

Department of the Interior



Fiduciary Obligations  
Compliance Plan

January 6, 2003

## **TRUST OBLIGATIONS COMPLIANCE PLAN**

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**THE DEPARTMENT OF THE INTERIOR PLAN  
TO BRING ITSELF INTO COMPLIANCE WITH CERTAIN FIDUCIARY  
OBLIGATIONS  
OWED TO IIM BENEFICIARIES  
(FIDUCIARY OBLIGATIONS COMPLIANCE PLAN)**

**JANUARY 6, 2003**

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## **I. INTRODUCTION**

This Plan has been prepared in compliance with a September 17, 2002 Court order that the Department of the Interior (“Interior”) submit a plan showing how it intends to bring itself into compliance with certain fiduciary obligations that it owes to Individual Indian Money (“IIM”) account holders in accounting to them for its management of their IIM trust funds. The Plan describes the relevant part of an ongoing trust reform planning and implementation process in which Interior is currently engaged.

The Court has declared that for purposes of this litigation the primary duty with respect to IIM trust fund management is that Interior, as required by the American Indian Trust Fund Management Reform Act (“the 1994 Act”), 25 U.S.C. § 162a et seq. and 4011 et seq., “provide plaintiffs an accurate accounting of all money in the IIM trust” by the United States for the benefit of the plaintiffs.<sup>1</sup>

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<sup>1</sup> Cobell v. Babbitt, 91 F. Supp. 2d 1, 58 (D.D.C. 1999)

The 1994 Act describes the path that must be followed to fulfill that duty. Under the terms of the Act, Interior will provide an accurate accounting of all trust funds when it can fully comply with the requirements of sections 4011(a) and (b) of the 1994 Act.

Those sections require that Interior:

- account for the daily and annual balance of all funds held in trust; and
- provide a quarterly statement of performance to each IIM account holder that identifies: a) the source, type and status of the funds; b) the beginning balance; c) the gains and losses; d) receipts and disbursements; and e) the ending balance.

To comply with the requirements of sections 4011(a) and (b), Interior has determined that it must administer programs to accomplish three objectives:

- 1) Historical Accounting - Interior must provide information that can be used to assess the accuracy of the current balance in each of the IIM accounts.

Interior has maintained account ledgers through time, but the accuracy of these ledgers and the supporting trust management systems has been challenged in this litigation and has been repeatedly criticized by observers from within and outside Interior. Without an assurance that all current account balances are reliable and, if necessary, appropriately corrected, Interior cannot ensure an accurate accounting on a going forward basis, no matter how carefully future transactions may be recorded. The historical accounting of IIM accounts that Interior is currently conducting will provide information that can be used to assess the accuracy of current IIM trust account balances. The Office of Historical Trust Accounting (OHTA) has the lead responsibility for doing the historical accounting. Interior's plan for conducting the historical accounting is being submitted to the Court today and

is incorporated herein by reference as a necessary part of Interior's plan to bring itself into compliance with its accounting obligations.

- 2) Current Ownership, Collection, Deposit and Transfer - Interior must collect the correct fund amounts in a timely manner for the correct IIM account holders. This requires that Interior's programs have adequate systems for tracking the trust land ownership interests of account holders and for collecting the money that is owed to each account holder and depositing it in Interior's Trust Funds Accounting System ("TFAS"). Programmatic improvements must occur in Interior's land title and revenue collections systems. The Bureau of Indian Affairs (BIA), the Minerals Management Services (MMS) and the Bureau of Land Management (BLM) all have responsibilities pertaining to one or more of these systems. Interior's plan for improving its Collection, Deposit and Transfer systems is presented below.
  
- 3) Current Accounting – Trust Funds Accounting System - Once the funds are collected, Interior must deposit them in the correct IIM account, properly credit interest earned to the account, and disburse from the account the correct amounts to the correct persons. These functions are performed through Interior's use of TFAS, which is managed by the Office of Trust Fund Management (OTFM) in the Office of the Special Trustee for American Indians (OST). Interior's plan for bringing itself into compliance with its Current Accounting – Trust Funds Accounting System duties is presented below.

In evaluating this Plan, two points must be kept in mind. First, as required by the Court's order, the Plan submitted today focuses on Interior's IIM trust fund accounting

obligations. Second, the Plan is part of an ongoing comprehensive trust reform planning and implementation effort. The Plan must be understood in the broad context of a much larger effort of Indian trust reform. The next section describes how this Plan fits into Interior's ongoing trust reform planning and implementation efforts and how that ongoing effort will be used as a tool to achieve the necessary program and performance.

## **II. ONGOING TRUST REFORM PLANNING AND IMPLEMENTATION**

Interior has responsibility for what may be the largest land trust in the world. The Indian trust today encompasses approximately 56 million acres of land – over ten million acres belonging to individual Indians and nearly 45 million acres owned by Indian tribes. On these lands, Interior manages over 100,000 leases for individual Indians and tribes. Leasing, use permits and sales revenues of approximately \$300 million per year are collected and distributed to approximately 236,000 Individual IIM accounts, and about \$800 million per year is distributed to about 1,400 tribal accounts. In addition, the trust manages approximately \$2.6 billion in tribal funds and \$400 million in individual Indian funds.

Interior is carrying out a comprehensive and systematic plan to reform the management of its trust responsibilities. This comprehensive effort has been described to the Court in the quarterly reports, beginning with the Eighth Report.<sup>2</sup> The comprehensive plan and the processes it contains will be used to identify and implement the changes necessary in Interior's current accounting systems.

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<sup>2</sup> Eight Report to the Court at 3-8, 15-17; Ninth Report to the Court at 43-55; Tenth Report to the Court at 3-4, 32-39; Eleventh Report to the Court (Eleventh Report) at 3-4, 29-38

The primary elements of this ongoing effort are: 1) the reorganization of Interior trust offices to improve delivery of services, effectiveness and accountability of trust operations, and 2) the reengineering of Interior's business processes and universal support functions to ensure that Interior meets its trust goals and objectives.

#### **A. ELEMENT ONE: REORGANIZATION**

Interior evaluated its trust-related organizations and, after a lengthy consultation process with tribes and individual Indians, determined that a different structural alignment of its organizational functions is required. Interior recently has been given the appropriate approval by Congressional appropriators for this reorganization and Interior is now implementing it.

The reorganization within the BIA and OST places a particular focus on each organization's fiduciary duties to Indian individual and tribal beneficiaries. For instance, land and natural resource management is located in the BIA because it has demonstrated expertise in this area of the trust. The OST has been given the direction to expand its operational role in addition to its statutory oversight duties. As a result, OST will develop a regional and agency presence to ensure that trust standards are followed in the management of these assets and will retain the responsibility for financial asset management. By further developing and taking advantage of the strengths of each organization, Interior will have a more cost effective, efficient and successful trust management system. Simply put, this reorganization dedicates more trained personnel to provide consolidated trust services, increases the emphasis on tribal contracting and provides direct trust accountability.

**B. ELEMENT TWO: REENGINEERING**

The reengineering of Interior's trust business processes consists of two basic phases: an "As-Is" documentation of those processes and the development of a "To-Be" process model that will then be implemented in accordance with Interior's strategic plan for trust reform.

**1. Phase I – The "As-Is" Process**

Although significant efforts have been made by Interior in the past to accomplish trust reform, these efforts have not been sufficiently designed and integrated to produce all of the material and long-term improvement in performance. To remedy this problem, Interior is pursuing a thoughtful, thorough, time-effective evaluation of its trust management systems known as the "As-Is" process. Rather than yield to the impulse to offer quick fixes, Interior, after considering other approaches, chose to continue the rigorous process chosen a year ago.

A year ago, a review was conducted regarding the results produced by the implementation of the High Level Implementation Plan (HLIP). Interior concluded, and Electronic Data Systems (EDS) concurred, that implementation of the HLIP had not produced satisfactory results.

Subsequently, Interior concurred with one of the key recommendations in EDS' January 2002 Trust Reform Report, which was to develop a business model for trust operations. To develop a business model for trust operations EDS recommended that Interior first

develop an accurate, current state model to include business processes, internal controls, and associated information technology. As Interior has previously reported to the Court, it is currently undertaking an intensive and thorough effort to document the “As-Is” business processes currently employed in managing the Indian trust.

By documenting the “As Is” business processes, Interior expects to achieve the following benefits:

- Establishing a comprehensive understanding of current trust business operations.
- Identifying needs and opportunities for improvement.
- Understanding variances among geographic regions, and their causes.

With the delivery (on or about December 20, 2002) of the draft “As-Is” analysis, it is abundantly clear that expedient measures to effect trust reform are not available. Due to the complexity and interrelationships of Interior’s trust management systems, a rigorous process of evaluating and redesigning its trust management processes is needed.

The draft “As-Is” analysis represents the compilation and analysis of information received from 10 work sessions with the 12 BIA regions, a session with the compact and contract Tribes, and a session with the OST/OTFM. Through these sessions, more than 650 subject matter experts from Land Title Record Offices (LTRO), Tribes, BIA Agencies, BLM, MMS, the Office of Hearings and Appeals (OHA) and OST/OTFM were consulted.

On average, the sessions were one-week long and involved five to twenty-five subject matter experts for each process area. As a result of these work sessions, the “As-Is” team documented variances, identified the genesis of the variances, clarified sub-processes, and documented additional details for the baseline model. Additional information obtained during interviews and work sessions related to:

- Fiduciary and legal obligations and controls specific to the location;
- Systems used to support the business processes;
- Performance measures and metrics;
- Opportunities for improvement; and
- Issues, comments, and recommendations related to each of the processes.

The challenges posed by BIA’s decentralized hierarchy have been captured in a location-by-location documentation of variances from standard practices. This will allow an understanding of the extent and causes of varying practices, and establish whether there is a specific requirement for each, or if it has evolved over time or at local discretion.

Through this detailed evaluation process, Interior has identified current issues and opportunities for change that may provide the foundation for lasting trust reform. It is for this reason that the process modeling is so deep, so detailed, and involves such a wide spectrum of participants.

The “As Is” part of the business process evaluation will be completed after the results have been returned to the local regions and agencies for comments to determine whether

the information in the draft report is an accurate representation of the current state. The next step of the review will be to inform stakeholders of the “As-Is” analysis and its findings, and to seek advice on its recommendations.

## **2. Phase II – “To-Be” Process**

After completing the “As-Is” phase, review, detailed recommendations will be developed for adjusting business processes, where appropriate. This phase is known as the initial “To-Be” business process initial phase. The development of the initial “To-Be” model will take into consideration those recommendations and lessons learned from the “As-Is” process. After examining the existing business processes, Interior will compare these processes to the initial “To Be” model processes to determine how existing processes can be improved. In particular, if existing business processes vary from region to region, efforts will be made to standardize the processes to the initial “To Be” model. If instances arise where standardization cannot be done as a result of different statutes, regulations, or tribal codes, these differences will be noted and incorporated into the final “To Be” model, as an appropriate variance from the standardized process. In addition, the “As-Is” and “To-Be” model processes will be compared to standard industry practices. Finally, Interior will integrate the final “To-Be” model processes with universal support and operational functions, and these reengineered business processes will be documented with appropriate policies, procedures, guidelines and handbooks.

## **3. Strategic Plan**

In addition to the development of sound trust business processes, to successfully reengineer, Interior must have an overall strategic plan to guide the design and implementation of the trust business processes. Interior is in the process of developing a

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strategic plan<sup>3</sup>, which will define and describe the vision, goals, and objectives of trust reform and operating the trust program.

This strategic planning effort began in January 2002 under the leadership of the Office of Indian Trust Transition (OITT) and has expanded through the efforts of a department-wide strategic planning team, including representatives from OST, BIA, MMS, and BLM. The Joint Interior/Tribal Leader Task Force on Trust Reform (Task Force) participated in this process through its planning subcommittee, and the subcommittee recommended that Interior's proposed goals and objectives (with minor changes) be adopted. Interior has also retained a management-consulting firm, Logistics Management Institute, to assist in preparing the strategic plan.

The goals at the heart of the strategic plan will cover: (1) beneficiary services; (2) ownership information; (3) land and natural resources assets; (4) trust fund assets; (5) Indian self-governance and self-determination; and (6) administrative services. The objectives set forth in the strategic plan will define the broad ways in which these goals will be achieved. The strategic plan will also consider the trends that influence trust management, the role of relevant stakeholders, and the interaction of Interior agencies. Through examination of the "big picture" of trust management, Interior seeks to create a coordinated and integrated system in which all pieces function as a coherent whole.

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<sup>3</sup> This plan has been previously been referred to as the Indian Trust Business Plan. See, e.g., Eleventh Report, Nov. 1, 2002, at 37-38. More recently it is referred to as the Comprehensive Trust Management Plan.

