

TRIBAL CONSULTATION MEETING ON REVISING
TRIBAL SHARES FORMULAS
FOR THE REAL ESTATE APPRAISAL PROGRAM

OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS
ALBUQUERQUE, NEW MEXICO

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ORIGINAL

July 29, 2009

1:30 p.m.

DoubleTree Hotel
1000 Multnomah Street
Portland, OR

PRESENTERS:

Mr. Eldred Lesensee, Deputy Chief Appraiser, OAS

Mr. Frank Perniciaro, Management Analyst OST, OEA

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1 MR. PERNICIARO: I'm Frank Perniciaro with the
2 Office of Special Trustee in External Affairs, and thanks
3 for attending our consultation session here today.

4 I do want to add a little context from our last
5 session, session number one. It was shared with me by one
6 of the representatives of the tribe that we should talk
7 about the magnitude of the program. What we have are 40
8 tribes throughout the nation that compact or contract the
9 appraisal program.

10 And here in the Northwest region let me name
11 these tribes off. We have one contracting tribe, the
12 Yakama Nation, but we have six other compacting tribes who
13 take the program, and that's Lummi, Siletz, Port Gamble,
14 Muckleshoot, Confederated Salish-Kootenai, and Umatilla.
15 So they thought -- and I think I agree with it -- it would
16 be good thing that we should share this about the
17 magnitude of the program.

18 So let me turn over the microphone to Eldred to
19 introduce himself.

20 MR. LESANSEE: My name is Eldred Lesensee,
21 deputy chief appraiser with the Office of Appraisal
22 Services, currently located in Albuquerque.

23 MR. PERNICIARO: Now we're going to go over to
24 this side. Can you sing a little bit for me?

25 MS. MILLER: Nobody wants me to sing. I'm

1 Glenda Miller, and I'm the FTO from Alaska.

2 MS. HUTCHINSON: And I'm Margie Hutchinson, FTO
3 from Colville, Spokane, and Kalispell.

4 MS. DuMONTIER: Good afternoon. I'm Deb
5 DuMontier. I'm the fiduciary trust officer for the
6 Flathead Agency, the Confederated Salish-Kootenai tribes.

7 MR. VIS: I'm Dan Vis, and I'm the trust officer
8 in Northern Idaho.

9 MR. BECENTI: Good afternoon, everybody. My
10 name is Bob Becenti, and I'm with the Office of External
11 Affairs, recently joined OST about a couple months ago,
12 and getting my feet wet here.

13 MR. PERNICIARO: All right.

14 MS. REUL: Good afternoon. My name's Martha. I
15 am a Yakama tribal appraiser for the Yakama tribe.

16 MR. KERADT: I'm Gus Keradt, and I'm the FTO at
17 Fort Hall, Idaho.

18 MS. SANFORD: Rena Sanford, regional supervisory
19 appraiser, Northwest regional office.

20 MR. BAKER: Anson Baker, review appraiser, OAS
21 central office.

22 MR. PERNICIARO: You get to do it again.

23 MS. MONTAG: Hi. My name is Andrea Green
24 Montag. I'm here on behalf of Hobbs Straus Dean & Walker.

25 MS. BATIN: Hi. I'm Kathy Batin. I'm contract

1 manager for the Yakama tribe.

2 MR. SWAN: Good afternoon. My name is Tom Swan.
3 I'm the supervisory appraiser at Yakama Nation.

4 MR. PERNICIARO: Okay. I don't think we've
5 missed anyone, have we?

6 All right. Well, Eldred, do you want to go
7 ahead and give your introductory statements, or do you
8 want to move to the slides?

9 MR. LESANSEE: We can move to the slides.

10 MR. PERNICIARO: Move to the slides, okay. Go
11 ahead and give me the next one here.

12 MR. LESANSEE: Okay.

13 MR. PERNICIARO: This is just a little
14 background, and probably most of you know this. What we
15 wanted to share in this slide was that in 1995 BIA
16 embarked on this process of having region-by-region
17 formulas, and we understand, oh, there's about nine or ten
18 formulas that cover the 12 regions.

19 And when the program was transferred to OST in
20 2002, we stayed the course. We still have these original
21 tribal formulas in use today, and we want to go ahead and
22 consult with you about the potential to revise these, make
23 them fair, to what we would hope will increase the level
24 of funding from most tribes participating.

25 MR. LESANSEE: I guess I should probably present

1 a part of the presentation. We started this morning to
2 talk about that over the past seven years since OST -- or
3 at OAS, Office of Appraisal Services, what was formerly
4 known was the Indian Land Valuations Program, moved over
5 to OST in 2002, and OST has listened to tribes about their
6 concerns over issues related to the public law 93638,
7 contract and compacts, appraisal contracts and compacts.

8 And there's two common concerns that are often
9 brought up: That the appraisal tribal shares that were
10 calculated in 1995 have not changed; and, number two, the
11 tribal shares for appraisals have not been recalculated in
12 step with increased regional appraisal budgets. As a
13 result of this, OST's working on a project to revise how
14 the funding shares are calculated to tribes who contract
15 or compact the appraisal preparation function.

16 We have a series of six tribal consultations
17 scheduled through various cities across the country. We
18 started in Oklahoma City on June 30th. We just got done
19 in Rapid City on July 14th. And this is the third session
20 of the tribal consultations.

21 The next session will be in Billings, Montana,
22 on August 4th. And then we'll be going up to Anchorage to
23 have a separate session, the fifth session, on August
24 13th. And then on August 18th we'll have another session
25 in Albuquerque.

1 There have been some comments by tribes, and I
2 think particularly in Oklahoma, requesting that there
3 might be a need for a follow-up. But depending on the
4 comments that we receive, as we move forward, we may go
5 that direction, and it probably will be, because once the
6 tribes have received the information, they probably need
7 to go back to their tribal leadership and present the
8 issues and the presentation or -- yes, issues and so forth
9 and the subject. And they may come back with a response
10 that we'll need a follow-up.

11 But we want to get ideas. We want to make sure
12 that we get ideas from the tribes as to what, you know,
13 their recommendations on what the tribal shares formulas
14 should look like.

15 Again, the purpose is -- this is what it relates
16 to: The main purpose of the tribal shares consultation is
17 to discuss ideas in developing new tribal shares
18 allocation formulas or look at the existing formulas that
19 are in place. As we mentioned before, there's about 12
20 different formulas throughout the country, except I think
21 as Mr. Baker mentioned during lunchtime, I think one
22 region that may not have a tribal shares formula is
23 Navajo, because they're one big tribe.

24 I guess then Frank will go talk about the
25 background. I was going to go through the background, but

1 I think we have it here in this slide.

2 So I'll let you do that part.

3 MR. PERNICIARO: Probably isn't much more to add
4 to this, but as I've said, in 1995 BIA embarked in
5 creating these private formulas in these regions, and
6 they're still with us today. In essence, they've been
7 frozen in time. We've not reevaluated them, and it seems
8 to us that that has created some inequities and the time
9 is ripe to revise these in consultation with the tribes.
10 And so I think that's where we stand today.

