financial Services provides a more robust example of how the user can be guided through their statement.²⁴ During the training sessions, a similar document can support a guided walkthrough of a beneficiaries' account statement.

- Provide an explanation of ownership interest/type (as it is currently codified in the account number) in a free-form description field on the statement itself, rather than having beneficiaries translate their account number into their ownership type. As presented on OST's website (see excerpt below), lengthy explanations of the IIM account number may not be necessary.

Current explanation of account number:

²³ Office of the Special Trustee for American Indians. "Explaining Your Trust Account Statement." U.S. Department of the Interior. Electronic. http://www.doi.gov/ost/individual_beneficiaries/statement.cfm

²⁴ TIAA-CREF. "How to read your Brokerage Account Statement." TIAA-CREF Brokerage Services. 2011. Electronic. <https://www.tiaa-cref.org/public/pdf/brokerage/52368.pdf>

Explaining your account number

Your personal IIM account number is made up of three sections, and will look something like "123 A 123456." The first three digits represent a tribal code, land area code or Alaska Regional Corporation code. The one-letter character is an "alpha" or "class" code, which identifies the type of account you have.

For example:

- A = Account holder is the original allottee of the land.**
- U = An Indian account holder who is not the original allottee but owns land interests or receives a per capita payment.**
- N = An Indian who is not enrolled in a federally-recognized tribe (lineal descendant).**
- L = Life estate, dower or courtesy, or homestead interest for an Indian.**
- B = Life estate, dower or courtesy, or homestead interest for a non-Indian.**
- J = Judgment per capita payment, generally used for minors and adults in need of assistance or under legal disability.**
- P = Tribal per capita payment generally used for minors or adults in need of assistance or under legal disability.**
- X = Non-Indian fee interest owner.**

The group of numbers following the alpha code is your personal account number. In some cases this is your tribal enrollment number. Although you may have more than one type of account, your personal account number will always remain the same. Only the "alpha" code should be different.

Recommended explanation of account number:



Individual Indian Money (IIM) and Land (Asset) Accounts

■ Individual Indian Account Number 123 A 123456

Account summary

You are:	- a member of the 123 Tribe - the original allottee
Your tribal enrollment number is	123456

- Establish a formal survey mechanism to generate feedback from tribal and individual beneficiaries concerning the quality and level of service they receive. For example, a permanent link and/or phone number on the quarterly account statement or website to direct beneficiaries to a survey, allowing them to provide specific feedback concerning the services they receive. Conduct survey and outreach efforts as a part of an overall customer service strategy that encourages proactive, rather than reactive, government outreach efforts. It should be noted that the majority of responses to the beneficiary outreach efforts during this study (e.g., a Trust Commission email address, formal online survey, and quarterly account statement notifications requesting feedback) were not directed at the improvement of TAS, but included specific questions about an account, probate case and/or land allotment. This indicates that beneficiaries are currently unaware of existing customer service channels or are willing to use any available route to seek resolution to their specific inquiry.
- Provide a more user-friendly transaction activity section of the IIM account statement. An example online account statement, which is modeled from a BB&T statement, is compared to the current OST account statement below. The BB&T model statement has been modified to show the example transaction listing from the OST statement:

**OST's Current
Transaction Listing:**

[Account Holder Name]
[Account Holder Address]

ACCOUNT OF [Name]
[Account Number]

TRANSACTION ACTIVITY FOR ACCOUNTING PERIOD: 09/01/12 THROUGH 11/30/12

DATE	TRANSACTION DESCRIPTION	CASH
	BEGINNING BALANCES	10.59
09/04/12	CASH RECEIPT FARM PASTURE CT09A000659 , 410284 LEASE NUMBER: 347 1473201013 AU 12082010 LESSEE: MYLES J DEVINE TRACT ID: 347 90728 INVOICE #: 462025 PAYMENT DUE: 10/01/2012 OWNERSHIP #: 0.0013020633	1.15

Source: OST

**Recommended/
Example
Transaction Listing:**



Individual Indian Money (IIM) and Land (Asset) Accounts

■ Individual Indian Account Number 123 A 123456

Account summary

Your previous balance as of 09/01/2012	\$10.59
Deposits, credits and interest	+ 5.36
Your new balance as of 09/04/2012	= 15.95

Average Posted Balance in Statement Cycle \$ 13.27

You are: - a member of the 123 Tribe
- the original allottee
Your tribal enrollment number is 123456

Revenue-generating Land Tracts that You Own

Deposits, credits and interest - Tract ID 347 90728 Your ownership stake: 0.18229166%		
DATE	DESCRIPTION	AMOUNT(\$)
Beginning Balance: \$0		
9/4	Farm Pasture Lease payment - Lease Identification Number 347 1473201013 AU 12082010 Lessee: Miles J Devine Invoice #: 462025 Payment Due: 10/01/2012	1.61
Ending Balance: \$1.61		
Deposits, credits and interest - Tract ID 303 708 -B Your ownership stake: 0.125%		
DATE	DESCRIPTION	AMOUNT(\$)
Beginning Balance: \$0		
9/4	Farm Pasture Lease payment - Lease Identification Number 303 1001150913 AU 02182009 Lessee: Norman Birkeland Invoice #: 458755 Payment Due: 09/15/2012	3.75
Ending Balance: \$3.75		

Non Revenue-generating Land Tracts that You Own

Undivided Ownership	Tract ID Tract Name	Tract Acres	Location	Ownership Classification
0.182%	347 M 90827 Henry Peterson	40.00	Marshall, SD	Title & Beneficial

The recommended example account statement layout above aims to clarify the transactions for non-accountants as descriptions are more robust and transactions are grouped by land tract. In addition, remove the deposit ticket number and the check record number (CT09A000659 and 410284, in this example respectively), as beneficiaries have little use for this information. Also, land tracts that do not earn revenue are displayed at the end of the statement to provide beneficiaries with a complete depiction of their assets.

When migrating to online statements, provide beneficiaries with additional images of receipt and distribution documents via links on the associated transaction (e.g., images of checks).

- To reduce the administrative burden of administering checks for small amounts (for those accounts without direct deposit or debit card), reduce or eliminate the use of mailed checks to unrestricted IIM account holders unless specifically requested by the individual to receive mailed checks. This would require that the funds are kept in the IIM account indefinitely; much like how a common deposit account at a commercial bank operates.