Since Interior's submission of the Eleventh Report, work on the strategic plan has continued, and Interior expects that this plan will be completed by the end of the second quarter of CY2003. Once completed, it will be regularly evaluated and updated to ensure its responsiveness to the ongoing needs of Interior's trust operations. It will be a dynamic strategic plan that can and will be adapted to changing environments.

As previously mentioned, the primary elements of Interior's ongoing trust reform planning and implementation efforts are: 1) the reorganization of Interior trust offices to improve delivery of services, effectiveness and accountability of trust operations, and 2) the reengineering of Interior's business processes and applying the universal support functions to ensure that Interior meets its trust goals and objectives. Through this ongoing comprehensive effort at trust reform Interior expects to achieve the results that Congress, Indian beneficiaries and the Court are expecting. The elements of the ongoing effort have been the subject of consultation with the Task Force and others in the Indian community. The effort also has been guided by independent outside trust experts, and, for the first time, will result in an integrated beneficiary-focused Plan for delivery of trust services.

In its September 17, 2002 opinion, the Court reaffirmed its December 1999 conclusion that it would not be appropriate for the Court to specify "the accounting method for the agency to employ" in conducting the historical accounting.<sup>4</sup> Just as the Court and the Court of Appeals<sup>5</sup> have not prescribed a specific method of accounting that Interior should use, so, too, the Court should allow Interior to pursue its comprehensive trust reform effort, as previously described to the Court.

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<sup>4</sup> 226 F.Supp 2d 1, 116 n. 136 (DDC 2002)

<sup>5</sup> Cobell v. Norton, 240 F3d 1081, 1103 (D.C. Cir. 2001).

Interior's reform effort as designed will enable Interior to take into account such things as the dynamic tension that exists between the United States government's commitment to Indian self-governance and self-determination and the need for standardizing trust business practices and services as well as recognize the differences in the Indian trust and a private sector trust. The trust that Interior is responsible for includes land, Indian homes that sit on that land, ancestral property, sacred sites and other unique assets. It is a trust of both Indian tribal lands and the lands of individual Indians often with strong cultural and emotional ties. For this reason, Interior, as trustee, is mindful of the importance of recognizing the unique circumstances of all beneficiaries in the management of this trust. The trust that Interior manages is not the typical corpus managed by a private sector trustee where fees are charged as part of normal business practices for the services delivered. Moreover, the Court recognized that "the federal government's fiduciary obligations may not be coextensive with those of an ordinary trustee."<sup>6</sup>

The Federal Government bears the entire cost of administering the Indian trust. As a result usual incentives found in the private sector for reducing or paying for the management of the trust do not apply to the Indian trust. For instance, thousands of accounts must be maintained for IIM account holders that contain less than one dollar.

In order to meet its trust goals and obligations, Interior continues to request significant budget resources. However, to meet the expectations of both Interior and its beneficiaries, Congress must appropriate these funds. The President's proposed FY2003 budget and the budgets passed by the House and reported out by the Senate

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<sup>6</sup> 226 F.Supp. 2d 1, 151, n. 161 (DDC 2002).

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Appropriations Committee endorsed significant increases in trust management. While details of the FY2004 budget are not available until the President's budget is released in February 2003, Interior is confident that even more resources will be provided for trust services.

Traditionally, Indian people have had their closest relationships with the BIA at the local level. It is at that level that the beneficiaries have found that their special needs and practices have best been taken into consideration. As a result, the BIA has developed many different processes for managing the Indian trust. Meaningful trust reform will require examining how to standardize practices while keeping in mind that our beneficiaries often have vastly different needs. In addition, the lands that make up the corpus of this trust are under the jurisdiction of more than 500 different Indian Tribes, each of which is a sovereign government subject not only to Federal law and treaties, but also to its own internal laws and customs, and often, its own statutes and regulations. This tension is part of what makes trust reform difficult but also essential. Interior recognizes that the beneficiaries must have confidence in trust management as they move towards more self-determination and self-governance.

### **III. STANDARDS**

In accordance with the Court's order, Interior has examined the standards applicable to administration of the IIM accounts.<sup>7</sup> The primary standard that Interior must meet in regard to accounting is set by the 1994 Act. As enunciated by this Court, it is "to provide

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<sup>7</sup> This Plan is intended to comply with the Court's order. It is not intended to, and does not, create any legal right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies, or instrumentalities, its officers or employees, or any other person.

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an accurate accounting of all money held in trust for the benefit<sup>8</sup> of Indians.<sup>8</sup> Other standards that Interior must meet in fulfilling its trust fund accounting obligations, as enumerated in the 1994 Act,<sup>9</sup> are as follows:

- provide adequate systems for accounting for and reporting trust fund balances;
- provide adequate controls over receipts and disbursements;
- provide periodic, timely reconciliations to assure the accuracy of accounts;
- determine accurate cash balances;
- prepare and supply account holders with periodic statements of their account performance and with balances of their account which shall be available on a daily basis;
- establish consistent, written policies and procedures for trust fund management and accounting;
- provide adequate staffing, supervision, and training for trust fund management and accounting;
- account for the daily and annual balance of all funds held in trust for the benefit of individual Indians;
- provide a periodic statement of performance at the end of each calendar quarter to each IIM account holder that identifies: a) the source, type and status of the funds; b) the beginning balance; c) the gains and losses; d) the receipts and disbursements; and e) the ending balance; and
- perform an annual audit of all funds held in trust by the United States for the benefit of individual Indians.

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<sup>8</sup> 226 F. Supp. 2d at 17.

<sup>9</sup> 25 U.S.C. § 162a(d)(1)-(7); 25 U.S.C. § 4011.

Thus, the 1994 Act requires that certain systems or programs be implemented to achieve the 1994 Act's standards for beneficiary service. It uses terms such as "adequate" and "timely," but the Act generally does not specify the manner in which Interior must structure or operate its accounting programs. Instead, Interior must exercise its best judgment in determining which of myriad ways to operate an accounting program most effectively the statutory obligations.

Interior looks to a number of sources as guidance to inform its judgment and assess its performance in meeting the 1994 Act's requirements: applicable federal statutes, Interior regulations, the Departmental Manual, Office of Management and Budget (OMB) circulars, Department of Treasury guidelines, generally accepted accounting and auditing standards, its employees' and consultants' experience and expertise, as well as other sources of relevant fiduciary practices.

Where there are statutes or regulations governing particular aspects of certain programs, these are discussed in connection with those programs. For the most part, the documents listed in this Plan as sources of guidance describe best practices or establish specific procedures for certain functions, but not judicially enforceable standards.

With this background in mind, throughout this Plan, Interior has identified the various sources upon which it relies for guidance. It has also provided information about performance targets, principles and goals that guide Interior's managers in reforming, implementing and evaluating their accounting programs. Through this Plan's

description of the many sources that influence trust accounting operations, Interior hopes to inform the Court about the manner in which it will take action to fulfill its responsibilities.

**IV. CURRENT OWNERSHIP, FUND COLLECTION, DEPOSIT AND  
TRANSFER****A. INTRODUCTION**

As set forth in the Introduction, to comply with Sections 4011(a) and 4011(b), Interior has determined that it must accomplish three tasks: (1) Historical Accounting; (2) Current Ownership, Fund Collection, Deposit and Transfer; and (3) Current Accounting – Trust Fund Accounting System (TFAS). This section discusses our plan with respect to the section – Current Ownership, Fund Collection, Deposit and Transfer.

As stated earlier, the Historical Accounting Plan addresses IIM account balances up to December 31, 2000. Current activities are those occurring January 1, 2001 to present.

The following discussion focuses upon land title, ownership, leasing, and the associated activities of funds collections, deposits and transfer to OST's OTFM.

OST's trust funds management activities, from the point that they are received from BIA and MMS, are discussed in the next section of this document.

**B. THE CURRENT OWNERSHIP COLLECTION, DEPOSIT AND TRANSFER PROCESS****1. IIM ACCOUNTS**

An IIM account is normally opened to receive and maintain trust funds. Trust funds may become available because of an inheritance, or funds may come to an individual from various sources, such as judgment awards, land leases or sales, rights of way payments, or Tribal Trust fund per capita disbursements.

As discussed extensively in the Historical Accounting Plan, there are three distinct types of accounts that involve individual Indian Trust funds: judgment and per capita, land based and special deposit. Judgment and per capita accounts typically receive a payment reflecting a distribution of a judgment award or of tribal trust funds to tribal members. Land-based accounts are typically associated with beneficiaries who receive income from allotted lands. Special deposit accounts are holding accounts maintained until funds are properly distributed to the appropriate individual or entity.

OTFM updates an IIM account when it receives notice of address, name, or marital status changes or when any type of error is discovered and documented. These updates may reflect status changes (e.g., restricted, unrestricted) for a variety of reasons. Restrictions may be voluntary or involuntary.

Currently, an IIM account may be coded as closed when it no longer receives recurring income, when a minor reaches the age of majority with no potential recurring income, when an estate is probated, assets are no longer owned, or when an unnecessary duplicate account is identified. IIM accounts are eligible to be coded as closed after a 24-month time lapse with a zero balance and no activity.

## **2. MAINTAINING OWNERSHIP INFORMATION**

The Land Titles and Records Offices (LTRO), pursuant to 25 C.F.R. §150.4, and other BIA offices having title service responsibilities, are designated as the Federal offices of record for Indian land records and title documents. LTRO managers are responsible for: processing input into the Land Record Information System (LRIS); recordation, custody, and maintenance of records except eastern Oklahoma that affect titles to trust and restricted Indian land and government-owned land under the jurisdiction of BIA; examination of titles to trust and restricted Indian land and the preparation of title status reports; certification of title documents; and preparation of land status maps.

## **3. LEASING ACTIVITY**

BIA agency and regional offices prepare and manage land leases, permits, and contracts for the sale or lease of trust lands. Leases and permits convey rights to a lessee or permittee to conduct a variety of activities in exchange for payments. Examples of such rights include but are not limited to agriculture, grazing, timber harvesting, oil and gas production, development of hard-rock minerals, and rights-of-way, etc.

BIA enters many (but not all) leases into the lease module contained in the Integrated Records Management System (IRMS) or other automated and manual systems within BIA. This information is used in conjunction with the ownership data to facilitate distribution to beneficiaries.

#### **4. COLLECTING AND DEPOSITING LEASE OR PERMITS PAYMENTS**

BIA agency and regional offices prepare and manage contracts for land leases, permits or land sales. They may or may not send bills for payments due, and few offices have any type of automated accounts receivable system. Payments are generally received at BIA agency and regional offices.

Payment checks are logged by the mail clerk and delivered to the certified collection officer, which is usually a collateral duty assigned to a staff member. Notices of payment are given to the appropriate program office (such as realty, forestry, etc.). The program office should match each notice with the appropriate lease or permit. Some agencies maintain beneficiary distribution information in the ownership module of IRMS, which interfaces with the TFAS. Others prepare the information manually. The certified collection officer prepares a schedule of collections and forwards the schedule and monies for ultimate deposit to a federal depository.

Certified collection officers may be located at the Agency or Regional Office, depending on the region. The collector verifies accuracy of the deposit information related to the checks and deposits the funds at a federal depository.

Funds are posted to beneficiaries' accounts through one of the following means:

- a) Interface files for posting to TFAS;
- b) The OTFM field staff enters information into an electronic work ticket system for eventual posting to TFAS; and
- c) The OTFM field staff creates manual work tickets and faxes to OTFM in Albuquerque for posting to TFAS.

OTFM reviews proposed transactions for appropriateness of documentation, and if adequate, approves for posting to TFAS. If a transaction is not approved, OTFM notifies the originating office of the errors to be corrected (e.g., dollar amount, account number, date). The originating office makes corrections and faxes documentation to OTFM with the corrections initialed as having been made.

OTFM performs a verification of accuracy on transactions posted through OTFM and for interfacing systems. The originating office verifies that funds were posted to appropriate accounts. If OTFM or the originating office finds an error in TFAS, the appropriate

OTFM issues group addresses remediation. OTFM makes the correction, and the originating office verifies that the error was corrected.

If funds do not post, the specific transactions are listed on the Daily Cash Reconciliation (DCR) report. The DCR also lists checks that did not clear with the Treasury. These exceptions are referred to the appropriate office.

**5. COLLECTING, ACCOUNTING AND DEPOSITING OIL,  
GAS AND OTHER MINERAL LEASE PAYMENTS**

MMS manages the collection and accounting of royalties and rentals received from producing Indian mineral leases. MMS does not maintain information on individual Indian mineral beneficiaries.