11 And indeed, when the appraiser function was
12 transferred from BIA to OST in 2002, we stayed the course.
13 We continued to use those same formulas with all of their
14 potential flaws. So, okay.

15 MR. LESANSEE: One thing that we're hopeful
16 about, we in OST, is that these new Tribal Share
17 Allocation Formulas will ensure uniformity and
18 transparency in determining tribal shares and the funding
19 for the IFF, or inherent federal functions.

20 In our research over the years with, with our
21 partnership with the Office of External Affairs, we have
22 tried to gather information on the historical
23 documentation for these existing formulas. In some cases
24 we couldn't come up -- Great Plains, I believe, we
25 couldn't come up with the actual documentation that

1 supported the development of their tribal shares.

2 So, hopefully, in the future we'll have the
3 transparency and that there'll be uniformity. I don't
4 know what that will look like as far as -- because there's
5 been some discussions that should the tribal share formula
6 be nationwide or be region, or should it be region
7 specific? That's something you might want to talk about
8 or think about within your tribal leadership as to what
9 will make sense for the tribe.

10 MR. PERNICIARO: We had someone that's just
11 joined us. Would you mind introducing yourself?

12 MS. KENNEDY: My name is Cheryle Kennedy. Good
13 afternoon, everyone. I'm the chair of the Confederated
14 Tribes of Grand Ronde here in Oregon.

15 MR. PERNICIARO: Thank you.

16 MR. LESANSEE: Welcome.

17 MR. PERNICIARO: Thank you for attending.

18 MR. LESANSEE: Maybe we can reintroduce
19 ourselves.

20 MR. PERNICIARO: Sure. That sounds like a good
21 idea. I'm Frank Perniciaro with the Office of Special
22 Trustee, and I work in External Affairs. I'm a management
23 analyst.

24 MR. LESANSEE: And I'm Eldred Lesensee. I'm the
25 chief appraiser for the Office of Appraisal Services.

1 MR. PERNICIARO: And then I'm going to walk this
2 around so you can hear who everybody is. This is so much
3 fun. I like this.

4 MR. LESANSEE: Get to know each other real well
5 after this.

6 MS. HUTCHINSON: Margie Hutchinson, FTO from
7 Colville, Spokane, and Kalispell.

8 MS. DuMONTIER: Good afternoon. My name's Deb
9 DuMontier. I'm the fiduciary trust officer for the
10 Flathead Agency, Confederated Salish-Kootenai tribes.

11 MR. VIS: Dan Vis. I'm the trust officer in
12 Northern Idaho, covering the Nez Perce tribes.

13 MR. BECENTI: Hello. I'm Bob Becenti. I'm a
14 management analyst with the Office of External Affairs,
15 and been with OST for a couple of months. I came up from
16 BIA.

17 MS. REUL: Good afternoon. My name is Martha.
18 I'm an appraiser with the Yakama tribe.

19 MR. KERADT: Gus Keradt, trust officer at Fort
20 Hall.

21 MS. SANFORD: My name is Rena Sanford. I'm the
22 regional supervisory appraiser for the Northwest region.

23 MR. BAKER: I'm Anson Baker, review appraiser,
24 OAS, central office.

25 MR. PERNICIARO: Okay. It's your time.

1 MS. MONTAG: Hi. My name is Andrea Green
2 Montag. I'm a summer associate at Hobbs Straus Dean &
3 Walker.

4 MS. BATIN: Hi. I'm Kathy Batin. I'm the grant
5 contract manager for Yakama tribe.

6 MR. SWAN: Hello. My name is Tom Swan. I'm the
7 supervisory appraiser at Yakama Nation.

8 MR. LESANSEE: Thank you very much. Appreciate
9 it.

10 MS. KENNEDY: Thank you. We had a tribal
11 council meeting this morning. I had to drive 75 miles to
12 get here.

13 MR. PERNICIARO: You haven't missed much. We're
14 on slide one.

15 MR. LESANSEE: Tom, for the benefit -- you might
16 be interested, but we've got statistics on the three years
17 and the average of amount of appraisals per tribe in the
18 Northwest region that Rena has put together. If you want
19 a copy, you can approach Rena about this. She'd be happy
20 to give you a copy, if you're interested.

21 Okay. In our research, in gathering information
22 across the country at the 12 regions, we've come up with
23 information on five different tribal shares formulas,
24 starting with equal division, land-based division,
25 population-based division, workload-based division, and

1 the hybrid division.

2 Equal division is probably the easiest, the
3 easiest to calculate. It may not be -- may not likely be
4 in compliance with the statute. And we'll talk about each
5 of these in detail.

6 Land-based, there's strong correlation with
7 appraisal needs. Same way with the population-based
8 division. And the workload-based division appears to have
9 a high correlation with the amount of appraisals needed,
10 but there are some limitations there, too, as well.

11 And the hybrid division, that's comprised of
12 weighted components, considering multiple variables as far
13 as things like maybe -- may include population base,
14 population base, workload, but it's a weighted average.
15 That, too, may have a degree of co-relationship with the
16 amount of appraisals needed, or it may not. But it gives
17 the tribes I guess some -- I guess some amount of tribal
18 share because they have the land, and they've got the
19 people, and they may not have the workload, but they'll at
20 least get something. That was the intent of the hybrid
21 division formula.

22 Reasons for revising. As we mentioned before,
23 tribal shares were calculated in 1995, and they remained
24 unchanged. Tribal shares have not been recalculated in
25 step with increased regional appraisal budgets. Before

1 2002, I think -- let's see. When did he become chief
2 appraiser in BIA, probably in 1999? Yes.

3 We had a vacancy in the chief appraiser's
4 position in the Bureau of Indian Affairs for a number of
5 years, and we were also -- back in the old days we used to
6 be incorporated into the real estate services program, and
7 we didn't -- and for most cases we didn't have a separate
8 budget line item for appraisals. Some regions did, but a
9 majority of them I believe didn't have a separate budget.
10 I think Northwest did. I think they were the exception,
11 and I think Pacific.

12 UNIDENTIFIED SPEAKER: Sounds right.

13 MR. LESANSEE: So when the separate appraisal
14 office was created and a chief appraiser was hired, a
15 separate budget line item was also identified or
16 established, and Mr. Sneezy managed to bring the budget
17 level up to about \$10 million back then in 1999 or maybe
18 2000. In 2002, as we mentioned before, the Office of
19 Special Trustee, I believe it was the -- yes, the Special
20 Trustee at that time, Tom Salinger, thought that the
21 appraisal services office would be -- it would be best
22 that the office be moved over to the OST to provide
23 that -- I guess the level of independence from the --
24 those that administer trust lands, meaning the Bureau of
25 Indian Affairs.

1 In a way OAS was ahead of the game because in
2 2003 or '4, the department consolidated their office with
3 the same intent, to provide the level of independence of
4 the appraisal program from those that either supervised
5 their office, in their case, like the Bureau of Land
6 Management and so on, particularly I think Fish and
7 Wildlife, and the National Parks Service.

8 They were supervised by the real estate services
9 program, the realty officers, and in some cases they had
10 what they called hybrids. They were part realty and part
11 appraisers. So there was a conflict of functions there.
12 And so they had a number of issues which led the -- a lot
13 of controversies, which led to consolidation of the
14 appraisal office within the Department of Interior. But
15 we were moved over to the OST at the time when they came
16 about.