- To reduce the use of mailed paper IIM account statements, continue piloting the StrataWeb application which allows individual beneficiaries to view their financial activity (current balance and transaction history) in TFAS. Continuation and expansion of this program should include the invitation of additional beneficiaries to participate in the pilot (currently 400 beneficiaries were invited to participate, of which 100 responded positively), and ultimately expanding functionality so users can view asset information from TAAMS. In reviewing the results of the initial pilot, the government needs to address why only 25% of the beneficiaries responded positively and integrate that feedback into improving the next iteration of StrataWeb. For those that own smartphones but do not have home internet access, establish a mobile platform/application that allows beneficiaries to view account balances via their phone or mobile device. Electronic statements would reduce the burden on the current OST staff and reduce paper costs. OST currently uses a full pallet of paper, 75 cases to one pallet, for one statement cycle. Allowing beneficiaries to opt-in for electronic statements helps reduce special printing, envelope, labeling, and postal costs. Since IIM account updates are run on a nightly basis through TFAS, the legal requirement to provide daily account balances²⁵ can still be met with online account access.
- Establish a single, centralized customer service call center that employs skillsets currently in place at all current TAS agencies (BLM, ONRR, BIA, OST). Currently, beneficiaries have the option of calling the TBCC, FIMO (if they are in the Navajo region and are asking about mineral estates and rights) and/or their local agency superintendents. Beneficiaries have expressed confusion as to who to contact for resolution to their specific issue. In the establishment of this centralized call center, employ the same business processes and skills currently in place at the TBCC, which has a 95% first line resolution rate.
- Supplement the centralized call center with a single CRM system, such as the existing TBCC Tracker, that provides integrated case management. Features should include automated case assignment and routing, status updating, and performance tracking. Additionally, create a central menu of trust services (e.g., online, telephonic) that provides beneficiaries a roadmap to obtaining requested services and/or issue resolution (e.g., available services, points of contact, associated data requirements (forms)). Provide this latter capability as an online feature on ITAC's website. All offices, bureaus, and current TAS regions must have access to the CRM system, and the system must be well integrated with TFAS so that call center representatives no longer have to separately access TFAS to answer questions about an individual's account.

In the near-term, expand the availability of the TBCC Tracker so existing BIA Trust Services personnel have access to its database. This will streamline customer service processes by allowing BIA personnel to access and update service records directly. Currently, select BIA Social Services employees have access to the TBCC Tracker.

- Ensure that beneficiaries are better aware of the resources available to them, such as the contact center and the Fiduciary Trust Officers, through announcements and advertisements that better stand out. Examples of these announcements can include Fiduciary Trust Officer

²⁵ American Indian Trust Fund Management Reform Act, PL 103-412 Section 102 (b). Electronic. http://www.justice.gov/jmd/lis/legislative_histories/pl103-412/act-pl103-412.pdf

contact information on the quarterly account statement or online account, providing contact information at the BIA and Tribal offices (for walk-ins), and including a “who do I contact” question on an FAQ page/link (also to be included on the quarterly statement and online account).

Currently, the only mention of the TBCC resource is at:

http://www.doi.gov/ost/individual_beneficiaries/callcenter.cfm. The mention of the TBCC phone number should be more prominent on OST's current website, and the link to the Fiduciary Trust Officer contacts should be more apparent. An example is provided by State Farm, which is depicted below in comparison to the OST's current website.

Current mention of resources

The screenshot shows the U.S. Department of the Interior website. The main heading is "Office of the Special Trustee for American Indians". On the left sidebar, under "Resources for:", the "INDIVIDUAL BENEFICIARIES" section is expanded, and "Trust Beneficiary Call Center" is highlighted with a dashed box. In the main content area, a list of services is shown, with "Fiduciary Trust Officers by Region" also highlighted with a dashed box. Below this, there is a "NOTICE" section and "Garden City Group, Inc., Contact Information".

Source: <http://www.doi.gov/ost/index.cfm>

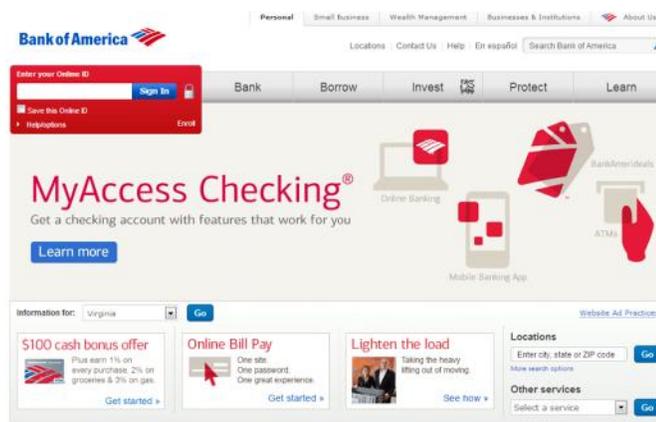
Example advertisement of contact center

The screenshot shows the State Farm website. The navigation bar includes "Insurance", "Mutual Funds", and "State Farm Bank". The main content area features a "Get a Quote" section with a dropdown menu for "Auto" and a "ZIP Code" input field. The "Contact Us" section is highlighted with a dashed box, showing a "Talk to a local agent" form with a "ZIP Code" input field and a "Go" button. Below this, there is a "Manage Claims" section and a "got to a better State" logo.

Source: StateFarm.com

The example above from StateFarm also provides an additional best practice: beneficiaries (or customers) can utilize the search function under “Contact Us” by inputting their location information, which queries for the local agent in the underlying database. This would be an improvement over OST’s current website, which requires the beneficiary to comb through the list of agencies to locate his/her respective FTO.

- Restructure how TAS presents itself and available services on its website to be more beneficiary friendly rather than DOI-centric. For example, the home page of the OST website should not be centered on the history and purpose of OST; rather, major headings and links should be centered on the services that OST provides to beneficiaries. Links for signing up for direct deposit and debit card, as well as Tribal Access to TFAS, Withdrawal of Tribal Funds and the FTO Finder should be more prominent across the top of the website (in essence, the actions that beneficiaries can take should not take more than 1 click to find). Other links to sources of information can still be placed under the Resources section. As an example, the picture below is of Bank of America’s homepage, where the actions a customer can take (Bank, Borrow, Invest, Protect, Learn, Location Finder) are more prominent.



Source: <https://www.bankofamerica.com>

The example above presents an additional best practice for customer-centric presentation: the “About Us” link is presented as a single tab in the top right corner, leaving room for the remainder of the site to be customer-focused. In its current state, the OST website homepage does not exude a feel of customer service, but rather a wealth of information about the history and function of OST.

Another best practice example for making the current OST website more customer-centric is from the Defense Finance and Accounting Service (DFAS). In the first picture below, DFAS customers are directed to a large link at the top right for account access, which links to the myPay page. On the myPay page, users are provided with an easy-to-find login screen and easy access to additional resources.

DFAS home page with easy-to-find myPay access

myPay page with easy-to-find login and resources

The Federal Energy Regulatory Commission (FERC) is an additional example of customer-centric website best practices. The FERC online portal, as presented below, provides customers with easy to understand processes and links for how to electronically interact with FERC.