The Payor submits payment and a royalty report for Indian leases to MMS. Royalty payments are generally due on the last day of the month for the previous month's production. Funds are received in the following manner:

- a) Check via mail or courier;
- b) Electronic Funds Transfer to Federal Reserve Bank; and
- c) Lockbox arrangement.

Over 98% of all funds are received through electronic funds transfers directly to the MMS Treasury account. However, when a check is received by MMS, it is deposited with other MMS receipts in a federal depository for credit to MMS's Treasury account. On a daily basis a listing of all Indian payments deposited to Treasury the previous day is faxed to OTFM. The listing includes a distribution code which identifies receipts by specific Tribe or allotted leases. OTFM then posts the funds to either a specific Tribe or a holding account in the case of allotted lands. Once identified, the funds are transferred from the MMS Treasury account to OST's Treasury account and OTFM is notified via a standard form (SF) 1081.

MMS processes the royalty report (containing lease and royalty information) and runs it against system edits to check for among other things: mathematical errors; valid lease and agreement numbers; royalty rates; and sales month and year. Upon completion of system edits, royalty information is allowed to establish an accounts receivable. The MMS system matches receivables with payments. MMS staff provides support as needed.

Once this payment matching process has occurred, the MMS creates the Indian Distribution File (with leases and amounts as well as fund codes) that is hand-carried on CD to Interior's National Business Center in Denver. BIA logs onto the National Business Center computer and initiates the process. The file is then transferred to the BIA Office of Information Resource Management (OIRM) in Reston, Virginia for

completion of the Royalty Distribution and Reporting System (RDRS – a module of IRMS) process.

The BIA agencies or regional offices reconcile the Indian Distribution File from MMS with the RDRS generated information. OIRM coordinates the processing and transfer of the distribution interface from BIA to TFAS beneficiary accounts.

Additionally, MMS receives and processes production reports for Indian mineral leases. Production reports are sent to the BLM which verifies the production report to MMS by the operator. Inconsistencies are reported to MMS, which then researches and makes the appropriate correction.

### **C. PERFORMANCE TARGETS**

Interior's key goals regarding funds collection, deposit and transfer, are accomplished when Interior is able to:

- Provide timely and accurate data regarding the ownership of individual Indian allotments and associated lease and sale proceeds.
- Provide timely information regarding the source, type and status of funds.

- Provide adequate controls over the receipt (collection, deposit and transfer to TFAS) of funds.

**D. GUIDANCE REGARDING PERFORMANCE**

The 1994 Trust Reform Act does not specifically address fund collection, deposit or transfer processes. To meet some of the Act's specific accounting obligations, however, it is essential that the collection, deposit and transfer systems work properly. Other Federal Government guidance on these subjects include:

- **Title Standards 2001, Department of Justice**

The Title Standards serve as a guide for the preparation of evidence of title for all acquisitions by the United States of land or interests in land, including acquisitions by direct purchase, exchange, donation, and condemnation. Title or ownership of land or interests in land is determined by an examination of documents in the public land records, by a physical inspection of the property and by a review of other supplemental or supporting documents.

- **Land Titles and Records Guidelines, 54 BIA Manual Supplement 9**

Provides guidance regarding policies, procedures, and standards to the Land Titles and Records Office managers, and other program managers who have direct supervision over the land titles and records function.

- **BIA Regulations, 25 C.F.R. § 115.702 – 708**

These regulations provide specific guidance regarding acceptable IIM account deposits.

- **Department of Treasury Guidelines**

- Checks and Cash Received in Collections, Treasury Financial Manual, Part 5 Chapter 2000
- Deposit Tickets, Treasury Financial Manual Part 5 Chapter 3000
- Making Deposits, Treasury Financial Manual Part 5 Chapter 4000

These documents provide Treasury guidance regarding cash collections and deposits.

## **E. STATUS OF OPERATIONAL PERFORMANCE (“AS-IS”)**

### **1. GENERAL ASSESSMENT**

Interior can comply substantially with all of the requirements, on an individual, case-by-case basis. Land title documentation is maintained, ownership interests are determined, leasing activity is conducted, and leasing and sales receipts are collected, deposited and transferred to TFAS.

However, Interior is not satisfied with the overall performance of the trust management program. Trustees are expected to perform trust functions accurately and timely and questions have been raised about the performance of this Indian trust.

An evaluation of the complexity and limitations of current trust management systems, both automated and manual, suggests that Interior cannot timely provide for the entire trust:

- data regarding allotment ownership to individual Indian beneficiaries on a routine basis.
- source, type and status information linked to every cash receipt.
- an independent audit evaluation of its cash receipt process.
- timely and complete information regarding the gains and losses associated with the sale of allotment assets.

Several initiatives have been recommended to improve performance in this area. Interior plans to review those recommendations as a part of its “To-Be” trust management systems reengineering process.

**2. RELEVANT ACCOUNTING OBSERVATIONS OF THE “AS-IS” EVALUATION TEAM**

Information gathered through the “As-Is” process has been utilized in preparing this section, although the report itself has not been completed. This section of this document will only focus upon the “As-Is” observations on the ownership, funds collection, deposit and transfer functions associated with accounting management analysis.

A significant part of the draft “As-Is” document describes, in detail, the standard and non-standard trust processes. The term “standard”, as used in the draft “As-Is” document, refers to common practice in the field (i.e., how a process operates most of the time is not necessarily how it is supposed to operate). Regional variations to the standard processes are presented in variance tables; these variances are considered “non-standard” trust processes.

Variances exist for a variety of reasons. They may be due to federal, state, or local laws, treaties, court rulings, local practices, or other reasons. These variances indicate how various tasks may be done differently, but it is not synonymous with the function being done incorrectly. Additional analysis is required to identify best practices from among the various approaches being employed. Where possible, effort will be needed to standardize the process to attain greater efficiency in work product management.

The “As-Is” trust document is complex and complicated. The eight business processes have significant inter-relationships and require a substantial amount of coordination. The processes also flow across organizational boundaries, which adds more complexity and possible conflict that can slow down the delivery of services to the beneficiaries.

Based upon the discussions with Interior staff and a review of the key observations from EDS (which are pending Interior review), relevant comments regarding the status of funds collection, deposit and transfer activities include the following:

**a) SYSTEM INTERFACES**

Depending on the systems being used, BIA performs quality assurance routines prior to creation of the distribution interface file. For example, this includes:

- Confirming distribution ownership to the ownership in the title system;
- Preparing and reviewing pre-distribution reports; and
- Checking physical records.

If a distribution file contains a beneficiary account that is not available on TFAS, the transaction is posted to a TFAS reject account. Each day, OTFM notifies the originating office of a rejected account. The originating office is then responsible for ensuring that documentation is provided to move the transaction from the reject account to the proper beneficiary’s account.

Accuracy of royalty payments received from the lessee is verified by MMS through its compliance program. This activity verifies that payments are made in accordance with applicable Indian lease terms, laws and regulations, as well as policy guidance. The MMS performs a combination of automated verification routines and traditional field audits. MMS through its audits will verify that the volume, value and royalty are reported accurately by industry. The compliance activities occur after payments are received. If the audits or automated verification routines result in findings, the payor will receive an order to pay the additional royalty and associated interest due. Once the payment is received, the full amount is distributed to the lease interest owner.

The MMS financial system was audited by an independent auditor and for its FY2001 audit received an unqualified (i.e., clean) opinion.

**b) INDIAN TRUST SYSTEMS**

Interior operates systems that record beneficiary information, title information, ownership and real property information and accounting information. There are multiple systems. Some beneficiary information is contained in all of the systems.

In the current Interior environment, there are four main types of data being captured: beneficiary, title, realty and accounting. The same data elements are being entered into a number of different automated and manual systems without reconciliation being

performed among these various systems. There is not a standardized format for capturing data across the systems or across the geographical regions. As a result, there are instances where important information in such systems as the Land Record Information System (LRIS), IRMS, Trust Asset and Accounting Management System (TAAMS) and TFAS is not in agreement.

This lack of a unified source of information makes it difficult to produce a comprehensive beneficiary statement of performance. In some cases, it has proven either cumbersome or difficult to find all of the information necessary to satisfy a beneficiary query or operational need in a timely way. The lack of intra and inter-Bureau consistency diminishes the effectiveness of the organizations that must use, share or update common information.

Currently, BIA has no standard accounts receivable system. Some BIA offices use local accounts receivable systems, but other offices have no automated capability to track effective dates and termination dates of leases or permits, send invoices for payments due, project the amount of money coming in, or monitor payment compliance.

In addition, Interior has recently moved to investigate other, broadly-based IT systems that might be adapted for use in the trust management systems. Problems with the quality of the data in title and realty within the Indian trust are caused by a lack of national data standards and quality control and a lack of integrated trust systems. These inconsistencies can have a direct impact on the ability of Interior to administer its

fiduciary responsibilities. Interior has recognized these problems and has expanded the Data Quality and Integrity initiative. This project will improve the quality and integrity of the data in the systems. A by-product of this initiative may be an improved ability of the BIA, OTFM, BLM, MMS and other agencies to access and share consistent information.

The Data Quality Integrity effort underway will address some the problems of errors and inconsistencies within the IIM accounts. Under it, Interior is planning to develop a centralized data warehouse that will store “cleansed” data, have the ability to link with multiple systems, and sustain a single, approved set of critical data elements. This will directly address the problem of different trust units not using the same data ownership, realty and payment data.

**c) TITLE MAINTENANCE**

Generally, title to trust land is maintained by the BIA and a few tribes. However in Oklahoma, some owners’ title is maintained by the state. These organizations have separate requirements, procedures and infrastructures for maintaining title. This makes it difficult to coordinate Trust-related title information and causes inconsistency.

While there are procedures in place to ensure that LTRO updates are performed, they are not routinely followed. The backlog of data entry is creating inconsistencies between the

information in the LTRO and agency/tribal ownership records. There is no automated reconciliation to ensure LTRO and agency/tribal records are consistent once changes have been applied in the various systems.

Recordation policies are not consistently applied for each transaction with regard to document setup and recordation. Some agencies do not submit all short-term leases, leases for nominal payment, or permits to the local servicing LTRO for recording. Lease renewals, expirations and cancellations are not always recorded.

LTRO managers met in October, 2002 to begin evaluating and standardizing recordation policies and information support. This meeting included both BIA and Tribal Land Titles and Records Office managers. LTRO standardization activities are ongoing.

The agency and tribal network infrastructure is limited; agencies rely primarily on standard, low-speed dial-up connections to access Interior resources. This infrastructure will not support the volume of information required to share title documentation with all affected organizations.

**d) TITLE MAINTENANCE BACKLOG**

Interior maintains a record of trust assets, ownership and utilization. However, the recording and encoding backlogs prevent LTRO, agencies and tribes from sharing information in a timely manner, thereby making it difficult to maintain current and accurate title records.

The TAAMS title software module is currently in use by four BIA Regions. Plans are underway to upgrade and implement this title system across the remaining LTROs. TAAMS has increased functionality and improved efficiency of both data entry and retrieval.

**e) SURFACE LAND-USE PROCESSES**

Ownership information is vital to surface leasing processes. Specifically, issuing 90-day notices, requests for “authority to grant”, and obtaining agricultural lease consent, all provide BIA line officials the necessary input and approval from the landowners of fractionated-ownership tracts to enter into contractual relationships with land operators on behalf of the landowners. Most importantly, the ownership interests are also used to calculate the distribution advice for disbursement of land use revenues.

A variety of situations and reasons drive local BIA land program or realty resources to use different sources of information. The generally agreed-upon legal system of record for ownership interest information is either TAAMS or LRIS. Cycle times from request to receipt of certified Title Status Reports (TSR) are impractical for use in most land

operations processes. Surface operations resources, to support timely completion of these processes, turn to whatever information is available. Where tribal resources perform any of these processes, there are additional access and security limitations for access to the appropriate information, and tribal records are frequently used.

**f) COLLECTION PROCESS**

BIA offices receive most payments for land-related transactions. The appropriate program staff, such as realty, forestry, or range is responsible for preparing posting instructions for the certified collection officer prior to deposit, so the funds can be posted.

As noted in other areas, parcels of land may have hundreds or more than a thousand fractionated interest owners. When a parcel of land is leased, the appropriate BIA program office sets up a file that lists all interest owners with corresponding IIM account numbers and interest percentages for payment distribution. In many cases, this information is encoded in a lease and owner module. These systems create electronic batch updates to TFAS. However, due to the multiple systems of record, all ownership records may not be synchronized.

In regions where a lease distribution interface program is not used, BIA program staff must manually prepare distribution information for the certified collection officer, who deposits checks and submits distribution advice to OTFM for the preparation of paper

work tickets. In these cases, OTFM will reject only transactions that are not supported by proper documentation.