17 But anyway, we went from \$3.4 million to about
18 \$10 million. But for one reason or another, the tribal
19 shares -- for those tribes that originally entered into
20 the program back in 1995, their tribal shares remained
21 static at that point in time and has been at that level.
22 There may be inequities between tribes that have
23 contracted or compacted at different times. What we mean
24 by that is those tribes that have recently entered the
25 program, like Pueblo Taos.

1 MR. PERNICIARO: Muckleshoot, as an example.

2 MR. LESANSEE: Muckleshoot, their tribal shares
3 is based on current dollars rather than 1995 dollars or
4 somewhere in that area. So their amount may be higher
5 than what was done back in the amount of 3.4 million, or
6 whatever the regional budget was back when they entered
7 the program.

8 Benefits, the benefits of revising. Revised
9 formulas will ensure uniformity and transparency in
10 determining tribal shares and the funding residual for the
11 inherent federal function. And currently the IFF for the
12 Office of Appraisal Services is a review-and-approval
13 function.

14 MR. PERNICIARO: This next slide speaks to how
15 much money a tribe gets under the regulations, and in the
16 middle of the paragraph it makes it very clear that the
17 monies shall not be less than the appropriate secretary
18 would have otherwise provided for operation of the
19 program.

20 So what this slide speaks to is the amount of
21 money that a tribe should get and what it tells us is that
22 the secretary needs to provide at least the level of
23 funding that it would have used if it was operating the
24 program. And so that's key. And so when we have tribal
25 shares frozen in time, it probably doesn't speak to this,

1 and so we need to be consistent in bringing ourselves up
2 to the regulations. Again, OST interprets this as
3 providing -- as applying to both compacting and
4 contracting tribes.

5 Grand Ronde, are you a compacting or
6 contracting?

7 MS. KENNEDY: We're compact.

8 MR. PERNICIARO: Compact tribe. All right.

9 All right, Eldred, the next one.

10 More about the statutes and regulations. This
11 slide speaks to the residual. This is the amount that the
12 United States retains for the inherent federal function,
13 and as Eldred said, this is the review and approval of the
14 appraisal report, and that's what we consider the inherent
15 federal function to be.

16 And what this tells us is that the way this is
17 viewed by the regulations is that the residual is the
18 amount retained if all of the programs were contracted or
19 compacted. So we could look at it this way: If every
20 tribe in the Northwest region compacted or contracted the
21 appraisal program, what would the residual need to be for
22 the United States to do the approval, the review and
23 approval of all of those appraisals coming in from all of
24 those tribes that have contracted and compacted the
25 program?

1 And then the 1000.95 speaks to the issue that
2 we, the United States, need to let you know about what
3 that residual is, and we need to give you a narrative on
4 that so you know what it is that the United States
5 considers to be the residual. And again, we want to make
6 ourselves compliant.

7 MR. LESANSEE: There's three, I guess, key
8 components in the tribal shares: The regional budget
9 allocation, the residual, and the amount of money
10 available to the tribes to contract or compact.

11 Next slide talks about the residual. The
12 current residual for the appraisal program is at 20
13 percent. This was established by policy by the National
14 Business Center and the chief appraiser at the time, for
15 some -- we don't really have detailed information as to
16 why that 20 percent was applied and what the justification
17 was for that.

18 What we do know is that it's to the advantage of
19 tribes that are entering the program now because we only
20 hold back 20 percent, and what's available to the tribe at
21 each regional office is 80 percent of the budget. So
22 maybe that might have been the reason why, because it
23 promotes or gives more funding available to the tribes.

24 MS. KENNEDY: I have a question. And I guess
25 maybe it's more of a concern. Thank you.

1 When the residual amount is set, 20 percent of
2 the 80 percent of all that's allocated, when the service
3 is performed, I guess for me, my question is, is: How do
4 you calculate, rather than just do the mathematical
5 computation?

6 Because sometimes a function takes more than
7 perhaps the allocated amount to do that. And how does
8 the -- is it the trustee? Is that the proper language?
9 How does the trustee then determine if that amount is
10 really accurate?

11 So, for example, if you, as the trustee,
12 demanded more time from the solicitor to evaluate and to
13 make sure your position was solid or if there were legal
14 ramifications, and that took a lot of time, then how do
15 you account for that? Because a tribe might have to do
16 the same thing. And so it's just a question on, you know,
17 since you're talking about is it equitable, is it the
18 right number, well, I have a little concern about that.
19 Thank you.

20 MR. LESANSEE: We also have a similar concern,
21 too, because, as it's defined, if all the tribes in the
22 region took the program, what is the amount that's
23 necessary to, you know, carry out the IFF? But if, say, I
24 did the calculations when the 20 percent residual was
25 first identified in the Southwest region, and I used

1 Southern Ute as an example -- that's our biggest, I guess,
2 customer for our services. And if they took the program,
3 we couldn't -- looking at the dollars at that time, we
4 couldn't have afforded even -- well, the only thing we
5 could have afforded at that point in time was the support
6 staff person, because it took quite a bit of money away
7 from the program.

8 The only alternative, which was discussed by the
9 last administration, was to merge the office with the
10 neighboring office, which might be the Navajo region,
11 because there's big impacts on each of the components.

12 What the normal process -- not normal, but what
13 happens most often or before the 20 percent was, it talks
14 about here, justifications for the residual. It was long,
15 drawn-out negotiations. Robert could probably talk about
16 that in the Southwest. Everybody, you know, the tribes
17 that were in the program would fight for their share, and
18 then those tribes that didn't wish to participate will
19 also have a stake in the game, too, as well.

20 But everything was brought up as far as the
21 cost, the cost of each of the programs, and identified,
22 you know, commercial activities and the IFF. And there
23 was long, lengthy debate or discussions. And is that
24 where we're headed to, or just -- I guess right now we're
25 listening to the tribes as to what would be the

1 recommendation as far as how to identify and calculate
2 residual.

3 MR. PERNICIARO: I think what I also heard from
4 your question was: Is there some way given to the
5 complexity of the individual action, in this case an
6 individual appraisal or report, where the tribe is doing
7 the appraisal and they have to consult with their legal
8 counsel because of some matter? And so, you know, how
9 does the United States account for this perhaps on an
10 appraisal-by-appraisal basis? Am I reading you right?

11 MS. KENNEDY: Yes. That's right.

12 MR. LESANSEE: Sorry to miss that part.

13 Overall, that question was also asked in the Great Plains
14 regional office; in fact, by my own regional appraiser.
15 It is considered in the overall budget allocation for the
16 region because, say, for instance -- well, Pacific region,
17 for instance.

18 Even though the overall workload for Pacific is
19 very -- is not very much compared to the other regions,
20 however, the complexities there, the cost of the appraisal
21 is reflective of the complexity of the type of work there.

22 If there was nothing but ag, the cost per -- you
23 would think the cost per appraisal might be a lot less,
24 because you have a lot of commercial activity, and the
25 really complex appraisals in Palm Springs drives the cost

1 up. They do 100 percent contracting in Pacific, and that
2 cost is reflected in the budget.