- Restructure the forms processing (as it currently exists at http://www.doi.gov/ost/individual_beneficiaries/forms.cfm) to ensure that beneficiaries no longer need to physically print, sign and mail direct deposit and debit card applications. It would be much more helpful to beneficiaries if these forms were made electronic, much like loan application forms are made available electronically on any common commercial bank.

Regulatory/Legislative/Policy Considerations

- Explore opportunities for legislative relief to accounting for low-dollar IIM and special deposit accounts. The Subparts of 25 C.F.R 115 contain provisions for how the government should maintain accounts for individual Indians and tribes who receive trust land revenue, but no provisions exist for how inactive and/or small accounts (including special deposit accounts) can be pooled into larger, more maintenance cost-effective accounts. A possible relief strategy to be included in the amendment to this law is the establishment of a monthly administrative/maintenance fee on small and special deposit accounts, which would over time, reduce the account to zero. As an example, the BB&T Bright Banking checking account product charges the account holder a monthly maintenance fee of \$10 unless the account holder has direct deposit or a \$1500 average monthly balance.²⁶
- 25 CFR Part 115 Subpart B (IIM Accounts) indicates that adult owners of unrestricted IIM accounts have the right to withdraw funds from their account at any time. However, it is OST's current policy²⁷ that states that checks are automatically disbursed when an account reaches a balance of \$15 or when oil and gas payments reach \$5 in a given cycle. Change

²⁶ Branch Banking & Trust. "Checking Accounts." Branch Banking & Trust Official Website. Accessed August 2, 2013. <http://www.bbt.com/bbt.com/banking/checking/compare-checking-accounts.page>

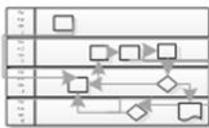
²⁷ U.S. Department of the Interior, Office of the Special Trustee for American Indians. "Individual Indian Money Account Information." Office of the Special Trustee for American Indians. Brochure.

this policy to allow for funds to be kept in the account indefinitely or until the account owner requests that a check be disbursed.

- The Privacy Act of 1974 (5 U.S.C. § 552a as amended) should be considered when granting online account access to beneficiaries, so individuals do not obtain unauthorized access to accounts which they do not own.
- Consideration of PL 103-412 Section 101 (d)(5) and 102 (b) should be given when establishing online account statements. In these two sections, the law states that the government is to supply account holders with periodic statements of account balances and a statement of performance; however, the law does not specifically require paper statements.

5. Records Management Recommendations

PROCEDURAL



- Ensure all policies and procedures regarding records management are standardized and practiced across all regions and offices. This includes providing training to all staff that handle and safeguard records.
- Records should be coded using standardized coding manuals for all trust documents.
- Develop and implement policies and procedures that are compliant with the DOI-wide initiative email, Enterprise Records, and Document Management System (eERDMS). Under DOI's IT Transformation initiative, eERDMS is has been online since May 2012 with defined outcomes including utilization of cloud technology records storage and is currently being integrated with the current Financial and Business Management System (FBMS) travel module.²⁸ The program vision is to "provide DOI with a single, cohesive integrated information management program designed to manage records and documents for its missions and programs to ensure public trust and transparency." Currently, eERDMS is focusing on managing over 550M emails annually, indexing over 1B legacy emails, consolidating over 4,700 forms, digitizing millions of Indian trust records, and migrating an estimated 30 legacy platforms. This system also provides support for Freedom of Information Act (FOIA), Congressional, Administrative Records, Ethics, Solicitor, and Inspector General requests by centralizing records within one management system.²⁹

One eERDMS goal is to allow bureaus to purchase services rather than infrastructure, allowing individual bureaus to tailor their records management programs while maintain compliance with DOI-wide minimum policy requirements (e.g., minimum retention timeliness and disposal guidelines). DOI Departmental Manual Part 380 is currently under National Archives and Records Administration (NARA) review.

TAS agencies can take advantage of the following eERDMS capabilities:

- Document imaging

²⁸ FBMS is designed to incorporate the majority of DOI's financial management functions into one system. <http://www.doi.gov/pmb/fbms/overview/index.cfm>

²⁹ US Department of the Interior. (July 11, 2013). *eERDMS Program Overview*. Presentation, Washington, DC.

- Multi-functional device scanning (i.e., scanned messages will be sent to specified email addresses, faxed documents will be delivered via email as opposed to paper copy)
 - Social network content capture and social media mobile device capture (e.g., captures documents referenced or communicated via social media outlets as these are still classified as official department records)
 - SharePoint migration (e.g., SharePoint sites can be linked to or fully migrated to the eERDMS platform)
 - eForms (e.g., forms can be captured on the eERDMS platform and possess workflow tracking for approvals)
 - Legal document management (i.e., future strategy includes capturing and managing litigation holds on records and developing automated processes using lifecycle business process management for records capture, litigation holds, preservations, and attorney support)
 - Collaboration/workflow management including mobile devices (e.g., this capability can be combined with DocuSign, or similar capability, to manage electronic lease/contract management from mobile devices.
 - Auditing (i.e., eERDMS possess full auditing ability of document ownership and edits)
 - Enterprise search (e.g., this capability simplifies and streamlines FOIA, Solicitor, and other requests for documents by granting administrator rights to appropriate offices, allowing the office to search the database opposed to making lengthy requests of individual bureaus/offices)
 - Correspondence tracking
 - External access
- As part of a trust-specific records retention schedule, define standards identifying records as vital/non-vital, active/inactive, and paper/electronic in compliance with DOI Departmental Manual Part 380. Update the inventory of existing records, classifying them according to the defined record types. Post-inventory, develop and implement a standardized approach to input/code all collected documents into a centralized records system such as eERDMS, including documents sent to Federal Records Centers (FRCs), off-site storage facilities, and the American Indian Records Repository (AIRR).

Regulatory/Legislative/Policy Considerations

- Individual bureau/office records management schedules and policies must meet minimum requirements identified in DOI Departmental Manual Part 380, currently under NARA review.
- During design and implementation of the records management program, consideration should be made for the Federal Records Act of 1950 (44 U.S.C. chapters 29, 31 and 33) as amended, which establishes the framework for records management programs in federal agencies.