BIA offices routinely record funds that cannot be immediately distributed to the beneficiaries into Special Deposit Accounts (SDAs) so interest can be earned until proper distribution can be made. This practice results in SDAs with large balances. An initiative is underway to clean up these accounts, and the current policy is to use SDAs only as a last resort. However, a few regions continue to use SDAs because all lease payments are due at the same time each year, and they do not have the resources or information to process payments quickly.

Compliance with the policy of depositing funds within 24 hours of receipt is not consistent nationwide. There are a variety of reasons. Agencies located in remote areas often have no choice but to send deposits to the OTFM regional office via regular mail or drive several hours to hand carry them. In addition, an OTFM office may receive too many deposits on one day to process before the bank cut-off time.

## **F. STEPS NECESSARY TO REACH TRUST OPERATION PERFORMANCE (“TO-BE”)**

### **1. OVERVIEW**

EDS, and the “As-Is” evaluation team, also conducted a comparison between the structure and workings of commercial trusts and the Indian trust. The document noted

that there are a number of inherent differences between them: the high number of small accounts in the trust, the emphasis toward encouraging tribal self-government and trust function operation, and other factors (several more are discussed in the Observations section below). Further, commercial trusts are primarily governed by the laws and guidelines of the Office of the Comptroller of the Currency (OCC), whereas the Indian trust must deal with a great number of separate federal, state and local laws, as well as tribal laws and treaty obligations. These laws and regulations add a significant level of complexity to Indian trust administration.

In many other respects, there are close parallels between commercial trusts and the Indian trust. The two have the same basic functions and transactional requirements, and have similar fiduciary responsibilities. However, there are many differences in the way they are implemented.

A general finding of the evaluation team is that current Indian trust operations are much more complicated when compared to a commercial trust environment. Indian trust processes operate within silos, with many steps cycling back from one area to another to obtain needed additional information or further action. The EDS analysis clearly demonstrates the very large number of flows, loops and sequences that are now part of the trust activities. This situation has developed in large part as a result of the decentralized procedures and systems, which have evolved piecemeal over time, from organizational fragmentation, and from absence of trust-wide planning. In contrast, commercial trusts (including those with substantial real estate holdings) have a much

smoother transactional flow even though it depends upon many different parties to execute required title and realty activities.

EDS and the “As-Is” evaluation team found Interior staff to be hard working and typically performing as well as they could within the current environment. The team was also able to find several instances where, either at the agency or regional level, very effective practices had been put in place.

In many cases, it appears that the personnel resources available are inadequate to address the current workload. However, because there are other major opportunities to improve the speed and effectiveness of the work being performed, it is difficult to draw overall conclusions about the need for additional personnel.

## **2. OPTIONS FOR IMPROVEMENT**

For the purposes of this submission to the Court, Interior has identified a variety of tasks that could improve the trust management environment. These options, and others to be developed, must be evaluated in the “To-Be” trust systems redesign process and that are relevant to the topic of funds collections, deposit and transfer include:

- Continue upgrade and expansion of TAAMS title module.
- Expand the Indian land consolidation program to reduce fractionation.

- Increase use of the “memo tickler” capability in TFAS to record important information associated with accounts, especially anything an Interior employee may need to be aware of if a beneficiary makes an account maintenance or disbursement request in another region.
  
- Follow through with enhancements to TFAS that are planned or already underway, such as integrating the source assets information associated with an IIM account.
  
- Continue the Data Quality Integrity initiative to build a data store that will house all critical components of information and allow appropriate units to access information for informational, reporting, or processing purposes.
  
- Implement an accounts receivable system with capabilities to track effective dates and termination dates of leases or permits, link to asset and ownership information, send invoices for payments due, accept interface updates of payments received, auto-distribute to beneficiary accounts, project cash flow, and monitor payment compliance.
  
- Add reporting capabilities to TFAS to automate Treasury and in-house management reports and reconciliations as much as possible.

- Streamline account maintenance and disbursement request forms so they will be easier to understand and complete.
  
- Make forms, requirements, and instructions available to beneficiaries on the Internet. Develop beneficiary instruction cards or brochures explaining procedures and requirements, and make them available in BIA and OTFM offices.
  
- Identify alternatives to notarization, in addition to Interior staff, to certify accounting transaction forms.
  
- Put an OST staff person at each BIA agency office to handle account maintenance and financial transaction requests. Regions that do this reported far fewer problems with transaction processing. It relieves BIA staff of the responsibility of preparing accounting transaction requests and gives it to an accounting technician for whom it is a primary responsibility.
  
- Provide electronic reference/help to BIA and OST staff so there will be one consistent source of requirements, guidelines, and procedures.
  
- Implement document imaging and retrieval capabilities so beneficiary documents and records can be scanned once and made available to appropriate Interior staff nationwide.

- Implement workflow or case management technology combined with the imaging capability to manage the information and processing flow.
  
- Provide additional resources to BIA offices to help clean up ownership records, lease distribution interface files, and special deposit accounts. These efforts are already underway and should be maintained.
  
- Develop and implement consistent internal controls for the collection process.
  
- Automate and centralize the collection, deposit, and posting process. This recommendation is dependent on accurate ownership records, the association of assets with IIM accounts, document imaging, and an automated accounts receivable system. Auditing a centralized process would be much more practical than auditing processes at offices nationwide.
  
- Establish a cost-effective procedure to address small trust fund distributions. Currently many distributions of less than one dollar are made to IIM accounts from probate accounts or lease payments. Many accounts must be opened solely to receive these distributions. As of September 30, 2002, there were more than 20,000 accounts with a balance of less than one dollar. The annual cost to maintain an IIM account on TFAS is between approximately \$35 - \$180 (depending upon transaction volume).

- Continue with BIA/OST Interagency Handbook (see Exhibit 1) training initiative already underway.
  
- Conduct periodic meetings between BIA and OST at all levels to resolve issues and unclear responsibilities, and identify additional opportunities to improve communications between BIA and OST.

### **3. “TO-BE” PROCESS AND PROJECT MANAGEMENT**

Interior will need to consider the aforementioned initiatives further to determine whether the initiative will achieve the desired result, which are most critical, where monies should be allocated, in what order initiatives should be implemented, and what supporting changes in technology will be required.

Development of the new trust management model will be a challenging and complex undertaking for Interior. It will require significant coordination, collaboration, and communication among many participants, tribal representatives, process areas, subject matter expertise, leaders, and sponsors. Effective project planning and management will be critical to achieve the desired outcomes of this phase. The past organizational issues and decentralized nature of efforts to improve have hindered progress.

The model should not only encompass reengineered and new processes, but also include coordinated improvements in supporting systems, organizations, training, and personnel requirements of the new environment. Attaining the real change needed for planning and

implementing the “To-Be” model will not happen quickly and will require participation and buy-in from many stakeholders.

Interior’s recent experience in seeking buy-in regarding the proposed reorganization of trust functions within Interior, illustrates the shortcomings of unilateral decision-making and lack of communication with affected stakeholders. What appeared to be a straightforward initiative requiring routine communications with Congress and Indian Country, resulted in many consultation meetings around the country, the formation of a Task Force that involved other multiple meetings around the country, consumed thousands of hours of Interior senior management attention, and involved multiple Congressional hearings. The reorganization proposal ultimately took almost one year and support for the initiative is still mixed. Other, more significant changes, to be identified in the reengineering of the trust management program may also require substantial time and resource commitments.

**V. CURRENT ACCOUNTING – TRUST FUNDS ACCOUNTING SYSTEM****A. INTRODUCTION**

The next section describing current accounting obligations covers the accounting for funds from the time funds are recorded into the trust fund accounting system until they are disbursed. The activities engaged in beforehand to collect and deposit the funds have been described in the previous sections. In the same manner as the previous section, this discussion will focus only on current accounting. Issues raised by the historical accounting for funds up to December 31, 2000 is discussed in a separate plan submitted to the Court.

This section describes the accounting activities including investment of funds received, reconciliation of funds within TFAS, communication with beneficiaries, disbursement of funds and auditing of the trust funds. Included is a discussion of the systems used, controls for receipts and disbursements in place and the steps to come into compliance wherever deficiencies in meeting the trust obligations may exist.

**B. TRUST FUNDS ACCOUNTING SYSTEM PROCESS**

Interior's goal is to provide accurate accounting of all funds held in trust for individual Indians. Interior will achieve this goal when it can properly discharge the following statutory obligations, which include both maintaining accurate account balances and reporting information to beneficiaries:

**(1) GENERAL STATUTORY DIRECTIONS****(i) Statutory Direction**

***REQUIREMENT TO ACCOUNT – The Secretary shall account for the daily and annual balance of all funds held in trust by the United States for the benefit of an Indian tribe or an individual Indian which are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. § 162a.***

***25 U.S.C. § 4011 (a)***

***The Secretary's proper discharge of the trust responsibilities of the United States shall include (but are not limited to) the following:***

***Determine accurate cash balances.***

***25 U.S.C. § 162a (d) (4)***

***Preparing and supplying account holders with periodic statements of their account performance and with balances of their account which shall be available on a daily basis.***

***25 U.S.C. § 162a(d)(5)***

***PERIODIC STATEMENT OF PERFORMANCE – Not later than 20 business days after the close of a calendar quarter, the Secretary shall provide a statement of performance to each Indian tribe and individual with respect to whom funds are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. § 162a). The statement, for the period concerned, shall identify –***

- (1) the source, type, and status of the funds;***
- (2) the beginning balance;***
- (3) the gains and losses;***
- (4) receipts and disbursements; and***
- (5) the ending balance.***

***25 U.S.C. § 4011 (b)***

Interior complies with most of its statutory obligations as they apply from receipt through disbursement in TFAS. For funds recorded in TFAS, Interior has contracted for an adequate system to account for daily and annual balances and to provide account holders

upon their request with information concerning their account(s). Using this system, OST prepares quarterly statements on accounts in TFAS and mails the statements to account holders with known addresses to include beginning balances, type of income, receipts and disbursements and ending balance.

Interior's performance as described in this section should be considered in combination with its performance as described in the other parts of this plan and the Historical Accounting Plan. This section of the plan addresses only trust funds recorded in the TFAS.

For funds recorded in TFAS, Interior will meet its general statutory directions that enable the accounting and reporting directions above when Interior carries out the following statutory requirements:

- Providing adequate systems for accounting for and reporting trust fund balances.  
25 U.S.C. § 162a (d) (1)
- Providing adequate controls over receipts and disbursements.  
25 U.S.C. § 162a (d) (2)
- Providing periodic, timely reconciliations to assure the accuracy of accounts.  
25 U.S.C. § 162a (d) (3)
- Annual Audit – The Secretary shall cause to be conducted an annual audit on a fiscal year basis of all funds held in trust by the United States for the benefit of an Indian tribe or an individual Indian which are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. § 162a), and shall include a letter relating to the audit in the first statement of performance provided under subsection (b) of

this section after the completion of the audit.

25 U.S.C. § 4011(c)

The status of Interior's compliance with each of these four statutory trust obligations – Systems, Controls, Reconciliations, Audit – are discussed in detail below.

**(2) SYSTEMS****(i) Statutory Direction**

*The Secretary's proper discharge of the trust responsibilities of the United States shall include (but are not limited to) the following:*

*Provid[e] adequate systems for accounting for and reporting trust fund balances. 25 U.S.C. § 162a (d)(1)*

**(ii) Guidance Regarding Performance**

Interior assesses its performance of this statutory obligation by reference to the pertinent sections of the following guidelines:

- **American Institute of Certified Public Accountants, Financial Accounting Standards Board, Statement on Auditing Standards (SAS) No. 70.**

SAS 70 is the authoritative guidance that allows service organizations to disclose their control activities and processes to their customers and their customers' auditors in a uniform reporting format. A SAS 70 examination signifies that a service organization has had its control objectives and control activities examined by an independent accounting and auditing firm.

- **Departmental Manual, "Principles for Managing Indian Trust Assets," 303 DM 2.**

These principles require a verifiable system of records that identify "...deposits, transfers, disbursements, third-party obligations, amount of earnings, investment instruments, and closing of all trust fund accounts..."

**(iii) Status of Performance**

In March 1998, Interior signed a contract with SEI Investments, Inc., to provide a trust funds accounting system. The system Interior contracted for, known as the Trust 3000 system, is used by seven of the ten largest trust banks in the United States. In Interior, SEI's Trust 3000 product is known as the Trust Funds Accounting System (TFAS). OST began converting IIM accounts and respective balances to TFAS in August 1998. Simultaneously, OST centralized its financial data entry and verification. OST finalized conversion to TFAS for all regions on April 1, 2000.