3 But just until recently, Will Armstrong in that
4 region has been the only person operating or providing
5 services, and now we've got one review appraiser and one
6 staff person, or support staff. But, yes, it's reflected
7 in the cost overall for the region, the allocation for the
8 regions.

9 MS. KENNEDY: This might be -- I don't know.
10 Someone must know in here. I know that there's an
11 unfunded amount, an unfunded need in this particular
12 section. What's the unfunded amount and what is really
13 needed to perform the services?

14 MR. PERNICIARO: Am I understanding you
15 correctly, what is the gap between the amount that is
16 available for the program and the unmet need?

17 MS. KENNEDY: Right.

18 MR. PERNICIARO: Well, let's see. I don't think
19 I have an answer for that gap. I think that we could
20 share that. Correct me if I'm wrong, that in 2011 we are
21 hopeful that we might have a \$10 million budget. Is that
22 a fair way to put it?

23 MR. LESANSEE: Yes. It's gone through the
24 House, but it hasn't been approved by the Senate. So
25 we're hopeful that the \$2 million increase would be

1 approved, but we're not there yet.

2 Overall, I guess nationwide the appraisal
3 program, depending on -- some of the things that are
4 happening that's posing as major challenges are sell or
5 probate. The activity created by the Indian land
6 consolidation office may -- we're hearing that they may
7 stay around and come back with a stronger force of
8 different tools that may, you know, draw a lot of activity
9 for us.

10 And then, you know, you're growing, increasing
11 in fractionation in some of the regions. That's -- you
12 can see like in Northwest, Great Plains, Rocky Mountain,
13 those regions, I mean, they've got the biggest staff,
14 they've got the biggest workload. I mean, that's where
15 the biggest activity is.

16 The Oklahomans are -- we've got approximate,
17 about -- how many appraisers there? Close to ten
18 appraisers for one state, and they're a highly
19 fractionated interest, one location as well. Then you
20 have Southwest, which I think they say there was, what, 1
21 percent or less than 1 percent allotted?

22 Robert? I think that was what I heard.

23 MR. BECENTI: I'm not sure what it is.

24 MR. LESANSEE: So their workload is fairly
25 stable and fairly light. So fractionation is a big

1 concern, not only in land administration or land
2 management, but also cycle, particularly us, because we
3 have the same constraints, is limited budget and limited
4 FTOs -- not FTOs; FTEs. I didn't mean you guys.

5 MR. PERNICIARO: That too.

6 MR. LESANSEE: Yes, that too. You guys are
7 facing the same things too. I saw you guys started
8 looking at me. But, yes.

9 MS. KENNEDY: So we don't know the level of
10 need?

11 MR. LESANSEE: Yes, we do. On a national scale,
12 we do. As far as looking on a region-by-region basis, and
13 this coming year, regional appraisers, such as Rena, will
14 justify how much money they'll need to carry out the
15 program. And overall I think that's going to also flow
16 over to the contracting/compacting side as well.

17 MR. PERNICIARO: You know, I think we've had
18 some folks join us, if we're not catching you at a bad
19 moment.

20 UNIDENTIFIED SPEAKER: Sorry for interrupting.

21 MR. PERNICIARO: No problem. Would you let us
22 know who you are and who you represent.

23 UNIDENTIFIED SPEAKER: I'm here just curious. I
24 found out three years ago I have relations in the Fond Du
25 Lac band of Chippewa, and I've heard there's some sort of

1 allocation meeting here, and I thought, I'll go see what
2 this meeting is about.

3 MR. PERNICIARO: Wow. It's a pleasure. Well,
4 what this is about is revising potentially the tribal
5 shares for the appraisal program, and the appraisal
6 program of course is to make valuations of trust land.

7 UNIDENTIFIED SPEAKER: Right. Some of the land
8 I have is actually fractionated, so I've been following
9 what's going on.

10 MR. PERNICIARO: Well, not to the extent where
11 we're discussing individual valuations of parcels of
12 lands, but we are talking about the program in itself.
13 And I think Fond Du Lac is a compacting tribe and near
14 Lake Superior. Right?

15 UNIDENTIFIED SPEAKER: Right, right near Duluth.

16 MR. PERNICIARO: Okay. Well, have a seat. Take
17 a chair anywhere. Pick up a package. Thanks.

18 MR. LESANSEE: As far as residual, what we do in
19 the future, OST will need to ensure that the residual is
20 sufficient to fund those activities by -- which, by law,
21 must be carried out by federal officials, identified as
22 inherent federal function, or IFF.

23 The appraisal process. This is really a general
24 process. It's very specific, but the first purple arrow
25 or the vein of the arrow, the fletching, that is the

1 appraisal request process, and it's subject to approval by
2 BIA line officials. It's originated either from BIA
3 realty or tribal realty program, and then it goes into the
4 appraisal report. Actually, it's appraisal development
5 and reporting. It's preparation of the appraisal. That's
6 the commercial item there that's available to the tribe to
7 take on that function.

8 And then we move over to the red arrow, and that
9 is what was identified as the inherent federal functions,
10 which is the review and approval of the appraisal, and
11 it's funded by the residual. The last arrow, the purple
12 again, is the appraisal service product is transmitted to
13 the client, which ends our cycle as far as the appraisal
14 process is concerned. Starts with the initiation of the
15 request, goes all the way through the process,
16 development, review and approval, and then transmitted to
17 the client and closes our cycle. That's a simplistic
18 representation of the process position.

19 MR. PERNICIARO: So here's our first idea, first
20 of five, a workload-based formula. So this would address
21 only workload. And what we do is we take the regional
22 budget, we take away from it the residual for the inherent
23 federal function, and we multiply it by the average tribal
24 workload divided by the average regional workload. My
25 understanding is this is what is used here in Northwest

1 region, and it's also used in Eastern Oklahoma.

2 And I think what I'd want to make note of here
3 is that, as it says in bullet three, the workload would be
4 averaged over a set number of fiscal years to smooth out
5 demand spikes. Well, that's very much focused on how long
6 you do this for. So seven, eight, nine years look-back,
7 that's going to not address spikes very well.

8 It's going to be this very smooth series of
9 numbers over the years; whereas, if you make it two or
10 three years, then it's going to be very responsive to
11 spikes. The lower the workload, the lower the workload,
12 it's going to be responsive to that. That's a good thing
13 and a bad thing.

14 MR. LESANSEE: What I'd like to point out, too,
15 you see under tribal share equals, that regional budget
16 minus residual is also what's available to the tribe,
17 funding that's available to the tribe. That's what that's
18 representing or represents.

19 MR. PERNICIARO: All right. The next slide
20 shows a sample using fictitious numbers. Here's how it
21 might be calculated. So we have a regional budget that's
22 \$100,000. We have a residual at 20 percent. The amount
23 available to the region is \$80,000.

24 Again, these are fictitious numbers.

25 We take a look at tribe A. This is the number

1 of appraisal reports completed and approved and provided
2 to the end user: 35 in 2005, 30 in 2006, 31 in 2007.