6. Human Resources Recommendations

PROCEDURAL



- Develop an annual workforce plan that addresses the current human resource challenges faced by existing trust service providers. These current challenges include upcoming retirement eligibility of OST and BIA personnel (one-third of BIA's current workforce and 61%³⁰ of the current workforce at OST, ONRR and OHA (in aggregate) are already eligible or will be within the next 5 years), skillset gaps in certain disciplines (e.g., commercial leasing), and availability of expert resources (e.g., Land Surveyors, Hydrologists). The annual workforce plan should also include defined career ladders and other incentive programs.
- To address the issue of imminent knowledge loss due to retirement, adopt a phased-retirement program whereby retirement-age participants gradually give up their day-to-day responsibilities in exchange for mentoring and teaching classes to successors. An example of such a program is conducted at American Express and featured in Businessweek.³¹
- To ensure positions are filled in remote areas, offer employees customized benefits to attract and retain qualified personnel. Benefits may include commuting/transportation subsidies, housing allowances or agency-provided housing. An example of this problem is at the Uintah & Ouray (U&O) agency, which has only 1 mineral specialist for the entire U&O reservation. The U&O agency cannot attract qualified junior staff because of cost of living and availability of housing constraints.
- Interviews with BIA personnel indicated that getting adequate expert resources for specific lease applications or projects in a specific region has been difficult due to BLM/FWS/NPS placement of those skilled resources in other regions. The annual workforce plan must ensure that each region has adequate access to highly-skilled, specialized resources when needed (such as hydrologists for land irrigation projects or water resource management plans), including sharing of resources for a temporary realignment of staff to address fluctuations in workload.
- Implement a rotational program that allows BIA and OST office/service managers at the agency and regional levels the opportunity to be trained in other disciplines (e.g., Human Resource managers should get the opportunity to be cross-trained in Accounting and Accounts Management) through temporary duty locations/assignments. Rotational locations may also include central office (D.C.) and cross-regional assignments. In addition, adopt a tribal exchange program wherein OST and BIA managers would have TDY stations at tribal offices (and vice versa). These rotational programs would help retain institutional trust knowledge in the event that an expert resource unexpectedly leaves or retires.
- Work with the DOI University to re-establish its 'Native American Cultural Sensitivity Training' program, and provide this training to all employees and managers across the TAS

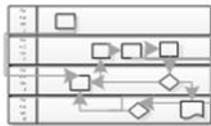
³⁰ Data from the FPPS file submission, which was requested and received by the Grant Thornton team in May 2013. Data fields included: position title, occupational series, location, grade, and retirement eligibility.

³¹ MacMillan, Douglas. "Issue: Retiring Employees, Lost Knowledge." *Bloomberg Businessweek*. August 20, 2008. Electronic. Accessed August 12, 2013. <http://www.businessweek.com/stories/2008-08-20/issue-retiring-employees-lost-knowledgebusinessweek-business-news-stock-market-and-financial-advice>

environment. Incorporate this training into the onboarding materials and the annual/required training seminars. The National Legal Aid and Defender Association provides an example of cultural awareness curriculum.³² In addition, mandate that current BIA Superintendents attend this training program.

7. Budget and Administration Recommendations

PROCEDURAL



- Establish a trust-specific budget for use by the ITAC to justify its initial appropriation request. This process would include delineating all essential trust duties and developing funding estimates for regional implementation, national coordinating, and commissioner support offices. These estimates would factor which shared resources could be pulled from DOI to support the new Commission, as well as new resources required to fill national coordinating, and commission support roles.
- Once the initial appropriation has been completed, the accuracy of future resource requirements for regional implementation, national coordinating, and commission support offices can be improved through activity-based costing (ABC). ABC can be used to establish a common operational workload lexicon and taxonomy for use in enhancing current workload and performance management capabilities.
- Determine the appropriate legislative actions required to: 1) Separate the ITAC appropriation from DOI bureaus/offices; and 2) secure trust-specific funding from budget fluctuations.
- Standardize budget funding formulas within individual programs to streamline budget formulation and establish necessary base funding levels. The establishment of budget formulas provides a solid foundation for standardizing hourly labor costs.

Several organizations, including the United States Patent and Trademark Office (USPTO) and international government agency Aboriginal Affairs and Northern Development Canada (AANDC), use tailored funding formulas to determine appropriate program funding levels.

USPTO operates under a robust activity-based costing environment and uses a 'cost build-up approach' to determine funding when previous cost or process information is not available or not collected at the right level of activity and/or workload. The Cost Build-Up Approach uses the following input factors to 'build-up' the costs:

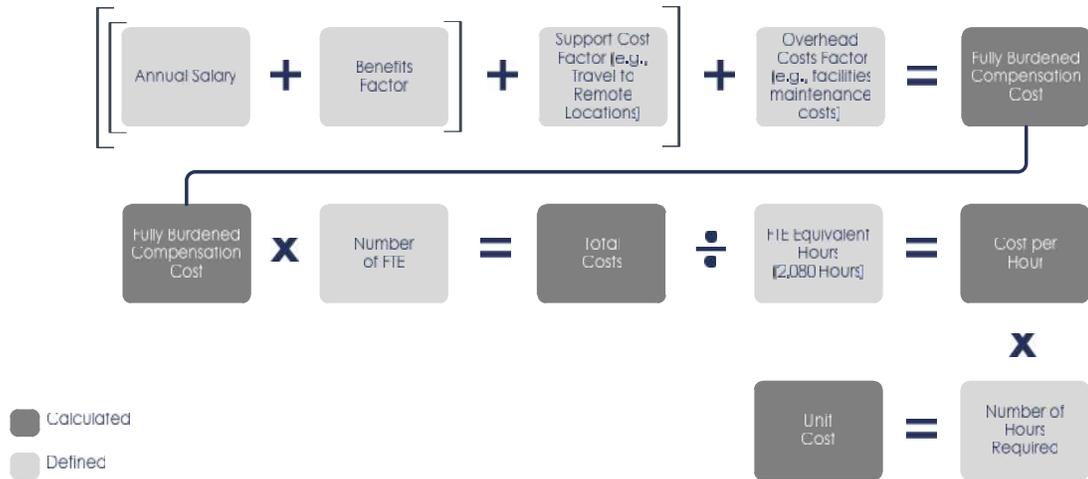
- Level of effort (workload)
- Grade level/salary
- Estimated benefit, overhead, and support (if applicable) cost factors

³² National Legal Aid & Defender Association. "Cultural Awareness." *National Legal Aid & Defender Association*. Training Materials. Washington, DC. 2011. Electronic.

http://www.nlada.org/Training/Train_Civil/Equal_Justice/2007_Materials/047_2007_Delaney_handout5

- Full-time equivalent (2,080 hours) to account for an entire year of service

The illustration below provides an example of the cost build-up calculation used to calculate the cost per hour (when workload is involved):



A similar formula can be customized to address budget formulation for the following trust-related management activities, among others:

- Cost per trust acre managed
- Cost per appraisal conducted
- Cost per probate case closed
- Cost per real estate encumbrance
- Cost per acre planted
- Cost per acre thinned
- Cost per acre treated for insects and disease
- Cost per acre covered in forestry management plan

Budget justifications can be supported by funding formulas that calculate costs incurred during the reporting year and calculate base funding necessary to maintain operational costs. This recommendation leverages current activity-based costing systems within BIA and requires accurate reporting of employee time and collection of workload completed, in process, and outstanding. At Indian Affairs, the Office of Planning and Performance Management (OPPM) has attempted to integrate budget and performance information by carrying out the follow steps:

- Defining all activities carried out in the organization, codifying them in an activity dictionary, and periodically updating the dictionary with new activities and modified definitions of existing activities
- Utilizing a mature cost accounting system to associate costs of performing each activity
- Aligning activities and their associated costs to performance measures
- Establishing algorithms that enabled programs to calculate the impact of the budget changes on performance levels

This kind of linkage enables program managers to (a) review historical cost or performance and (b) anticipate future cost of performance.