The conversion to TFAS provided, among other things, the following functions, previously unavailable. These included capabilities now being used to:

- Maintain one unified system;
- Schedule disbursements for beneficiaries including direct deposits to financial institutions;
- Utilize master name and address data for holders of multiple accounts to ensure accuracy of data and prohibit duplicate account numbers;
- Automate reconciliations;
- Automate audit trails on cash transactions and account file maintenance;
- Provide password protection to delineate access levels and authorizes change controls;
- Afford additional information on receipt and disbursement transactions;

- Schedule multiple beneficiary statements at appropriate intervals to include:
  - beginning balance for the reporting interval (that is the same as the ending balance for the previous reporting interval),
  - type (i.e., category of income, e.g., leasing, timber sales, interest),
  - receipts and disbursements, and
  - ending balance.

SEI Investments, Inc. has a well-established user group to which Interior belongs. This group recommends improvements to Trust 3000 on a regular basis in order to keep abreast of industry standards and requirements. SEI Trust 3000 links with other financial systems for notification of prepayment and valuations of financial investments, and itself creates notification of upcoming maturities and interest payments.

#### **(iv) Steps Necessary to Reach Performance Targets**

For funds recorded in TFAS, Interior meets the obligation for an adequate system for accounting and reporting trust fund balances. Using the information recorded in TFAS, Interior can provide account holders with transaction activity and balance information on a daily and annual basis.

The following steps will enable Interior to meet the reporting requirement obligation as it applies to TFAS:

- Add status of funds (whether invested) to statements 2Q CY2003
- Add gains and losses explanation to statements 2Q CY2003

The following step will enhance Interior's investment responsibility:

- Contract for 3<sup>rd</sup> party investment management of IIM pool                            3Q  
CY2003

**(3) CONTROLS – RECEIPTS AND DISBURSEMENTS****(i) Statutory Direction**

*The Secretary's proper discharge of the trust responsibilities of the United States shall include (but are not limited to) the following:*

*Provid[e] adequate controls over receipts and disbursements.*

*25 U.S.C. § 162a (d)(2)*

**(ii) Guidance Regarding Performance**

Interior assesses its performance of this statutory obligation by reference to the pertinent sections of the following guidelines:

- **25 CFR 115, “Trust Funds for Tribes and Individual Indians”.**

Part 115 sets forth guidelines for the management and administration of trust assets owed to beneficiaries. In addition, Part 115 identifies specific sources of money that will be accepted for deposit into a trust account. Part 115 also defines authorized disbursement requests and minors' disbursement plans. (See also 25 CFR 117, “Deposit and Expenditure of Individual Funds of Members of the Osage Tribe of Indians Who Do Not Have Certificates of Competency,” and 25 CFR 121, “Distribution of Judgment Funds Awarded to the Osage Tribe of Indians in Oklahoma.”)

- **BIA/OST Interagency Handbook, July 8, 2002.**

This handbook sets forth the procedures for receipting trust funds, withdrawing money from an unrestricted account, making disbursements from decedents' IIM

accounts before probate, withdrawing trust funds for minors and emancipated minors, withdrawing judgment per capita funds, developing supervised and encumbered distribution plans, and making third party disbursements from encumbered “whereabouts unknown” accounts.

- **12 CFR Chapter 1, Part 30, Appendix A, “Interagency Guidelines Establishing Standards for Safety and Soundness”, II-A, “Operational and Managerial Standards – Internal Controls and Information Systems”.**

Part 30 states that, “An institution should have internal controls and information systems that are appropriate to the size of the institution and the nature, scope, and risk of its activities...”.

### **(iii) Status of Performance**

The conversion to TFAS provided for:

- centralized quality assurance reviews for adherence to policy and documentation requirements;
- centralized encoding of transactions; and,
- centralized verification of the accuracy of the information entered into the system with the exception of automated interfaces from the BIA legacy system.

Once Interior records receipts, from whatever source, in TFAS accounts, controls inherent in the system ensure that the system provides accountability for the funds.

Internal controls in TFAS are subject to annual self-assessment reviews (consistent with the objectives of the Federal Managers Financial Integrity Act (FMFIA)), an independent financial statement audit, and a Statement of Auditing Standards (SAS) 70 audit

conducted by an independent auditor selected by the Trust 3000 user group. The SAS 70 audit assures the user group that system controls are functioning as asserted by the management of the vendor supplying the system.

Each business day Interior invests all funds received in TFAS for individual Indian accounts in accordance with 25 U.S.C. § 162a.

SDAs may be used only as an exception to the mandate for immediate deposit and distribution of trust funds to individual Indian and tribal account holders (Interagency Handbook, Chapter 12, page 1). Currently, SDAs are created in TFAS to receive funds for which ownership or other information has not been provided. Upon the subsequent receipt of account-specific information from BIA, the funds are transferred to the identified TFAS accounts.

**(iv) Steps Necessary to Reach Performance Targets**

Interior provides adequate controls over receipts (once recorded in TFAS) and current disbursement activity and will meet Interior's obligation when the following steps are completed:

- Resolve validation of documentation for automatic disbursement authorizations pre-TFAS

4Q CY2003

**(4) RECONCILIATIONS****(i) Statutory Direction**

*The Secretary's proper discharge of the trust responsibilities of the United States shall include (but are not limited to) the following:*

*Provid[e] periodic, timely reconciliations to assure the accuracy of accounts.*

*25 U.S.C. § 162a (d) (3)*

**(ii) Guidance Regarding Performance**

Interior assesses its performance of this statutory obligation by reference to the pertinent sections of the following guidelines:

- **12 CFR Chapter 1, Part 30, Appendix A, “Interagency Guidelines Establishing Standards for Safety and Soundness”, II-A, “Operational and Managerial Standards – Internal Controls and Information Systems”.**

Part 30 states that, “An institution should have internal controls and information systems that are appropriate to the size of the institution and the nature, scope, and risk of its activities...” Control activities, one of several components comprising a system of internal controls, should include independent checks on whether certain jobs are getting done and certain recorded amounts are accurate. Examples of controls include – but are not limited to – reconciliations, computer-programmed controls, management reviews of reports that summarize account balances, and user reviews of computer-generated reports.

- **Office of the Comptroller, “Comptroller’s Handbook: Custody Services,” January 2002.**

The Handbook states that for off-premises custody, “Custodians should reconcile changes in the depository’s position each day that a change in the position occurs, as well as completing a full-position reconciliation at least monthly.”

- **Volume 1, Treasury Financial Manual Part 2, Chapter 5100, “Reconciling Fund Balance with Treasury Accounts”.**

This chapter provides policies and procedures for reconciling Interior fund balances with Treasury accounts. Reconciling fund balances with Treasury accounts is a key internal control process. It assures the reliability of the Government’s receipt and disbursement data reported by agencies. Therefore, agencies must perform timely reconciliations and implement effective and efficient reconciliation processes.

### **(iii) Status of Performance**

On a daily basis, OTFM reconciles financial transactions posted to TFAS with financial transactions posted at Treasury and identifies and resolves any differences. At the end of each business day, OTFM balances the daily receipt and disbursement activity with the system totals. Any differences are resolved before automated nightly processing begins.

On a monthly basis, OTFM reconciles financial transactions reported to Treasury (via the Statement of Transactions Report, SF-224). In addition, OTFM reports and reconciles all Treasury checks issued by the OST disbursing official.

OST holds certain securities at Treasury and has since May 1997 contracted with a financial institution to serve as a custodian for securities not held at Treasury. This contract encompasses the settlement of trades, collection and posting of investment

income on payable date, notification of called securities, and daily reconciliation of investment activity. Investment security units held by the two custodians – Treasury and the contracted institution – are reconciled monthly.

Cash and asset reconciliations ensure that trust fund receipts and trust fund disbursements are properly accounted for. The cash and asset reconciliations also serve to confirm that changes to the stated IIM pooled investment account balances are accurate.

As Interior previously informed the Court, OST-reported trust fund balances materially exceed Treasury-reported balances. This difference does not impact the earning power of the fund since OST controls investment assets equal to the cash balance shown on its financial statements. OST and the OHTA are working with Treasury to develop options for resolving this difference.

In addition, the aggregate of all positive account balances in the IIM detailed subsidiary accounts exceeds the IIM investment pool. This imbalance could have a negative impact on the earning power of the IIM pool. Other accounting discrepancies include the inability to reconcile past clearing and suspense accounts, the inability to collect interest from failed financial institutions and the former lack of daily reconciliation.

**(iv) Steps Necessary to Reach Performance Targets**

Interior has adequate reconcilements of current cash and investment activity to meet this obligation.

The following steps will address past activity issues:

- Resolve validation of documentation for automatic disbursement authorizations pre-TFAS 4Q CY2003
- Request legislation to satisfy part of imbalance with Treasury 3Q CY2003
- Determine options for resolving Treasury differences 3Q CY2003
- Resolution of Treasury differences 3Q CY2004

**(5) AUDIT****(i) Statutory Direction**

*ANNUAL AUDIT. – The Secretary shall cause to be conducted an annual audit on a fiscal year basis of all funds held in trust by the United States for the benefit of an Indian tribe or an individual Indian which are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. § 162a), and shall include a letter relating to the audit in the first statement of performance provided under subsection (b) after the completion of the audit.*

*25 U.S.C. § 4011(c)*

**(ii) Guidance Regarding Performance**

Interior assesses its performance of this statutory obligation by reference to the pertinent sections of the following guidelines:

- **Generally Accepted Government Auditing Standards (GAGAS).**

The Comptroller General of the United States published Government Auditing Standards for audits of government organizations, programs, activities and functions. These standards pertain to the auditor's professional qualifications, the quality of audit effort, and the characteristics of professional and meaningful audit reports.

- **The Federal Accounting Standards Advisory Board (FASAB) Statements of Federal Financial Accounting Standard. (SFFAS) No. 7 “Accounting for Revenue and Other Financing Sources”**

FASAB issues Statements of Federal Financial Accounting Concepts to guide the members as they deliberate and recommend Statements of Federal Financial Accounting Standards, including the OMB, as it carries out its statutory

responsibilities for specifying who should prepare financial statements and the form and content of those statements. SFFAS No. 7 requires certain federal financial statement disclosures regarding “dedicated collections,” including fiduciary funds.

- **FASAB Interpretation No. 1, “Reporting on Indian Trust Funds in General Purpose Financial Reports of the Department of the Interior and in the Consolidated Financial Statements of the United States Government: An Interpretation of SFFAS No. 7.”**

This Interpretation holds that Indian trust funds are not Federal funds and thus should not be included in Interior’s financial statements except by footnote in Interior’s Annual Accountability Report. As a result, Interior prepares financial statements for Indian trust funds that are audited and reported separately from Federal funds.

### **(iii) Status of Performance**

A financial statement audit includes an examination of the statement of assets and trust fund balances, related statement of changes in trust fund balances for the year, an assessment of the accounting principles used, as well as internal controls over financial reporting and compliance with applicable laws and regulations.

Since FY 1995, OST has contracted for an independent audit of the financial statements of the trust funds it manages for the benefit of individual Indians, Indian tribes, and others. The FY1995 audit covered the statement of assets and trust fund balances, internal controls, and compliance with laws and regulations. Audits for fiscal years 1996 through 2002 also included the statement of changes in trust fund balances. Interior

Office of Inspector General oversees the audit and reviews the resulting reports prior to their release to the public. For FY 2002, KPMG LLP performed the audit, which the Office of Inspector General is expected to issue during the second quarter of FY 2003. In addition, the Trust Funds Accounting System (TFAS) is subjected to a separate annual independent audit. As noted above, the current TFAS is a product known as “Trust 3000”, which is used in many large trust departments. The Trust 3000 user group continues to receive a Statement of Auditing Standards (SAS) 70 audit opinion for Trust 3000 confirming that the system controls are functioning as asserted by management of the vendor supplying the system.

Past financial audits have contained qualified opinions from independent auditors. In part, this is due to the fund imbalance with Treasury described in the reconciliation discussion in this section of the report.

Interior has not previously sent letters to account holders relating to each annual audit as required by the 1994 Act.

**(iv) Steps Necessary to Reach Performance Targets**

At this time, Interior conducts a current financial statements audit. To meet the statutory direction the following steps need to be completed:

- Interior will provide notification by letter in coordination with the release of each annual audit beginning with the FY 2002 audit 2Q CY2003
- Repeat with each annual audit 2Q each CY
- OST will request an expansion of the FY 2004 annual audit to include all funds held in trust by the United States for the benefit of an Indian tribe or an individual Indian which are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. § 162a) 3Q CY2003

**C. RECORDS MANAGEMENT****1. PERFORMANCE TARGETS**

Interior plans to:

- establish a written policy for the retention of IIM-related trust documents, in both paper and electronic form, necessary to render an accurate accounting;
- establish written procedures for the retention of IIM-related trust documents, in both paper and electronic form, necessary to render an accurate accounting;
- identify the types of documents needed to undertake an accurate accounting of all money held in the IIM accounts;
- assess the physical environment where the records are stored to ensure they are being properly maintained and secured, and taking action to mitigate situations where the relevant records are not being properly maintained and secured; and
- establish a written policy and procedure for collecting from outside sources missing information necessary to render an accurate accounting.