3 We go ahead and we take an average of that,
4 which would be 32. So where it says the regional average
5 is 48, the tribe A average is 32. We take 32, divide 48
6 into it, we get 66.67 percent, and then we take the 80,000
7 and we multiple it by .6667, and we get 53,336.

8 I'd be happy to, after the session here, go over
9 to the flip chart and actually break down an actual
10 calculation. We can do that here on the flip chart so you
11 can see how the math plays out. But again, this is just
12 workload-based. Doesn't look at any other factor other
13 than how many appraisal reports are being completed and
14 approved.

15 MR. LESANSEE: Mr. Swan?

16 MR. SWAN: Yeah, Tom Swan.

17 Yeah, this is kind of directed to Rena. She
18 kind of stepped out.

19 MS. SANFORD: I'm right here.

20 MR. SWAN: There she is.

21 This number of appraisals completed for each
22 tribe here -- and I think this is probably reports that
23 have gone to the regional office for a review, because in
24 fiscal year '08, we did over 600 reports because a lot of
25 our rentals don't go for review in Portland, but we still

1 have to do those reports.

2 I see 167 in here, and we did over 600 in fiscal
3 year '08. Maybe something needs to be done so Portland or
4 Rena knows actually how many rentals we've done in the
5 past, I mean, but as it is now, we do a lot of rentals,
6 and Portland doesn't know about it.

7 MR. LESANSEE: My question was: Was it by
8 policy that it's exempt -- those rentals, market rental
9 estimates, are not reviewed and approved by your office?

10 MR. SWAN: They're restricted appraisal reports.
11 We do the analysis, summary. It's reviewed and approved
12 by the regional office. Then, once the analysis, the
13 study was reviewed and approved, then they don't need to
14 see the individual ones. We still have to do individual
15 ones.

16 MR. LESANSEE: I see. That brings up a good
17 point: How do you count the workload? Whereas, in the
18 Western region office, indicates these accounts, each
19 market analysis, as one product, although it may provide
20 opinions of value for a hundred different allotments. So
21 he, in fact, shortchanges himself by just counting one
22 versus 800 or hundred.

23 So we got to be consistent. I guess what I'm
24 saying is: We got to be consistent with the way we count
25 these. Same with Navajo: They do a project report.

1 Instead of counting one project report and one review,
2 they'll count it as, say, 75 if there's 75 allotments in a
3 project report. Another region might count it as one
4 product. The consistency in counting would be very
5 critical.

6 MR. PERNICIARO: Go to the next one.

7 MR. LESANSEE: This slide gives you an
8 indication what happens if there's a change in the
9 workload from one year to the next. Previously you had a
10 regional average number of appraisals completed of 48, and
11 in this scenario you have 45.33.

12 And also the other change that you have is that
13 in fiscal year 2006, the regional total is 42, 47, and 47,
14 whereas before you had 55, 48, and 46. So the overall
15 regional work activity or appraisals completed has a
16 bearing, and the amount of work that's provided to the
17 tribe also has a bearing under this workload-based
18 formula.

19 And it will show that since the regional budget
20 average went down, and it will show that it impacts the
21 amount of the tribal shares, even though these conditions
22 are the same, still have \$100,000 at 20 percent residual
23 and \$80,000 available to the tribes, but your percentages
24 are affected by the workload activity for the tribes as
25 well as the region overall.

1 In the previous presentation, we had 66.67 for
2 tribe A. Yes, it stayed the same in this scenario. That
3 stayed the same, but this one changed. We went down to --
4 oh, no. In the previous slide it was 8.33 percent, but
5 because tribe B average went up, their percentage now is
6 at 16.17 percent. So their amount also jumped up from
7 6,700 to 12,000, roughly \$13,000.

8 So there's a direct link to the amount of
9 activity and the amount of tribal shares under the
10 workload-based formula.

11 MR. PERNICIARO: Idea two is an equal division,
12 and this is where you would count the number of tribes in
13 the region and divide that number into the available
14 budget. And so everybody, regardless of what their
15 workload is, gets the same amount of money. And this
16 seems to be the formula which is used in the Midwest
17 region.

18 What I'd want to point out is we just learned in
19 the statute that the secretary needs to provide the funds
20 that it would have spent if it was operating the program
21 itself. Well, how would -- and that's for a specific
22 tribe. How would this comport with the regulations if
23 everybody's getting the same amount regardless of what the
24 workload is?

25 MR. LESANSEE: And all this information, these

1 percentages here and the workload numbers, it doesn't
2 matter in this formula because there's only three tribes,
3 and each of them gets one-third each of the tribal share.
4 And so that's reflected in the 26,600, or seven hundred --
5 twenty-six thousand six hundred or seven hundred per
6 tribe. It's equal shares.

7 And one region that applies to is Midwest. And
8 I don't know if Pacific does too. There was some -- I
9 think we weren't --

10 MR. PERNICIARO: Not certain about Pacific
11 region.

12 MR. LESANSEE: Because at one time they were
13 saying it was one over one ten or 101 tribes or something
14 like that. I think recently we've heard they're
15 workload-based.

16 MS. KENNEDY: When you say "Pacific," do you
17 mean this area?

18 MR. LESANSEE: No, Sacramento. Sacramento
19 region. Area office is what they used to call that.

20 The land-based formula. The main factors are
21 the acreage owned by the tribes, and that's trust and
22 restricted fee land. As you see in the scenario or this
23 hypothetical example, tribe A owns a thousand acres, tribe
24 B owns 500 acres, and tribe C owns 100 acres. So there's
25 1600 overall acreage in the region.

1 And you apply or divide 1600 by each of the
2 acreage and you get a proportional amount -- or percentage
3 of 62.5 percent for tribe A, because they own a thousand
4 acres. Divide a thousand by 1600 and that's 62.5 percent.
5 You still have the budget at 100, 20 percent residual, and
6 \$80,000 that's available to the tribe. That's applied,
7 each of those percentages, based on the ownership of trust
8 and restricted property, and you get the tribal share at
9 50,000, 25,000, and 5,000 dollars.

10 Like I mentioned before, there may not be -- it
11 appears that there is no high correlation as to the amount
12 of property that's owned by the tribe and the amount of
13 activity or appraisal needs by the tribe. You might be --
14 the tribe C might be Agua Caliente in a really urban area
15 that went through a lot of growth back in the -- I guess
16 the late '90s and maybe all of '90s, maybe, but now I
17 think they're running -- the market's depressed right now.

18 But back then, even though they might not have
19 as much of a land base, their activity was high; whereas,
20 maybe a tribe out in a remote location, the economic
21 opportunities might not be there and there may not be a
22 high need for appraisals because there may not be a lot of
23 real estate transactions triggering appraisal requirements
24 or appraisal needs.

25 So this one, this formula may -- the assumption

1 is that there's a direct relationship between the amount
2 of land that you own and the amount of appraisals that
3 you'll need.

4 Same with population. The theory is, the
5 assumption is the more people that you have, the more
6 appraisal needs that you'll have, too, as well, and then
7 may or may not have a strong correlation. But the same
8 way we calculated the land-based formula, it's the amount
9 of population for each -- these are enrolled members from
10 each of the tribes, A, B, and C.