Historical cost of performance: Understanding the historical cost of performance enables program managers to calculate the average unit of cost of performance over a past time period. For example, a program manager could determine the average cost per probate case closed over the past 12 month period.

Future cost of performance: Calculating average unit cost of performance in the past serves as a starting point for anticipating the future marginal cost of performance. If, for example, the average cost per forestry management plan completed was \$20,000 during FY2013, the budget justification for FY2014 would provide management with an opportunity to evaluate factors that might drive the marginal cost of performance higher or lower. Such factors as increased complexity of management plans, utilization of higher paid workforce or increases in support costs such as travelling to remote locations would all contribute to higher marginal costs of management plans in upcoming years. The combination of credible baseline cost-performance relationships and thorough analysis of changes in environmental factors produces a powerful basis for justifying budget increases, and defending against budget reductions.

AANDC uses a similar budget formulation process in their Fixed Contribution Approach. In this approach, annual funding amounts are established on a formula basis and distributed on a program basis. As an example, AANDC's Shelter Funding Methodology for the Family Violent Prevention Program includes four categories: (1) staff salaries; (2) other expenses; (3) staff remoteness factor; and (4) expenses remoteness factor. Cost shelter operating budget includes staff salaries and other expenses and consists of 75% and 25% of the funding formula calculation, respectively. This formula takes into account expenses based on distance from the nearest city center (an additional 8-135%) and cost of living. Current funding formula inputs include:

- Shelter size (number of beds)
- Staff size (based on number and type of position)
- Salary (based on location and standard rates)
- Benefits (8.45%, includes pension plan, insurance, workman's compensation, vacation, and holiday pay) and other overhead (25%)
- Location (remoteness in relation to nearest city center)
- Cost of living and inflation (2% annually)

This recommendation, in conjunction with recommendations found under the Human Resource section of this report, requires standardization of job positions and salaries, based on the Office of Personnel Management (OPM) Handbook of Occupational Groups and Families. Other considerations for funding formula development include:

- **Definition of core services.** ITAC can leverage current activity-based costing efforts at BIA. Since 2007, core Trust Services activities have been defined in the Indian Affairs Activity Dictionary. Each activity includes alignment to the DOI Strategic Plan goal and objective, description of activities performed under each workload process, and Quicktime activity code.

- **Standardization of skill sets required and salary levels of employees.** ITAC would need to standardize job descriptions, grade levels, salaries, and positions for each program, within each region, accounting for remoteness, cost of living, and other unique expenses. This allows the budget formula to balance unique regional characteristics while maintaining consistent program budget formulation.
- **Standardization of non-salary expenses that each program incurs.** Similar to the requirement above, ITAC would need to define expenses related to remoteness and other unique expenses incurred at the program level that differ among regions.³³

As another example of performance-based budgeting, the Federal Protective Service (FPS) uses an approach in which a minimum budget floor is established, and the associated performance related to requests for additional resources is supported with performance measures and outputs. FPS is fully fee-funded based on the square footage of space to which they are contracted to provide service. If they request additional funding from their base floor (1,387 FTE with 1,007 law enforcement officers), they must provide OMB with what the government can expect with the additional funds (additional square footage protected, additional law enforcement officers employed, etc.). ITAC should continue to encourage more robust performance-based budgeting based on the costs of providing trust services (e.g., cost per trust acre managed), and define ways in which increases from this base funding level can be supported by improved performance measures and outputs.

8. Leasing/Contracting Recommendations

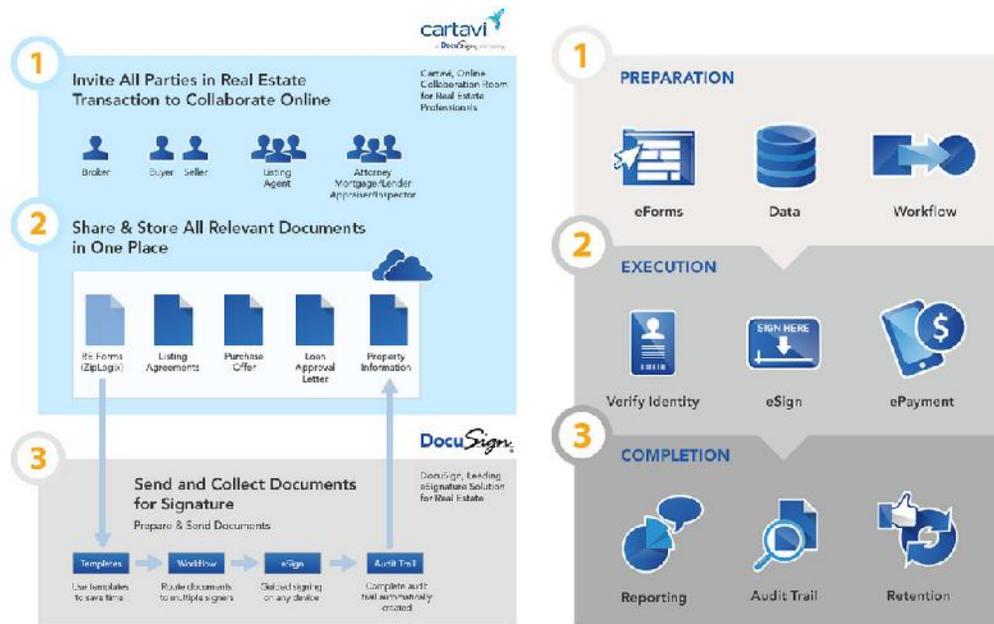
PROCEDURAL



➤ Use electronic document signature software to increase efficiency and reduce use of cumbersome paperwork. An example of this includes DocuSign or RightSignature. Electronic signature and contract management technology is widely-used by real estate management professional to sign and send millions of documents, including commercial and residential real estate, property management, mortgage, and other documents. To illustrate, DocuSign reduces time as well as unnecessary printing, scanning, faxing, and mailing of documents. DocuSign reports that over 60% of documents are signed within one hour of receipt.³⁴ This technology is compatible with mobile devices, allowing for easier collaboration, faster transactions, and improved management of documents. The image shown below depicts the DocuSign process, which can be applied to both real property purchases and leases.

³³ Johnston Research Inc. (2006). *Shelter Funding Methodology for the Family Violent Prevention Program Final Research Report*. Vaughan, Ontario.