There are other aspects of records management that Interior will pursue to enhance its ability effectively to preserve documents and to locate and utilize them for accounting purposes. Interior is also working to respond to issues raised by the Special Master.

**2. GUIDANCE REGARDING PERFORMANCE**

Interior's basic records management policy and guidance is derived from Federal records management laws and regulations, which are governed by the National Archives and Records Administration (44 U.S.C. Chapters 21, 29, 31, 33). The statutes and implementing regulations require federal agencies to make and preserve records, (including electronic records), containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency and designed to furnish the information necessary to protect the legal rights and financial rights of the Government and of persons directly affected by the agency's activities. See 36 C.F.R. Section 1220.30. Further, Office of Management and Budget Circular A-130 (8a), Management of Federal Information Resources, requires agencies to ensure that records management programs provide adequate and proper documentation of agency activities and that records management programs record, preserve and make accessible sufficient information to ensure the management and accountability of agency programs.

Interior recognizes that in its role as a trustee, it is required to maintain "those documents that are necessary for an accounting." *Cobell v. Norton*, 240 F.3d at 1106. Thus, in these instances, this requirement supersedes any NARA records disposition schedules that may allow disposal.

Internally, Interior issues specific records management policy and guidance via the Departmental Manual system of internal directives, bureau and service manuals, and Information Resource Management (IRM) bulletins. Specific guidance relating to the Indian trust records supplements existing guidance and procedures. Below are Interior's Records Management directives, manuals, and bulletins used for guidance.

**Departmental Manual**

- **303 DM 2, Indian Trust Responsibilities, 10/31/00**

303 DM provides Interior-wide guidance for carrying out the Secretary's trust responsibility as it pertains to Indian trust assets.

- **380 DM 1, Records Management Program and Responsibilities, 10/7/93**

380 DM 1 delegates to all bureaus and offices the responsibility for establishing and maintaining an active and continuing records management program for their organization to include developing and implementing records schedules for all records created and received by the Bureau. Due to Interior's diverse missions and decentralized structure, each bureau and the Office of the Secretary maintains and implements its own records retention/disposition schedule.

- **380 DM 2, Adequacy of Documentation, 7/11/94**

380 DM 2 requires Interior to make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency. Proper and adequate documentation identifies what and how much information needs to be created

or received to manage the organization and to meet Interior's legal responsibilities. This Chapter provides general information and instructions for ensuring that adequate documentation of agency business is established.

- **380 DM 3, Files Management, 5/9/95**

380 DM 3 establishes Department-wide files management responsibilities and provides standards and guidelines for filing records.

- **380 DM 6, Vital Records Program, 3/11/98**

380 DM 6 provides general policy and procedures to ensure that Interior has an effective Vital Records Program in place. Interior bureaus and offices are delegated the responsibility for establishing their own Vital Records Program to identify and safeguard their vital records.

- **383 DM 1-12, Privacy Act**

383 DM chapters outline Interior's policies for the administration of the Privacy Act of 1974 (5 USC § 552a). Many Indian trust records are protected by the provisions of the Privacy Act. The Privacy Act is applicable to all systems of records containing information about individuals from which information is retrieved by individual name or by an identifying number, symbol or other personal identifier. In particular:

**Chapter 2** outlines Interior's general guidance to the bureaus for ensuring the technical and physical safeguards of records.

**Chapter 3** advises that each bureau will:

- ensure that specific procedures are in place for the security and confidentiality of records;
- provide training to employees concerning responsibilities for handling Privacy Act documents; and,
- conduct periodic inspection of areas where records subject to the Privacy Act are maintained.

**Chapter 8** advises that hard copy records shall be safeguarded in a manner commensurate with the sensitivity of the information contained in the system of records. In addition, electronic records shall be subject to the safeguards based on the recommendations of the National Bureau of Standards contained in “Computer Security Guidelines for Implementing the Privacy Act of 1974.”

- **384 DM 1-4, Records Disposition, 5/12/89**

384 DM 1-4 provides general policy and procedures for developing and maintaining an effective records disposition program.

- **382 DM 11, Managing Records in Electronic Form, 12/9/85**

382 DM 11 provides guidelines, and establishes requirements and procedures for records created, used or maintained in electronic form. It has recently been revised and updated as 380 DM 5, Electronic Records Management. It is currently in draft form and is being prepared for final review and surname. The revised DM will address all aspects of properly managing and securing electronic records.

- **444 DM 01, Physical Protection and Building Security, 7/7/99**

DM 444 establishes policies for the Interior physical security program designed to safeguard Interior personnel and facilities to include buildings, grounds, and property.

- **16 Bureau of Indian Affairs Manual (16BIAM) Records and Dispositions Handbook, Chapters 1 – 12, 7/12/89**

This manual sets forth the records and files disposition for all of the Bureau of Indian Affairs programs.

- **IRM Bulletin 96-06, Policy and Guidance for Managing the Creation, Retention and Disposition of Electronic Mail Documents, 7/25/96**

This bulletin provides policy and guidance for managing the creation and retention and disposition of electronic mail (e-mail) documents.

### **(3) STATUS OF PERFORMANCE**

As Interior has conducted pilot programs and in-depth planning for its Historical Accounting Plan (described in a separate submission to this Court), it has gained a more thorough understanding of how a records management program must relate to accounting functions. In most situations, documents are already under the control of Interior. The resulting records management task is to preserve those documents and to make them accessible for accountant review. This task requires identifying relevant types of records, protecting them from destruction, indexing them in a way that provides the information

usable for researchers, and establishing a system for retrieving them and making them available for use. To be most easily available for historical accounting, large numbers of paper documents will need to be digitally imaged (i.e., scanned) and coded. In short, Interior needs to design and implement its records management system to be responsive to anticipated uses.

The same responsiveness to anticipated use is especially significant in dealing with documents Interior should have but doesn't and are instead held by third parties. Many are records of private companies. Accordingly, the federal government's pursuit of these records should not impose unnecessary burdens on the private sector. Interior's records management policies should be targeted to obtaining those documents actually necessary for conducting the historical accounting.

### **RECORDS UNDER THE CONTROL OF INTERIOR**

In FY2002, the Deputy Secretary instituted another records management freeze on the movement and destruction of any and all records involving IIM without prior notice to the Court. In a memorandum the Deputy Secretary directed that

“...routine document disposal schedules remain suspended for all ACTIVE and INACTIVE Indian trust records. Furthermore, all INACTIVE records placed in storage (whether in Federal or commercial records centers), that are normally eligible for disposal in accordance with the established bureau/office records disposition schedules, cannot be disposed of until further notice. This suspension of disposal schedules currently applies to all stored accessions in

the following records groups: 22, 48, 49, 57, 70, 75, 79, 115, 253, 312, 320, 368, 380, 471, 473, and 515.” Memorandum from the Deputy Secretary, “Clarification of Indian Trust Records Management and Records Freeze,” dated December 4, 2002, p.2.

Interior also awarded a contract to Zantaz in October, 2002, to provide real-time e-mail capture that, when implemented, will ensure trust-related e-mail records are retained.

In July 2002, Interior began an intensive effort to revitalize the Office of Trust Records (OTR). A comprehensive work plan for OTR was developed and issued on December 19, 2002. An integral part of the work plan is the development of policies and procedures for record keeping activities of the BIA and the OST. The work plan provides for development of programs that will provide guidance to record custodians and managers of the programs with responsibilities for trust programs.

OTR has developed a draft trust definition matrix for the existing 16 BIAM. This matrix will be modified upon the approval of a revised 16 BIAM and new record retention schedules for the OST. This matrix will facilitate the identification of trust records based on a series of simple yes or no answers. In addition, it contains a list of all currently approved record series that pertain to trust records.

High priority policies and procedures have been drafted by OTR and include the following:

FINAL – Files and Disposition Plan

DRAFT—OST/BIA Physical Security and Safety

DRAFT—Procedures for Research at OTR Records Centers

DRAFT—Policies and Procedures for Contracted and Compacted Tribal Trust

Program Records

DRAFT—Guidelines for a Vital Records Plan

DRAFT—Electronic Records Management Policy

DRAFT—Document Production Request Procedures

These drafts are scheduled to be published by 2Q CY2003. In addition, OTR plans to have a detailed list of, and a project plan for, the remaining policies and procedures.

The 4000 series of the 16 BIAM that includes realty, forestry, fish and wildlife, irrigation, safety of dams, agriculture, environmental, water rights, minerals and mining and range management has been completed under OTR leadership and submitted to BIA for review and approval, and to NARA for a courtesy review.

The final draft of the following electronic records schedules are complete and ready to be submitted by OTR to BIA for approval after which they will be submitted to NARA:  
IRMS Lease, IRMS Lease Distribute, IRMS Lease/Range, IRMS Owner, IRMS Individual Indian Monies, IRMS People, IRMS Royalty Distribution Reporting System and the Osage Annuity System.

OTR is developing a move plan to continue the centralization of OST financial trust records in Albuquerque, NM. Other move plans will be developed to eliminate records storage issues at BIA field locations. Further, OTR is actively drafting a records retention schedule for OTFM with their cooperation.

OTR has entered into an agreement with Labat-Anderson Inc. to develop one index of all Indian records (trust and non-trust) located in Albuquerque and Lee's Summit, MO, under OTR control. This index will facilitate access to these records for all legitimate purposes, including: historical accounting, litigation and research. The project was initiated in October and the indexing began in December 2002.

Beyond OTR's activities, BIA identified approximately 950 different types of documents of which approximately 50 were related to IIM accounts. In 1998, BIA and OST signed a memorandum of agreement, which transferred the record management responsibility for these IIM account records to OST. BIA established the BIA Vital Records Policy on October 1, 1998; established the BIA Records Management Adequacy of Documentation policy on October 1, 1998; and, established the BIA Field Inspection policy based on NARA and other guidance

**RECORDS NOT CURRENTLY UNDER THE CONTROL OF INTERIOR**

Regarding the collection of back-up records held by third parties that could replace missing information in Interior files, Interior has completed a draft of the policy and procedures that is undergoing review within Interior. The draft policy and procedures

state that it is Interior's policy to collect information from third parties and that to do so

Interior will:

- Alert potential third party custodians of Interior's efforts to locate and secure possible missing trust-related information and request that they retain this information;
- Identify information that is missing that is needed to conduct a complete historical accounting during the historical accounting process;
- Identify and locate records held by third-party custodians; and
- Obtain or copy third-party records.

Once Interior completes its review of the draft policy and procedures, the document will be finalized and included in the Departmental Manual.

Implementation activities pursuant to this requirement have already begun and have been reported to the Court. See Eleventh Report. This project was originally assigned to the Office of the Special Trustee for American Indians and was later reassigned to the OHTA. OHTA has identified broad categories of relevant third parties, e.g., oil and gas producers, foresters and governmental entities, likely to have IIM documents in their possession. As part of its efforts regarding the research and examination of third party records, OHTA plans to complete, by the end of the next reporting quarter, a policy and procedures plan for collection of such records.

As a result of a Federal Register notice (February 6, 2002, Vol. 67, No. 25, pp 5607-8), three energy companies contacted OHTA and indicated that they may have records pertaining to allotted lands. On August 6 and 7, 2002, OHTA staff conducted an on-site overview of records at one of these companies and concluded a small percentage of the records may be useful as “fill-the-gap” data. The company has agreed to retain custody of the records until further notice. OHTA is in discussions with the other two companies.

In September 2002, Interior submitted an additional information collection request to the Office of Management and Budget (OMB). OMB approved the request on October 15, 2002, which will allow OHTA to continue to seek Indian trust-related information from third parties under the original Federal Register notice.

Another possible records source is the American Heritage Center at the University of Wyoming. The Center houses the Anaconda Geological Documents Collection, a large and significant body of economic geologic data. In September 2002, OHTA secured a membership to the Center and is planning to inspect records maintained by the Center following its submission of the Court-ordered Historical Accounting Plan.

In June 2002, Gustavson Associates (Gustavson) completed a pilot study to search and identify oil and gas records on allotted lands and submitted a report with its findings. The study successfully demonstrated a methodology for collecting records from third parties, particularly oil and gas companies, but noted that specific solutions for records

collection will depend on unique problems and conditions. Gustavson briefed Interior on its findings on July 23, 2002.