11 The total regional population that's serviced by
12 the region is 6500 people in this hypothetical scenario.
13 And that 65 is divided into 3,000, 2,000, 15, to get the
14 percentages. Those percentages are applied to the 80,000
15 to get your tribal shares for each of the three tribes.

16 Believe it or not, obtaining the information for
17 tribal enrollment is not as easy as you may think. In the
18 Southwest we had -- we'll talk about later on, the hybrid
19 formula, and one of the components was population. The
20 BIA does -- and probably social services, but they keep
21 statistics on the enrolled population for all the tribes
22 in the country, I think, pretty much.

23 And what we often found was that the tribes'
24 enrollment office had different numbers than the national
25 statistics. So there had to be some reconciliation done

1 before the formula was provided. Same way with lands: We
2 had the same issues. Our land title office had a
3 different number and the tribes had different numbers. So
4 we had to compare notes and see which one was right.

5 The other thing about land component, too, is
6 that the tribes are limited on the amount of shares they
7 may get because of the existing policies and procedures or
8 regulations that -- in other words, the fee-to-trust
9 process, because maybe it's not as easy to bring fee land
10 into trust status, that the tribes may not be able to
11 augment their reservations. And so, therefore, their
12 tribal shares might be limited because of that process.
13 So that might be another factor or limitations on the
14 land-based formula.

15 Hybrid, you want to take a stab at that?

16 MR. PERNICIARO: Sure. This is the most
17 complicated of our ideas, and we're throwing a lot of
18 numbers at you that are examples only. So if you want me
19 to go to the flip chart and actually work through the
20 calculations, we can do that. But what we've done here is
21 we have assigned a weight, an arbitrary weight, 25 percent
22 for the land, 25 percent for the population, and 50
23 percent for the workload. Total of a hundred percent.

24 If we assume -- we'll just look at tribe A here.
25 If we assume that tribe A has 62.5 percent of the land, we

1 take the 62.5 and multiply it by .25, we get .1563. Same
2 thing with population. Tribe A has 25 percent of the
3 population -- has 46.15 percent of the population. We
4 take .25 times 46.15, we get .1154. And workload, the
5 tribe has 50 percent of the workload -- excuse me. I'm
6 doing this again.

7 The tribe has 66.67 percent of the workload, but
8 the weight is .5. We multiply .5 times 67.67, we get
9 .3334. We add the .1563, the .1154, the .3334, and we
10 should get .6050.

11 We come down to the total weight, the total
12 weight is .6050; the available budget is 80,000. So we
13 take the .6050, we multiply it by 80,000, and we get a
14 tribal share of 48,398.

15 MR. LESANSEE: By theory -- not by theory, by
16 calculation, this is the total weight. Your weights are
17 25, 25, and 50.

18 MR. PERNICIARO: And it actually does. You do
19 something right, you add these up, you should get 100. It
20 does. We did it right.

21 MR. LESANSEE: Those weights aren't entirely
22 arbitrary. You put weights on -- it's subjective, though.
23 You put weights on what the region thinks is most
24 significant in relationship as far as to its amount of
25 total appraisals that's needed.

1 MS. KENNEDY: I have a question. You mentioned
2 earlier that Agua Caliente, because they were small and
3 then came into an urban area, so if that formula -- I'm
4 just curious. If they were up there, they probably would
5 have been tribe C, but their workload would have been much
6 bigger, and so that would really demonstrate that they'd
7 get a larger share of funding.

8 MR. PERNICIARO: I agree. Very good. Very good
9 analysis. Yes.

10 MS. KENNEDY: Well, for me, I just kind of
11 wanted to look at, I guess, some of the more realistic
12 models because that one is kind of common sense, biggest
13 tribe, most population, most workload.

14 But my other question is: When the bureau did
15 all of this and the formulas were being developed, I went
16 to some of the meetings, but I never did hear whether -- I
17 know that the budgets were based upon, just what it was to
18 do the work with no real -- at least I didn't understand
19 any real tie-back to the dollars and the staff that did
20 that job.

21 So I guess looking back at a historical record,
22 if we were to look at the land-based and the population
23 and the workload, would it really have been representative
24 of what you've come up with? Because I think that if
25 there's a significant difference, then tribes need to know

1 that because they may be, you know, greatly underfunded
2 and maybe greater advocacy for the residual needs to be
3 there or, you know -- so just that kind of historical
4 perspective.

5 MR. LESANSEE: Well, back in the '90s when some
6 of the tribes entered the program, mentioned before, the
7 appraisal program or the Indian lands graduation program
8 was in some regions incorporated into the real estate
9 services program. So they didn't have a separate budget.
10 So that could impact, too.

11 And those regions that did have a separate line
12 item for appraisals, like in the Northwest, that would be
13 different. I mean, they may be more, I guess, realistic
14 as far as the amount of budget necessary to carry out the
15 secretary's responsibilities for valuations, but those
16 regions that were incorporated or blended into the real
17 estate services program may or may not be reflective of
18 the actual need.

19 MR. PERNICIARO: Eldred, as far as we know, what
20 is the region that would be closest to using something
21 like this hybrid formula?

22 MR. LESANSEE: Southwest region.

23 MR. PERNICIARO: Southwest region?

24 MR. LESANSEE: Yes. The difficulties we had in
25 applying -- we had five variables, and it was land,

1 population, appraisal workload, realty workload, and equal
2 share. There's 25 tribes in the Southwest; one over 25
3 was the other variable. And each of them had weights
4 applied to them and, you know, calculated like you see
5 here.

6 And the premise on that formula was even though
7 like in the small tribes in the Southwest, that don't have
8 much appraisal activity, that they will get -- they're
9 assured of some minimal amounts so that if they do have --
10 run into a situation where they need an appraisal,
11 there'll be funding available to them, or if they want to
12 take the program, there'll be funding available to take
13 the program.

14 So they have a share, in other words, because
15 they own land, they own population, they have -- they have
16 enrollment. And then they represent one over 25. They're
17 one of the tribes in the region. But it might not have
18 direct correlation to the real appraisal need. But that
19 was the intent, to try and give small tribes at least a
20 share of the pie.

21 MR. PERNICIARO: And this slide only applies to
22 self-governance tribes who have compacted the appraisal
23 program before 2002. And for those tribes, they receive a
24 TPA. They would receive a base from OSG, the Office of
25 Self-Governance through BIA.

1 And the slide, the only intent is to express
2 that if we were to provide a different tribal share, if it
3 resulted in a decrease to the self-governance tribe, that
4 decrease would not be realized. It would not affect their
5 TPA or their base. But the tribe would receive an
6 increase if, in fact, the tribal formula indicated that
7 there was an increase.

8 So this is just to express that a
9 self-governance tribe, taking the program before 2002, can
10 only gain. They would not be harmed. They would not be
11 hurt. And that's the purpose of this Title IV slide.

12 MR. LESANSEE: I think, before we end, we've
13 gathered some statistics for all regions for a five-year
14 average, and we ran what we consider one of the most --
15 besides equal share, one of the less complicated formulas,
16 which was the workload-based formula, just for
17 hypothetical reasons or just to see how it shakes out as
18 far as using current dollars and using that workload
19 statistics and see how -- you know, what would be
20 reflective of the tribal shares in today's dollars.