³⁴ DocuSign Inc. "When minutes can mean millions, DocuSign delivers." DocuSign Inc. 2013. Electronic. <http://www.docusign.com/solutions/industries/real-estate>



Source: DocuSign

Electronic document signature software allows users to add their documents, select recipients, place “Sign Here” tabs directly into document, and send to recipients who will be alerted by email. One consideration for application in Indian Country would be lack of email access and printing capability in the field. TAS staff equipped with departmental mobile devices such as iPhones, iPads, or Androids can install software on these devices allowing staff greater flexibility and mobility of technology when conducting site visits to obtain necessary lease/contract signatures. Paper copies can still be provided to landowners upon request, if electronic copies are not feasible.

Leading electronic technologies (e.g., DocuSign Payment, partnered with PayPal) offer payment transaction capabilities in addition to electronic signature management. This technology would help organizations obtain signatures on leases/contracts and collect payments faster.

In addition to reduction of paperwork, improved management of leases/contracts, use of electronic signature technology would significantly reduce time to complete lease/contract negotiations, specifically when several lessor signatures are required to finalize the agreement.

- As DOI continues to move toward a more mobile environment and equip staff with iPhone, iPad or other mobile devices, mobile payment technology should be used to expedite payment processing, reduce paper checks, and reduce time of collection and disbursement of funds into IIM accounts. An example of this mobile-pay software is Square.³⁵ Images below display how to use the Square mobile device attachment to capture payments with a credit or debit card.

³⁵ Square, Inc. *Square, Inc. Official Website*. Square, Inc. 2013. <https://squareup.com/>



Source: Square

Equipping staff with mobile devices and payment processing technology allows TAS to move toward an innovative, flexible, and efficient organization that can adapt to the growing technologically-savvy population of IIM account and land owners and further addresses beneficiary requests for improved online account access and capability.

- Expand efforts to notify tribes when oil and gas assessments are scheduled as these may require tribal permits. Currently, the only assessment notices exist in the form of physical posts at the local BIA agency.
- Expand training sessions to individuals about the leasing process, specifically regarding oil/gas leases. To get a broader audience of individuals, it is recommended that these training sessions be conducted at tribal headquarters locations rather than at BIA agency offices. In addition, continue to assess the need for establishing satellite training offices that are in close proximity to large-scale oil/gas production locations. Training should address the following:
 - Initiation of a lease (i.e., points of contact, application to be completed, source documentation to be provided by beneficiary)
 - Identification of a viable leasing partner/lessee
 - Actions available for recourse in the event a lessee breaches the contract by being irresponsible (e.g., destructive behavior), uncooperative (e.g., fails to communicate properly with the individual or BIA), or fails to pay rent according to the lease
 - Termination or renewal of a lease
 - Observation and monitoring of lease application status
 - Statistics about oil and gas leases that show the recent expansion of the number of leases, and historical lease and royalty rates
 - Expected timelines in the leasing process, and common reasons for delays
 - The training should then be provided to each BIA agency for their distribution over the long-term
- Use of tribal radio stations and other local and regional media outlets (e.g., Indianz.com, Indian Country Today, etc.) to solicit adequate participation in these training sessions to beneficiaries. Another consideration is cultural and geographic implications when

performing these outreach activities by ensuring broadcasts/advertisements are made in sufficient advance (at least 2 months) and participation options are flexible and convenient (e.g., include in-person sessions and webinars).

- Establish a common lease and land tract numbering syntax, as the current disparities in lease numbers between TAS agencies creates confusion and frustration.
- Centralize lease tracking and initiation, as some BIA agencies are experiencing lease backlogs and/or are short staffed.
- Expend adequate resources and efforts to ensure lease compliance activities are conducted adequately. For instance, trespass enforcement has been a major complaint of many allottees across Indian country, including Alaska. This issue does not apply to only human trespassers that mistakenly traverse land boundaries - noxious weeds and cattle have been known to trespass and damage land/property values. In addition, Rights of Way violations have been a major complaint of beneficiaries in Alaska. Current trust service providers have not adequately protected the property rights of individual land owners whose properties have been affected by roads, power lines or other utilities. Lease cancellation policies also need to be better enforced.

Regulatory/Legislative/Policy Considerations

- While electronic document signature software meets or exceeds national and international security standards, there still remains a consideration regarding trust-specific records. The Government Paperwork Elimination Act (GPEA), Title XVII, P.L. 105-277, 10/21/98 requires agencies to provide the option (1) of electronic maintenance, submission or disclosure of information, when practicable as a substitute for paper, and (2) use and acceptance of electronic signatures, when practicable. In addition, the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.), enacted in 1980, was designed to reduce the total amount of paperwork burden the federal government imposes on private businesses and citizens.

9. Sustainability Planning Recommendations

PROCEDURAL



- Continue to promote the full productive capacity of their lands and natural resources by conducting education sessions on how to capture more value from manufacturing or processing of their raw materials. For instance, tribes with forestry resources could engage in value-added activities such as processing timber and producing finished forestry products, thereby helping tribes realize more revenue than the standard lease fees and royalties. The Yakima, White Mountain Apache, and Mescalero tribes have already begun to engage in some of these value-added activities. To conduct these education sessions, work with the US Forest Service's product service laboratory in Madison, Wisconsin and other partners.

10. Land Ownership and Protection Recommendations

PROCEDURAL



- Continue efforts to populate and perfect land title data contained within TAAMS to improve the accuracy of services/processes dependent upon the system. Complete the upload of land ownership (i.e., chains of title) and boundary data for the Five Civilized Tribes and conduct data cleansing to improve data integrity. Currently, there are approximately 8,000 tracks of land in the Eastern Oklahoma Region that have not yet been converted from LRIS to TAAMS (although many of these tracks are not revenue-generating). A manual conversion process is required for these tracks, wherein the tribes and BIA have been doing research on historical probate orders filed at the local county offices.
- Expand efforts to provide GIS-enabled physical/descriptive information to landowners and allottees concerning their land. Geospatial data layers owned by DOI that can be provided to allottees can include forested acreage; agricultural, range, and grazing land acreage; mineral extraction sites; and cross-department data such as census demographics. Current mapping efforts include the approximately 1,500 GIS licenses for 300 DOI staff members that use GIS mapping tools, and NIOGEMS, which takes information from TAAMS to map allotments in parts of California and Oklahoma. Grant access to these data layers to landowners via a web mapping service, wherein the user could input his/her land information into a search tool (e.g., address, GPS coordinates, zip code) within a web mapping service such as the tool described below. Users would still need the land information on their mailed account statements, however, to be able to input accurate location information into the web mapping service.

An example web mapping services is Māori Land Online, which is a web-enabled land ownership database that allows the user to search by owner interest, block view, or map view.