In discussions with representatives of the oil and gas industry, Gustavson concluded there is no standard policy for records retention in the petroleum industry. The cost of maintaining large volumes of records, frequent buying and selling of oil and gas resources, and ongoing industry consolidation were cited as primary reasons for the lack of an industry-wide standard. Gustavson recommended that OHTA work with the Council of Petroleum Accounting Societies (COPAS) to survey its membership about records retention practices. COPAS is an industry trade group and many of its members are chief financial officers, controllers and chief accountants for petroleum companies.

On October 23, 2002, OHTA made a presentation to the COPAS fall conference asking for assistance in identifying potential sources of relevant records within the oil and gas industry.

OHTA has also contracted with Historical Research Associates (HRA) to research the historical involvement of the U.S. Forest Service on allotted lands. Although anecdotal evidence suggests the Forest Service had little, if any, involvement on allotted lands, OHTA intends to present HRA's findings to the Forest Service for further discussions regarding potentially relevant records. A final report from HRA was received in October 2002.

**(4) STEPS NECESSARY TO REACH PERFORMANCE TARGETS**

- Complete the identification of IIM-related documents necessary to render an accurate accounting. Q1/CY2003
- Establish and implement revised records retention schedules for non-electronic records for the BIA and OST. Q4/CY2003
- Establish and implement electronic records retention schedules for the BIA and OST. Q1/CY2004
- Review records retention schedules of other Interior agencies to ensure that IIM -related documents necessary to render an accurate accounting are properly retained. Q3/CY2003
- Establish and implement training programs for records custodians on the usage of the new schedules (on a continual basis beginning with current schedules). Q1/CY2003
- Index identified documents under OTR control necessary to perform an accurate accounting of all IIM trust funds held in trust by the United States. Q2/CY2004
- Draft policies and procedures regarding retrieval of records and implement. Q1/CY2003
- Complete Departmental review of policy and procedures for collection of missing information from third parties. Q1/CY2003
- Collect the identified needed IIM-related trust documents from sources within or outside Interior and provide the retrieved documents to the parties

undertaking the accounting. With respect to oil and gas records necessary for undertaking an accounting, require lessees and other royalty payors to produce records less than six years old and those over six-years old that are still in their possession.

- Conduct site assessments of the physical environment where records are stored to ensure they are being properly maintained and secured and implement corrective actions, if necessary. Ongoing
- Establish and implement a Privacy Act program to ensure compliance with Federal and Departmental Privacy Act regulations and directives. Provide training to all employees concerning responsibilities for handling Privacy Act documents. Conduct period inspections of areas where records subject to the Privacy Act are maintained. Q1/CY2

The work plan for development of appropriate policies and procedures for retention of IIM-related records gives the detail on the process whereby these policies and procedures are planned to be completed and when. Until such policies and procedures are in place, Interior has, as noted above, a specific directive to all personnel involved with Indian trust activities to retain all documents relating to trust activities whether in paper or electronic format.

**A. STAFFING OF TRUST ORGANIZATIONS: WORKFORCE PLANNING****(1) Statutory Direction**

The Secretary's proper discharge of the trust responsibilities of the United States shall include (but are not limited to) the following:

- (7) *Provid[e] adequate staffing, supervision, and training for trust fund management and accounting.*

25 U.S.C. § 162a (d) (7)

Workforce planning is a comprehensive process that provides managers with a framework for making staffing decisions based on an organization's mission, strategic plan, budgetary resources, and the associated skills needed to accomplish mission tasks now and in the future. Indian trust management workforce planning is underway in Interior and involves a comprehensive process of assessing: current workload, current program efficiencies and gaps, future work and skill gaps together with options for addressing future workforce needs. This planning process is a large undertaking that requires both significant top-down leadership and involvement of field activity level personnel who know firsthand about the work being performed. Trust organizations are being asked to combine budget, program performance, and workforce priorities into a cohesive strategy that is useful for human resources planning as well as for budget justifications.

**(1) Staffing Performance Targets**

Interior will be in compliance with its staffing and workforce planning obligations when

it:

- Establishes written policy and procedures for the staffing of trust management functions necessary to render an accurate accounting;
- Establishes an annual written workforce plan to identify the strategies to achieve trust management staffing requirements that are necessary to render an accurate accounting;
- Completes its reorganization plan and identifies required staffing;
- Fills positions called for in the Interior trust management plan with qualified, suitable personnel;
- Releases workforce plans for all trust locations;
- Establishes a trust training program for all trust personnel; and,
- Manages employee development needs. Each employee with trust responsibilities has an individual development plan.

**(2) Guidance Regarding Performance**

Although there are numerous statutes governing Federal employment matters, only the 1994 Trust Reform Act discusses a trust-specific requirement. It requires “adequate” staffing, supervision and training. 25 U.S.C. § 162 (d)(7). The statute requiring Indian preference hiring in BIA has unique implications for Interior’s trust activities. 25 U.S.C.

§ 472. The following Interior documents are the procedures and policies Interior has established for its employees and programs in order to improve workforce performance.

- **Departmental Workforce Planning Policy, dated October 30, 2001.** The policy requires that Interior bureaus and offices have workforce plans in place by September 30, 2003, and provides procedural guidance with step-by-step instructions.
- **Personnel Bulletin No. 02-3 Workforce, Staffing, and Individual Development Planning for Trust Management Activities, was put into place on October 31, 2001.** Among other things this bulletin sets forth the Interior policies and procedures for developing workforce plans for all positions with trust management responsibilities.
- **441 Departmental Manual 3, Position Sensitivity and Risk Level Designation Criteria.** Trust positions must be appropriately designated for risk associated with duties and employees screened in conjunction with the designation.

### **(3) Status of Performance**

Interior established written policies and procedures for the staffing of trust management functions in October 2001. These are set forth in the three documents listed above. In these documents Interior has established requirements to address the various components of workforce planning. Interior directed its offices and bureaus to develop workforce plans by September 30, 2003, for FY 2004-2008 that will be updated annually.

Currently, offices and bureaus are developing these workforce plans. Interior has

undertaken a significant analysis of workforce issues from a department-wide perspective. On September 9, 2002, Interior published its Strategic Human Capital Management Plan. In building the Strategic Human Capital Management Plan, the Interior leadership collaborated in setting a context and plan of action for management of the human resources of the department that highlights our focus on Indian Trust Management.

To assist trust managers in developing their workforce plans, the Department of the Interior University and the Office of Personnel Policy of the Interior staff jointly worked with a contractor to complete development of two workforce planning training courses. These courses serve both the needs of those responsible for creating and implementing trust-related workforce plans and the overall human resources community. The first is a one-day overview course for managers and supervisors, and the second is a more detailed, "how-to" three-day version that will guide practitioners (advisors to the managers) through the actual creation of workforce plans. Training for all Interior managers is being scheduled. Typically, the one-day overview sessions are followed by sessions tailored to practitioners. Appropriate trust management staffs are being trained or scheduled to attend training sessions throughout FY 2003.

Trust management reorganization efforts and the business process reengineering under the "As-Is" and "To-Be" approach affect the skills analysis, workforce analysis and planning decisions. As the business process reengineering progresses, new job requirements will be established that will require different training and skill levels.

The reorganization of BIA and OST has been approved by the appropriations committees in both houses of the Congress. The reorganization aligns the trust responsibilities within BIA and OST to assure responsiveness to individual trust needs. A description of the new organization for both agencies is attached as Exhibit 2. This new organizational alignment will assist Interior in its review of the performance results of the staff that provide service to trust beneficiaries.

BIA and OST will create trust positions as part of a restructuring of trust functions. New trust officer positions at the agency will, among other things, review and evaluate trust transactions, approve certain transactions and strengthen the system of accounts receivable. Interior plans to implement the new organization during calendar year 2003. Training and staffing for new trust positions are planned and are expected to be implemented through calendar year 2004.

Starting in January 2001, Upper Mohawk Inc. conducted staff training classes in basic trust concepts. That training is now a three-day training session entitled Trust Foundations: An Introduction to Trust Reform and Change. It is non-technical training that provides trust systems personnel at every level with an increased understanding of the Government's and Interior's fiduciary responsibilities with respect to the Indian trust assets held in trust for tribes and individuals.

More recently, a proposal has been developed with the Cannon Financial Institute. Cannon is a training organization used by many large trust companies and banks for

specialized banking and trust training and to develop training curriculums for current managers involved with all trust activities. Earlier training was contracted through Cannon by OTFM to provide training of key staff as the transition was made from legacy systems to the new accounting system.

Starting on December 31, 2002, Interior requires an Individual Development Plan (IDP) for each employee with trust process responsibility. Offices and bureaus will be reporting their compliance in early January and this information will be provided to the Court in the next quarterly report. The IDP is a valuable performance enhancement tool for any federal employee that specifies future training for that employee. The IDP can be of great assistance to managers who are committed to heightened skill requirements of subordinates and to those employees who want to enhance skills and strengths and learn more about matters that are relevant to the performance of the agency. IDPs are updated periodically as the work changes, as the employee moves onto another position, and as the needs of the organization change. IDPs are being reviewed internally in each trust organization. In the OST, all of the existing IDPs are under review by a working group that is focused on global trust management training requirements.

**(4) Steps Necessary to Reach Performance Targets**

Workforce planning policies for the staffing of trust management positions have been in place since October 2001, and the first required annual workforce plans are scheduled to be completed by September 30, 2003. Workload analysis and workforce planning software options to allow for automation of the workforce planning process are currently being evaluated by Interior's personnel policy staff.

- By September 30, 2003, it is expected that all Interior agencies that provide management and accounting of trust funds will have workforce plans that are recognized in budget submissions, training schedules that improve the competencies of employees, and processes to ensure that adequate staffing is in place.
- Workforce planning during calendar year 2003 will assess current and future workload, identify workforce skill gaps, and identify the strategies for addressing needed or surplus skills.
- Once the workforce planning policies and procedures have been fully implemented, trust organizations will be taking the necessary staffing actions to comply with the 1994 Trust Reform Act. Obviously, however, ongoing staffing and training improvements are essential to continued progress on trust management.
- Current staffing plans are undergoing review and changes. These changes will be driven, in large part, by the results of the EDS “As-Is” and “To-Be” business process study and the completion of workforce plans. Workforce planning efforts have identified trust management positions and employees. Their roles and responsibilities are being analyzed in order to better define and manage the skills and competencies needed to perform the work. The addition of trust officers and trust administrators to the staffing of OST, and new staffing in BIA will begin in calendar year 2003. Staffing is expected to be completed in all agencies that have trust activity by the end of calendar year 2004. The staffing will begin in the agencies that have the greatest trust income and greatest number of account holders. When the appropriate level of staffing is in place, the manager can

effectively focus on employee development and actively engage in managing skill replacement needs.

**D. COMPUTER AND BUSINESS SYSTEMS ARCHITECTURE****(1) ENTERPRISE ARCHITECTURE**

The 1994 Act does not establish a particular standard or guidance regarding computer and business systems architecture. However, Interior plans to prepare an enterprise architecture plan, which incorporates both computer and business systems architecture.

- Adopt a written policy to develop an Indian trust enterprise architecture.
- Adopt written procedures to develop an Indian trust enterprise architecture.
- Approve, publish and disseminate an Indian trust enterprise architecture plan.

The Indian trust enterprise architecture will incorporate a broader view of systems integration than that needed to render an accurate accounting of the IIM trust. Other systems, (e.g. those designed to support a variety of administrative functions, asset management, ownership interests, etc.) will also be incorporated into the enterprise architecture plan.

**(2) GUIDANCE REGARDING PERFORMANCE**

When assessing performance regarding enterprise architecture, Interior plans to consider the relevant sections of the following:

- **A Practical Guide To Federal Enterprise Architecture, Version 1.0, Chief Information Officer Council, February 2001**

The guide documents federal government policies and procedures, regarding the development of enterprise architecture plans. Enterprise architecture includes a

baseline architecture, target architecture, and [transitional] sequencing. The “business systems architecture” and the “computer systems architecture” and are embodied in the development of the “enterprise architecture”.

Various Interior publications that also provide information on this subject are described below.

**(3) STATUS OF PERFORMANCE**

**(i) PROGRESS TOWARDS AN INDIAN TRUST ENTERPRISE ARCHITECTURE**

Interior formed a Trust Management Improvement Project Team, in 1999, and tasked it with the responsibility of defining an architecture framework and developing the initial baseline business, data, application, technology, and security architecture documents.

The Trust Management Improvement Project Team prepared, in FY 2001, a series of documents related to computer and business systems. These documents represent the initial product of efforts to develop an Indian Trust Enterprise Architecture.

Interior published the U.S. Department of the Interior Information Architecture - Conceptual Architecture Principles in January 2002. This document establishes the basic principles to be used for Interior enterprise architecture development.