21 So we've got the data, and I think that might be
22 something we could probably share with the tribes as we go
23 along so that they can see what we come up with and to
24 evaluate the workload-based formula, and then maybe might
25 give the tribes more information to consider in making

1 recommendations as to what formula would be most
2 appropriate.

3 MS. KENNEDY: I haven't heard you talk about --
4 he wants me to talk into this thing.

5 I haven't heard any discussion about -- except
6 when you mentioned the Agua Caliente and their growth in
7 economic. Here in the Northwest, in Oregon in particular,
8 tribes that were terminated were recognized, restored, and
9 there's I think one bill I think right now pending in
10 Congress on the Chinook tribe, which was kind of bordering
11 Oregon and Washington, and the needs and the different way
12 that they need to be factored in because their growth is
13 just starting. And it's probably going to be very
14 different from a tribe that hadn't gone through that and
15 have their secure land base.

16 Any discussion on that or plan about that?

17 MR. LESANSEE: I think what -- a couple impacts,
18 too, that another consideration is, is recognition of
19 native Hawaiians as American Indians are -- what do you
20 call? -- eligible to receive federal funding like the
21 American Indian, Native Americans now. That would even
22 split the pie even further, the impact on that too as
23 well, new tribes.

24 And also, too, when you look at population
25 enrollment, tribal enrollment -- what is it? Ordinances

1 or regulations? Ordinances -- what do they call those?

2 MR. PERNICIARO: Statutes? Resolutions?

3 MR. LESANSEE: Yes, their own programs, the
4 tribal programs. If they define -- they can -- in other
5 words, like, for instance, Seneca Pueblo; they've got a
6 unique rule that only -- I think the male side could
7 only -- like Robert, if he was Santa Clara, if he married
8 outside the tribe, he can enroll his kids into the Pueblo,
9 but if his sister married outside, they weren't eligible
10 to be enrolled. So that limits the amount of enrolled
11 tribal members.

12 However, in the case of Cherokee in Oklahoma,
13 their enrollment eligibility is really down. Some,
14 they're like one-fourth; theirs are I think 1/36 or
15 something, and I think it keeps going down. If the tribes
16 change their enrollment codes, they can inflate that
17 population pretty high. That's another variable, too,
18 that's considered as far as population-based formula.

19 MS. KENNEDY: My comment was because only you're
20 projecting -- not projecting. I would think you're just
21 putting it out there for food for thought for tribes to
22 consider, but I hadn't heard any dialogue about inclusion
23 of tribes that have been terminated because, you know,
24 they're just now developing. And then for future tribes,
25 what is the plan to incorporate them in?

1 I think that it would be wise to think about
2 that and have a plan ready rather than say, well, your pie
3 just gets smaller. You know, I think there should be a
4 methodical way of addressing that.

5 MR. LESANSEE: Yes, I think you bring up a good
6 point.

7 I don't think we've considered that as a team,
8 have we?

9 MR. PERNICIARO: I agree with you, we have not.

10 MR. LESANSEE: We didn't consider that
11 component. Thank you. That's why these consultations
12 will be important.

13 Well, that's the end of our presentation. You
14 know, we thank you for coming, and you guys had a
15 three-hour drive.

16 And I'm not sure how far Grand Ronde is. Is it
17 a pretty long drive, too?

18 MS. KENNEDY: 75 miles.

19 MR. LESANSEE: 75. Still, you took time to come
20 out and listen to what we have to present.

21 If you have any comments, or suggestions, the
22 contact is Debbie Meisner. Her e-mail address, telephone
23 number, cell phone. The reason we have Monday, August
24 3rd, identified for comments is that we would like to
25 carry your comments forward to the next tribal shares

1 consultation in Billings, Montana, on August 4th. So that
2 way we can, you know, carry the message forward.

3 And then the deadline for any and all comments
4 regarding this project tribal share reformulation project,
5 it's not spelled out, but it's in accordance with the
6 Federal Register that was issued. That's Friday,
7 September 18th. I think that's the deadline that we have
8 in the Federal Register.

9 MR. PERNICIARO: And you've got a copy of the
10 Federal Register notice in your packet there. I think we
11 bracketed the actual paragraph or paragraphs.

12 MR. LESANSEE: And points of contact, Lee
13 Frazier. Lee is not with us this session. He's out in
14 Scotland.

15 MR. PERNICIARO: Scotland.

16 MR. LESANSEE: He's out visiting his homeland.
17 So he'll be with us in the next session. His phone number
18 is there, and my phone number. This is the team: Myself,
19 Debbie Meisner, Lee Frazier, Frank, and Sally. Sally is
20 keeping the house going.

21 MR. PERNICIARO: She is.

22 MR. LESANSEE: She's doing a lot of negotiations
23 with the AFAs right now. She's not with us. But I think
24 this is in your presentation package, so please submit any
25 comments.

1 MS. KENNEDY: Can I make a couple of comments?

2 MR. PERNICIARO: Yes.

3 MS. KENNEDY: It would have been important for
4 me to have information on what it costs to do appraisals
5 just in the open market, so that some analogy can be made
6 for, you know, calculation purposes. I think it would
7 also probably raise the issue for the level of need funded
8 in getting at what that really might be. Not to say that
9 the open market does a better job or a worse job than
10 either the trustee or tribes, but just as far as a
11 benchmark to compare where we might be.

12 And the other thing that would have been helpful
13 would have been to have the total budgets for central and
14 for -- and I don't know -- when you talk about regional,
15 if you're talking about DC or if you're talking about in
16 the regional areas, but for those budgets, and so we could
17 really look at what kind of differences are we talking
18 about.

19 MR. LESANSEE: Sure. And we do have that
20 information.

21 MS. KENNEDY: Would have been helpful. I
22 appreciate your presentation.

23 MR. LESANSEE: Thank you. The first question, I
24 had an answer but I forgot the first question.

25 MR. PERNICIARO: Correct me if I'm wrong, it

1 was: What is the cost for an appraisal in the open
2 market? Right?

3 MR. LESANSEE: Yes. Each regional office, each
4 regional appraiser, we monitor the costs through our
5 contracts that we do, service contracts through our own
6 outsourcing process. And then we also from time to time
7 check with the fee market for similar types of properties
8 to get a cost estimate, because when we submit our
9 requisitions, we have to have some idea as to what the bid
10 amount might be.

11 So we check the open, competitive market for,
12 you know, what is the fee for this type of appraisal. So
13 we try to keep up where the cost is on the outside,
14 because like it or not, you know, the federal sector is
15 not totally independent -- not independent, but they're
16 not -- what do you call it? -- totally alone in the game.
17 There's competition in the fee world.

18 If the fee world can do it better and quicker
19 and so on, you know, they should be the ones to provide
20 service. And that's always a consideration from our
21 regional appraisers.

22 Right, Rena?

23 There's a decision tree. Does this review
24 make -- or appraisal make sense to do it in-house, or does
25 it make sense to outsource it? Because maybe the private

1 sector has the information necessary to do a quicker job.