Owner Interest Search

District : Tairāwhiti	
23285	Anewa
23542	Hereheretau B4R2B
23991	Kopua A2
24054	Kopututea 1 & 2 (Aggregated) (Kopu)
24437	Lot 2 Deposited Plan 2394 and Lot 1 (Estate)
24116	Mahanga 1C1A2 and Others (Aggregated)
24485	Mangapoike 2C1
24481	Mangatuna 3 & 4



Te Kōwhiri Whenua Māori Māori Land Online

Home Owner Interest Search Block Search Map Search

BLOCK : Section 473 Town of Kaikoura (Kaikoura Town Section 473, Takahanga Pa)

Block ID:	22291
District:	Te Waipounamu
Title Order Type:	Other
Title Order Ref:	73 56 07 95
Title Issue Ref:	-
Title Order Date:	1986/1989
Land Status:	Māori Freehold Land
Plan:	S0 5289
LNZ Ref:	482084
Area (ha):	2.3689
Total Shares:	2.3689
Total Owners:	1
Soil Report (from Landcare Research) Self report for the block opens in new window.	

Source: Māori Land Online

The Owner Interest Search allows the user to search by owners and trustees of land that falls within the Māori Land Court jurisdiction. The Block Search function allows users to search land blocks by (1) block number, (2) structure type, (3) owner identification number, or (4) land title reference number. The Map Search is a Google Maps-enabled search tool that provides a visual map of land blocks and includes layers for Māori Land Court System, and Local and Regional Councils.³⁶

For example, Landcare Research released a prototype web-based tool that provides environmental information about Māori land parcels, including limitations on land, soil chemistry and other characteristics. Currently, the following information is provided by parcel:

Section 473 Town of Kaikoura

Section 473 Town of Kaikoura has an area of 2.4 hectares. There are 2.3689 shares. There is 1 owner.
View the block details at Māori Land Online.



Land Use Capability

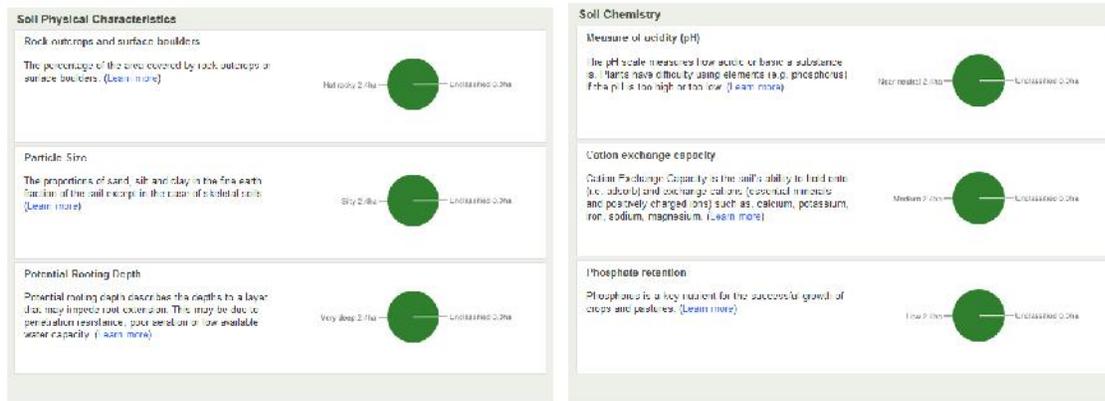
What is the potential of this land?

Moderate limitations for cropping and horticulture 2-40 ha
Land with moderate limitations for arable use, but suitable for cultivated crops, pasture or forestry.

What is the biggest limitation?

Soil Compaction 2-40 ha
Soil physical or chemical properties in the rooting zone such as shallowness, stoniness, low moisture holding capacity, low fertility (which is difficult to correct), salinity or toxicity limit production.

³⁶ Māori Land Court. "Welcome to the Māori Land Online Website." Māori Land Online. 2013. <http://www.maorilandonline.govt.nz/gis/home.htm>



- Adopt new regulations that allow for expedited probate procedures for small estates. Some states have allowed for the use of affidavits in lieu of full hearings/probate proceedings if the value of the estate/account is less than an established threshold. For example, in Arizona, affidavits can be used in lieu of probate proceedings if 1) the value of all personal property in the estate, less liens and encumbrances, is \$50,000 or less, or 2) the value of all Arizona real estate, less liens and encumbrances, is \$75,000 or less at the date of death and all debts and taxes have been paid.³⁷ In Oklahoma, the out-of-court affidavit procedure is permitted if the fair market value of the estate, less liens and encumbrances, is \$20,000 or less.³⁸ These expedited probate procedures would be especially useful for estates with no real property, and would help reduce the workload and backlogs associated with the current TAS probate staff (BIA Probate offices and OHA).
- In lieu of conducting probates, promote the use of alternative strategies such as use of gift deeds, living trusts, affidavits, or wills. Although the BIA Superintendents would still need to review and approve these cases, alternative strategies would help reduce the backlog and workload of the BIA Office of Probate and OHA Administrative Law Judges.
 - A gift deed is a formal, legal agreement that transfers ownership of, and legal rights in, the materials to be donated. Executing a deed is in the best interests of both donor and repository. After discussion and review of the various elements of the deed, it is signed by both the donor or donor's authorized agent, and an authorized representative of the repository. The signed deed of gift establishes and governs the legal relationship between donor and repository and the legal status of the materials. The gift deed process is approximately 30 days through completion if the application is complete and title record is clear, presenting the ability to significantly limit delays or additional Probate backlog. Gift deeds do not require the beneficiary to provide (or BIA to search for) the original death certificate and other hard copy documentation, thereby expediting the asset transfer process that would have otherwise occurred through probate.

³⁷ Nolo: Law for All. "Probate Shortcuts in Arizona." Nolo, 2012. Electronic. <http://www.nolo.com/legal-encyclopedia/arizona-probate-shortcuts-32008.html>

³⁸ Nolo: Law for All. "Probate Shortcuts in Oklahoma." Nolo, 2011. Electronic. <http://www.nolo.com/legal-encyclopedia/oklahoma-probate-shortcuts-32012.html>

- Presented as formal suggestion during the FY2009 Pathways to Leadership course, gift deeds offer a means of probate avoidance and/or significant streamlining of probate completion. Incorporate this strategy into broader customer education and relationship management (e.g., outreach, training, and assistance around chain of title and inheritance) to incentivize its use.
- Another probate-avoidance option is the use of living trust ("inter vivos" trust), wherein the grantor establishes the trust during his/her lifetime rather than at death.
- In the context of educating individual Indians on the use of these alternate options to probate, cultural considerations must be made. For instance, many individuals in Indian country do not typically plan for death, so the use of life estates and living trusts may take considerable effort to gain traction.
- OST introduced web-portal resources for Financial Empowerment³⁹ of individual beneficiaries. OST has partnered with First Nation's Development Institute Invest Native Personal Finance Program to provide training that emphasizes personal financing, budgeting, investing, and planning. TAS can further develop this financial empowerment training to include the education and use of alternative strategies to a probate. Partner with local law firms or universities throughout the regions to educate individual beneficiaries on creating, filing and probating wills, and offer will-writing services. In Alaska, many tribal realty officers are partnering with local attorneys to provide will writing capabilities. In addition, the Institute for Indian Estate Planning and Probate at the Seattle School of Law, directed by Douglas R. Nash,⁴⁰ has a mission to provide Indians and tribes with training on AIPRA and estate planning services. Programs like these should be promoted to increase education outreach and estate planning services to all regions.