Interior published the U.S. Department of the Interior Enterprise Architecture – Technical Reference Model, Version 1.0, August 15, 2002. This document describes Interior’s

computer systems infrastructure and established basic IT related procurement requirements.

Interior published the U.S. Department of the Interior, Interior Enterprise Architecture – Conceptual Migration and Implementation Plan, Version 1, December 2, 2002. This document represents the adoption of a broader enterprise architecture for Interior overall.

Because computer systems architecture guides computer system purchases, the capital planning process is closely tied to the decisions that must be made during the enterprise architecture process. Interior published the Department of the Interior Capital Planning and Investment Control Process guide in November 2002, which was developed in accordance with the requirements of OMB Circular A-11. The guide builds upon and complements the GAO Information Technology Investment Management (ITIM) framework that was developed to provide a common structure for discussing and assessing IT capital planning and investment control (CPIC) practices at Federal Agencies.

(ii) Key Steps To Develop An Indian Trust Enterprise Architecture

**Obtain Executive Buy-in and Support**

The Associate Deputy Secretary has coordinated efforts throughout Interior to ensure that Bureau level and Department level executive buy-in and support is in place.

Other key personnel that are engaged in the enterprise architecture include the:

Acting Special Trustee for American Indians, the Director of the Office of Indian Trust Transition, acting Assistant Secretary-Indian Affairs, acting Deputy Commissioner for BIA, Indian Affairs chief information officer, Interior chief information officer (CIO), Interior trust architect, Interior information systems security officer and Interior trust information technology security officer.

**Establish Management Structure and Control**

Interior has implemented weekly conference calls between the Associate Deputy Secretary, the Interior CIO, and all of the Bureau CIOs. This is a tactical solution to address the most immediate operational issues. Interior also established the multi-bureau trust architecture working group. Through the Interior sponsored trust architecture working group, Interior has drafted a trust governance policy and trust enterprise architecture development and systems integration management policy. These two policies identify the roles and responsibilities for the key trust system owners, business owners, and executive management.

**Define an Architecture Process and Approach**

Some of the analysis involved in establishing an enterprise architecture plan is similar to the basic planning approach (“As-Is” / “To-Be”) described elsewhere in Interior’s plan. The elements of the enterprise architecture involve the following components:

- Strategic Planning
- Policies
- Capital Planning and Investment Control
- Governance

- Program Management
- Configuration Management
- Enterprise Architecture
- “As-Is” Business Architecture
- “As-Is” Data Architecture
- “As-Is” Application Architecture
- “As-Is” Technical Architecture
- “As-Is” Security Architecture
- “To-Be” Business Architecture
- “To-Be” Data Architecture
- “To-Be” Application Architecture
- “To-Be” Technical Architecture
- “To-Be” Security Architecture
- Information Resource Catalog (IRC)
- Transition Plan

In accordance with OMB Circulars A-130 and A-11 and the Clinger Cohen-Act all major systems need to be identified, evaluated regularly for its cost and benefits to achieving its intended business mission support. BIA has established a Portfolio Management Capital Assets (PMCA) project to assist BIA with analysis, requirements, and execution for the prioritization of IT assets. The PMCA project will enable project managers to evaluate, rank, and select high priority projects.

**Develop a Baseline Enterprise Architecture**

In FY2002, Interior contracted EDS to conduct a detailed trust “As-Is” business process model. The draft results of the EDS “As-Is” analysis are described, in detail, in other parts of this document. Progress on this facet of the enterprise architecture is already being reported to the court. See Eleventh Report.

**Develop a Target Enterprise Architecture**

The recommendations of the EDS “As-Is” business process model and business owner expert knowledge will drive the “To-Be” trust enterprise architecture. Currently, Interior is considering the development of a data warehouse that integrates trust data from the current source systems. This data warehouse may provide a common index across the trust records and will provide easier consolidated individual Indian account reporting. A key activity has been to develop a core set of common critical data elements.

**Develop a Sequencing Plan**

The details of the “To-Be” business processes have not been fully developed at this time. Once the “To-Be” process is completed, Interior will need carefully to plan process changes. To ensure changes are made in a logical order, Interior intends to prepare a sequencing plan.

**(4) STEPS NECESSARY TO REACH PERFORMANCE TARGETS**

Interior has prepared a project plan to complete the steps necessary to develop and adopt enterprise architecture for Indian trust systems enterprise architecture using the previously discussed architectural documents. As described above, some of the steps required to produce an enterprise architecture plan have already been taken. The key steps that remain include:

- Establish an enterprise architecture executive steering committee
- Appoint a chief architect
- Establish an enterprise architecture management office
- Develop an enterprise architecture program management plan
- Define the Intended Use of The “To-Be” Architecture
- Build the baseline “As-Is” architecture
- Build the target “To-Be” architecture
- Development the transition/sequencing plan
- Approve, publish and disseminate the enterprise architecture plan

The completion of the enterprise architecture depends upon the completion of the “As-Is”/“To-Be” business systems analysis and will be developed subsequent to the development of the business model.

**C. ELECTRONIC RECORDS SECURITY****(1) PERFORMANCE TARGETS**

The 1994 act does not establish a particular standard for electronic records security. The leading document setting forth performance criteria, on IT Security is OMB Circular A-130. Interior intends to obtain certification and accreditation, pursuant to OMB Circular A-130, Appendix III, for each IT system containing IIM trust information necessary to perform an accurate accounting of all IIM trust funds held in trust by the United States.

**(2) GUIDANCE REGARDING PERFORMANCE**

When assessing performance regarding electronic records security, Interior plans to consider the relevant sections of the following:

- **375 DM 19, Information Technology Security Program, 04-15-02**  
Departmental Manual (DM) 375, Chapter 19 implements the Federal IT security requirements contained in the Computer Security Act of 1987 and OMB Circular A-130, Appendix III, within Interior. The chapter establishes policies, assigns organizational and management roles and responsibilities, and establishes minimum requirements for the development, implementation, maintenance, and oversight of an IT security program for protecting Interior information and IT systems that store, process, or transmit unclassified information.
  
- **441 DM 01, Personnel Security and Suitability Requirements, 10-03-00**

DM 441 establishes policies, regulations, and procedural guidelines governing an individuals suitability for Federal employment and national security interests.

Each bureau or office head is responsible for implementing the security and suitability program

- **444 DM 01, Physical Protection and Building Security, 07-07-99**

DM 444 establishes policies for the Interior physical security program designed to safeguard Interior personnel and facilities to include buildings, grounds, and property. Each bureau or office head is responsible for ensuring that bureau specific physical security review and compliance programs and policies are developed and implemented.

In addition to these portions of the Departmental Manual, Interior also plans to review other publications in addressing electronic records security issues. The primary documents are cited in the text below.

**(3) STATUS OF PERFORMANCE**

**(i) ACHIEVING OMB CIRCULAR A-130, APPENDIX III CERTIFICATION**

Interior has established a goal for compliance with OMB Circular A-130, Appendix III, for systems housing individual Indian trust data (IITD), by December 31, 2005.

That target date reflects various influences associated with the length of time anticipated to delineate clearly the organizational structure to be served, the time needed to review the “As-Is” analysis being conducted by EDS, the reengineered “To-Be” process, the deliberations of the IT technical teams, the observations made by the National Institute of Standards and Technology (NIST) Computer Security Expert Assist Team (CSEAT) report, funding commitments and expectations, and the short-term priority to improve the security of Interior’s systems.

- For electronic records stored in IT systems, Interior has adopted NIST 800-37 Certification and Accreditation process, as outlined in the new NIST Special Publication 800-37, Federal Guidelines for the Security Certification and Accreditation of Information Technology Systems. This process establishes the recommended requirements to bring a system on-line, such as, a computer systems security plan, security specifications and test results, contingency plan, and other pertinent documents (e.g., risk analyses, audits, information resources management reviews).

In FY 2002, BIA developed system interface diagrams that illustrate the flow of data processing from one trust system to another. These system interface diagrams are required in order to certify and accredit systems in accordance with the NIST 800-37 Certification and Accreditation standards.

Multi-disciplinary teams, involving Interior employees, along with technical contractors, have been evaluating the requirements of OMB Circular A-130, Appendix III, and the status of Interior's trust or IIM systems. The teams are developing a list of tasks that will require completion prior to system accreditation. Interior's IT security goal is to protect and secure the confidentiality, integrity, and accessibility of trust data internally and externally.

To ensure that proper access to data, integrity of data, and confidentiality of data is maintained electronically, Interior has begun the implementation of OMB Circular A-130, Appendix III process to achieve compliance. Projects include the following:

- BIA plans to provide information assurance and security awareness training to BIA trust system planners, developers, users, and administrators. Within the security architecture, the transitional goal is to secure the network perimeter, harden the security of the equipment and software, secure user accounts, and track and report incidents. Indian Affairs is in the process of conducting risk and vulnerability assessments using NIST 800-26 and 800-37 criteria.
  
- Interior plans to enhance security management through the development of security plans, procedures and policies, risk assessments, continuity of operations plan and user account security. Funding has been obtained for the top priority trust systems. BIA awarded a contract to Senet, Inc. to provide security analysis, security planning, and security operations support.

**4. THE IT SECURITY AUDIT FINDINGS DATABASE**

Interior established a database to track IT security audit findings and actions taken that originated from the Special Masters Report (November 1, 2001), which documented lapses in Interior IT as well as other IT audit findings. BIA assigned a project manager for the audit findings and recommendations database project. The following tasks have been initiated and/or completed:

- Reviewed and categorized the audit findings database using NIST Principles and Practices for Securing IT Systems as guidance;
- Entered additional findings from the SRA Risk Assessment Report and the NIST CSEAT Report;
- Developed a menu-driven interface for audit record additions, extractions, sorting, reporting and administratively controlled editing of audit findings;
- Developed a work plan to close findings grouped into NIST SP 800-14 categories,

**(i) Security E-Mail and Web Proxies Services**

- BIA plans to provide content filtering and access control to permit authorized communication and prohibit unauthorized communication to and from trust personnel and systems. BIA developed a technical

requirements document outlining the HTTP, HTTPS, SMTP, FTP, and Lotus Notes security requirements for reconnecting to the Internet.

- BIA also conducted a gap analysis, selected a network security configuration and successfully installed and tested a prototype. The network security configuration meets BIA's specifications which are designed to provide sufficient security from potential external intrusions (hacking) and internal leakage of data. This solution is proposed to be the first phase of the BIA's conversion onto a secure communications network.
- Secure e-mail and web proxies, along with system hardening, will provide sufficient security for establishing the reconnection of BIA trust users to the Internet. Efforts will continue beyond this first phase to harden other systems within the BIA trust environment and to establish the necessary operation management security practices to sustain long term security.

**(ii) Secured Network Communication**

- BIA plans to use a secured communications network to replace BIANet between the central office, the regional offices, and the agencies. BIA plans to connect the agencies to the tribes, at some point in the future, when proper security measures have been agreed

upon. BIA plans to install secure e-mail and web proxies at the central office first, followed by installation of the six hubs and then installation at the regional offices and agencies. The network will have around-the-clock monitoring and incident response in a secured environment connecting back to BIA where system performance and monitoring will be added.

- System boundary definitions, which define the connection points, data flows and trusted relationships between systems are being evaluated. These should also identify potential hacker penetration paths so they can be addressed.

**(iii) Vulnerability Assessment and Mitigation**

- Vulnerability assessment and mitigation will incrementally address hardening requirements in BIA central office, regions, and agencies. This will be accomplished through site visits by contractors who will assess each site's OMB Circular A-130 compliance and create a work plan to correct any material deficiencies that are found. System hardening efforts will focus on network hardening, desktop hardening, physical security, personnel security, and systems documentation.

Interior has undertaken measures to harden the Central Office–East (Reston, VA), is completing the Central Office- West (Albuquerque, NM), and is starting the next priority hub site. BIA has implemented the NIST 800-26 Evaluations for OMB Circular A-130

compliance at these sites and is developing work-off plans to address the vulnerabilities discovered in the above review.

**(iv) Computer Systems Inventory Management**

- To improve IT security effectively, the BIA needs to know what IT assets it has, where the IT assets are, who owns the IT assets, who uses the IT assets, how are the IT assets configured, and when were the IT assets last modified. To answer these questions BIA has successfully installed network automated discovery tools and is in the process of completing the implementation of the desktop automated discovery, problem resolution management, and remote control tools. This will enable BIA to validate the Security Technical Implementation Guide Hardening and Windows 2000 upgrade requirements.

**(5) STEPS NECESSARY TO REACH PERFORMANCE TARGETS**

Obtain certification and accreditation, pursuant to OMB Circular A-130, Appendix III, for each IT system containing IIM trust information necessary to perform an accurate accounting