2 MS. SANFORD: Exactly. You have to look at
3 should you have one of your appraisers -- oh, thanks --
4 should you have one of your appraisers working on one
5 assignment for three months or outsource for that one
6 complex appraisal? And have a fee appraiser complete it,
7 and then that appraiser have in-house work on a number of
8 appraisals?

9 So you have to weigh your options, you have to
10 weight cost, how long the appraiser's going to be out of
11 working on other projects in the office, because they're
12 going to be focusing on that one project. So there's a
13 lot of variables to consider definitely. Thank you,
14 Eldred,

15 MR. LESANSEE: Did that answer your question?

16 MS. KENNEDY: It did.

17 MR. PERNICIARO: I think the other question was
18 the central office budget. And I think that question was
19 about the central office budget and then the amount spent
20 for appraisals as a whole for the whole program?

21 MR. LESANSEE: The fiscal year 2000 I know.
22 I'll give you a breakdown. Central office funds is at
23 \$998,014. NBC contract was \$619,000. And the NBC
24 contract was for executive direction and supervision of
25 the Office of Appraisal Services.

1 The Special Trustee entered into a memorandum of
2 understanding with the National Business Center in fiscal
3 year 2004, and so that -- and our contract was established
4 at that point in time, and it was over a million dollars
5 at the time when we first entered, and it's gone down to
6 619 as the services that they provide has been limited.

7 And this coming fiscal year we're hopeful that
8 the -- the intent of the Special Trustee is to limit the
9 amount of activity by the NBC and the Office of Appraisal
10 Services may be limited to compliance audits. But we're
11 still working with the department on that MOU as far as
12 what will happen in the year 2010.

13 The regional funds in aggregate, the amount of
14 money of the total budget that we have, 1,400,416 is
15 allocated to the regions. And we have a regional breakout
16 as far as the offices as far as allocations. Don't have
17 to break that out right now.

18 UNIDENTIFIED SPEAKER: Is that an amount for
19 each region?

20 MR. LESANSEE: It's an aggregate amount
21 allocated to total regions.

22 MR. PERNICIARO: Do folks want to take a break,
23 or would you like to keep on with the dialogue? We have a
24 break scheduled. It's certainly up to you. We're small
25 in number. What do you think? Want to keep going? Okay.

1 Keep going. Okay.

2 MR. LESANSEE: Anybody have any questions?

3 MR. SWAN: You know, my concern before, I just
4 want to reiterate, I'd like to be involved, you know, on
5 the workload numbers, you know, if I can because, like I
6 said, it looks kind of misleading. I mean, to me it is,
7 and I know this is just what was reviewed.

8 And my other question was kind of I see the 20
9 percent residual, and with our budget, what we're
10 receiving -- and maybe OST is getting 20 percent residual
11 but they're not actually reviewing 20 percent -- I mean,
12 there's a lot of appraisals that they don't see, is what
13 I'm trying to get at. They receive 20 percent of the
14 residual, but they're not actually, you know, reviewing
15 everything that we do.

16 But, yeah, I'd like to, if possible, work with
17 Rena or even with realty so everybody can get some
18 numbers, you know, better than just review appraisals
19 because we have a big workload and the numbers can be
20 different.

21 MR. LESANSEE: And they're actual activities.
22 It's actual responsibility so that the tribe can carry out
23 to meet --

24 MR. SWAN: Yes, something the BIA did in the
25 past and we're still doing individual reports.

1 MR. LESANSEE: We have the same scenario in
2 Southern Plains as well. They do market studies like you
3 do. They have on-the-spot reviews. They don't do reviews
4 on every one of their appraisals. But I encourage tribal
5 realty -- tribal appraisal programs, such as Yakama and is
6 it Umatilla, to work closely with our regional office,
7 with Rena, and reconcile your database, your logs every
8 once in a while to make sure, you know, you're in sync.

9 Yes, I think that would be important, and to
10 relate what other activities like you mentioned that's not
11 counted or may not be counted because that's a real --
12 that's actual workload on top of what you require.

13 MS. KENNEDY: I just want to say I agree with
14 what the guy from Yakama stated. Those are, I think, some
15 of the problems, that once formulas are developed without
16 the definitions for what essentially an appraisal is, and
17 then the -- there might be other work as described that's
18 outside of that.

19 But if a definition is -- because for realty, I
20 think, and for the purposes of your work, it's pretty
21 definable, and if that's agreed upon, I think that should
22 be part of the consultation on what does that mean and so
23 that everyone can count the same thing and the playing
24 field is level for everyone. I think that's very good to
25 start like that.

1 MR. LESANSEE: I agree.

2 MS. KENNEDY: You know, I just -- we all know
3 that there's been controversy on the part of the IIM
4 accounts in the way that funds were -- I don't know how
5 they were accounted for or not accounted for or
6 underestimated or whatever, but we certainly would hope
7 that in this matter, that all of the lands would be
8 submitted.

9 And I don't know, you know, exactly how there
10 would be a big difference from what a tribe submits and
11 what's actually on the books. And I think that matter has
12 to be worked at in a great attempt to know so that when
13 all of us, if there's a change in the formulas, that
14 everyone's agreed upon whatever land base that a tribe
15 might have as well as populations.

16 But just some of those fundamental things that
17 we could reach agreement, rather than afterwards, I think
18 it will help everybody's workload.

19 MR. LESANSEE: Yes. And I think, as a matter of
20 fact, our MOUs, I think one -- that's one of the reasons
21 why we asked for the, you know, tribal statistics, because
22 they'll not only support these types of activities, but
23 also to plan, what is our need for the coming fiscal
24 years, because the overall allocations to region
25 eventually affects you.

1 It's going to have a direct relationship to how
2 much the tribe gets, especially if we go to a dynamic
3 scenario where the tribal shares are negotiated on any old
4 basis. It's not going to be static like it is now. It's
5 going to be negotiated each year. So different variables
6 change; the information should be current and upgraded.
7 So that should get a realistic picture of what your
8 activity is or what it takes to do the
9 appraisal-preparation function.

10 If there are no other questions, I guess we can
11 end this tribal shares consultation session. And I really
12 appreciate you coming all the way out from your homelands
13 to listen to what we have to present, and we look forward
14 to your comments.

15 There were great comments today, and it's very
16 educational for us, too, as well. I mean, we see a need
17 for the change in the way we allocate funding for an
18 appraisal services program to support the 638 contracts
19 and self-governance compacts, but we also need some input
20 from the tribes so that we have a formula that's uniform
21 and transparent. Thank you.

22 (Meeting adjourned.)

23 (NOTE: Untranscribed steno notes archived
24 ten years on computer; transcribed English
25 files archived five years on computer.)

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CERTIFICATE

I, Robin L. Nodland, an Oregon Certified Shorthand Reporter, a Registered Diplomate Reporter, and a Certified Realtime Reporter, do hereby certify that I reported in stenotype the proceedings had upon the hearing of this matter, previously captioned herein; that I transcribed my stenotype notes through computer-aided transcription; and that the foregoing transcript constitutes a full, true and accurate record of all proceedings had during the hearing of said matter, to the best of my ability, and of the whole thereof.

Witness my hand at Portland, Oregon, this 18th day of August, 2009.



Oregon CSR No. 90-0056