Regulatory/Legislative/Policy Considerations

- Compare the requirements imposed by OHA as defined in 25 C.F.R. 15.104 and 15.203 to entities outside of TAS with regard to the amount and type of paperwork required in a probate package. 25 C.F.R. lists the documentation necessary for a probate case file, and this level of documentation has been identified as the major cause of delays in probates. This documentation includes: a death certificate; a will (or evidence that a will exists); Social Security numbers of the decedents; tribal enrollment numbers of the decedent and heirs; current names and addresses of decedents and heirs; sworn statements (e.g., statements of paternity/maternity, interest renouncements); claims and addresses of any known creditors of the decedent; marriage licenses; divorce decrees; adoption and guardianship records; name changes uses by the decedent; and/or child/spousal support payment orders.

³⁹ Office of the Special Trustee for American Indians. "Financial Empowerment." *U.S. Department of the Interior, Office of the Special Trustee for American Indians*. Washington, DC. 2013. Electronic. http://www.doi.gov/ost/individual_beneficiaries/financial-empowerment.cfm

⁴⁰ Institute for Indian Estate Planning and Probate at Seattle University School of Law. *Institute for Indian Estate Planning and Probate*. Seattle, WA. 2013. Electronic. <http://www.indianwills.org/AboutUs.html>

- In Oklahoma, probates for Indian estates, particularly those of the Osage and Five Civilized Tribe reservations, are governed under separate and distinct laws. For instance, the Stigler Act of August 4, 1947 removed land restrictions for members of the Five Civilized Tribes and gave Oklahoma State Courts jurisdiction over probate matters for members of these tribes. In addition, Title 84 of Oklahoma State Statutes: Wills and Succession governs how the State of Oklahoma will conduct will/probate proceedings. In the establishment of expedited probate procedures, such as the use of affidavits in lieu of probate hearings for small estates, considerations for amendments to the Stigler Act and Title 84 of the Oklahoma State Statutes should be considered.
- 25 CFR Part 16: Estates of Indians of the Five Civilized Tribes, has a provision in Section 16.8 (Summary Distribution of Small Liquid Estates) that allows the Field Solicitor to the Osage Tribe to distribute liquid estates containing no more than \$500 to heirs of the decedent without requiring a probate hearing. Consideration for raising the limit on summary probate orders to \$25,000 should be made, as the Office of Hearings and Appeals is currently considering for non-Osage estates.

11. Appraisal Services Recommendations

PROCEDURAL



- Expand the use of third-party vendor solutions for common, standard services (e.g., appraisals and other readily available capabilities within commercial markets) both by beneficiaries (tribes/individuals) and DOI. This includes the development of a “pre-certified/approved vendors” listing (and corresponding price schedule) for use by both DOI and beneficiaries. In addition, establish policies that allow these 3rd party vendors to be gradually alleviated from DOI audits with a history of successful compliance.
- Revise the current definitions of appraisal backlogs⁴¹ in an effort to bring the entire appraisal processes cycle time in line with commercial standards. Commercial mortgage providers typically receive completed appraisals within one to three weeks of request, compared with the current standard of 60 days between the appraisal request receipt and submission to the OAS Supervisory Appraiser for review. Ultimately, this measure should be removed as the use of third party appraisers (without the subsequent review by Regional Supervisory Appraisers) should be heavily encouraged
- Remove the policy requirement which classifies the review of appraisals as an *inherently governmental* function (see policy considerations below).
- Continue to streamline completion of appraisals and eliminate appraisal backlogs by expanding existing practices such as developing contracts on a reservation-by-reservation basis, ensuring each appraisal request is analyzed to determine the Scope of Work necessary to meet the client's needs, extending valid appraisal dates, and using alternative

⁴¹ Office of the Special Trustee for American Indians. “Standard Definitions of Appraisal Backlogs.” *U.S. Department of the Interior, Office of the Special Trustee for American Indians*. Washington, DC. 2013. Electronic. http://www.doi.gov/ost/OAS/std_def.cfm

methodologies and techniques including mass valuations and automated valuation models.⁴² For example, the BIA Realty Program in the Great Plains region is taking steps to conduct mass valuations using the Mass Asset Valuation (MAV) system from the Land Buy-Back Program. MAV provides a vehicle for calculating surface land values for land purchased under the program, thereby eliminating the need for individual land tract appraisals. Other regions should use the MAV system to perform mass land valuations to help reduce appraisal backlogs; however, mass land valuations will not be appropriate for land areas that contain subsurface minerals.

Regulatory/Legislative/Policy Considerations

- Provisions within the National Environmental Policy Act (P.L. 91-190) that require tribes and DOI to perform environmental assessments and/or environmental impact statements are limiting tribes' ability to develop trust assets through leasing and contracting, even if these tribes have a tribal environmental review process in place.⁴³ The slow, burdensome NEPA process has created instances where the land appraisal no longer becomes valid after a certain period of time, thereby requiring the tribe or landowner to repurchase a second appraisal.
- Revisit policy requirements of land appraisals and mineral valuations to be an inherently governmental function. The DOI Departmental Manual Chapter 112 DM 33⁴⁴ designates the Office of Valuation Services (OVS) as the independent body within DOI to provide real property valuations, including those for minerals, timber, water, and other property rights. If an appraisal assignee (DOI-employed or prequalified contractor) has the requisite designations and educational requirements, there should not exist a need to have a federal/OVS review as a part of the overall appraisal process.
- Appraisers, who work under this office, either directly for TAS or through a contracting firm, should conduct their work under the Uniform Standards of Professional Appraisal Practice (USPAP) and the Uniform Appraisal Standards for Federal Land Acquisitions. Appraisal Services office policies should be centered on these sets of professional standards.

⁴² Office of the Special Trustee for American Indians. "Eliminating the Appraisal Backlog." *U.S. Department of the Interior, Office of the Special Trustee for American Indians*. Washington, DC. 2013. Electronic.
<http://www.doi.gov/ost/OAS/backlog.cfm>

⁴³ As allowed by the Helping Expedite and Advance Responsible Tribal Home Ownership (HEARTH) Act of 2012 (H.R. 205)

⁴⁴ U.S. Department of the Interior. *Office of Valuation Services*. Washington, DC. 2013. Electronic.
<http://www.doi.gov/pmb/ovs/index.cfm>