

FY 08
SECOND QUARTERLY REPORT
(January, February, March 2008)

JANUARY 2008

Discussion of *Cobell* Decision and Effect on Tribal Trust Cases

In January, the judge presiding in the *Cobell* case issued a lengthy decision recounting the twelve-year history of the litigation, and ruling that the “accounting” decreed by the court earlier in the case was, in fact, impossible to perform. That ruling resulted in a raft of questions among the tribes who have filed “related cases,” in the same court, basically seeking the same accounting that the *Cobell* plaintiffs have been demanding. ITMA explained that the government has produced the same issue might well result in a different conclusion with respect to accounting for tribal accounts.

ITMA also secured a copy of the auditors’ report for FY 2007 activities of OST and noted that all requesting tribes had been provided tribal account statements on CD-ROM.

Review of Auditors’ Report on OST

ITMA reviewed the FY’07 report on OST and noted that more than \$286 million had been collected through the lockbox arrangement with Bank of America and more than 99% of the collections had been distributed within ten days of receipt. In addition, ITMA noted that self-governance and self-determination agreements were established for 38 tribes for appraisal and IIM trust functions. ITMA noted as well that the auditors reported conversion on a national basis to automated systems that permit electronic fund distribution as well as electronic tracking of leasing activity and ownership records.

Review of OST FY2009 Budget Request

ITMA noted the President and OST had requested an increase of \$1.7 million to address the probate backlog within OHA, and an additional \$815,000 for the Office of Trust Services.

ITMA also noted and shared with tribes and tribal organizations that the FY2009 budget request indicated no funds for the Indian Land Consolidation Program or the Office of Mineral Evaluation. ITMA responded to questions with an agreement to raise this issue with OST officials, and to seek a reconsideration of this important budget decision.

OST Advisory Board Recommendations

ITMA responded to many questions concerning published accounts of recommendations of the OST Advisory Board on January 17 to create a single account for the funds of individuals whose whereabouts remained unknown to OST. ITMA agreed to raise the matter with OST officials, and to require additional information regarding the cost savings this action would presumably achieve in trust administration.

In addition, ITMA agreed to discuss with OST officials the Advisory Boards' apparent recommendation to develop a "solution" to the problem of Indian land ownership fractionation, and to attempt to take an active role in that development, or to monitor it closely if not permitted an active role.

Finally, ITMA agreed to discuss with OST the apparent recommendation of the Advisory Board that OST not be "sunsetting," as contemplated by the American Indian Trust Fund Management Reform Act of 1994, but to continue as a permanent fixture within the Department with separate funding from the U.S. Congress.

February 2008

In February, ITMA consulted and conferred with OST on a number of issues, some at the request of OST and some as part of ITMA's continuing role in monitoring the government's trust reform activities.

Trust Officers

Principal Deputy Special Trustee provided ITMA with a briefing on the role of trust officers within the trust reform agenda. She advised that all trust officer positions at the agency level had been filled, and provided a number of testimonials from individual beneficiaries who have already been provided with vastly improved services as a result of these trust officers' efforts. The most common praise seemed to come from individuals who had been surprised with notice that they had significant amounts available to them in trust funds they did not even know they owned.

Update on Beneficiary Call Center

Ms. Erwin further explained the evolution of the beneficiary call center and advised that the metrics devised for evaluating the call center indicated it was achieving its purpose. She advised that 89% of the callers had experienced resolution of their issues with the first contact with the call center, and that when an issue cannot be resolved by the first call, Regional Trust Officers are expected to acknowledge to the beneficiary within four hours that he or she has been assigned the matter for resolution. Ms. Erwin further explained that security protocols have been installed to ensure that personal information is not disclosed to unauthorized individuals through the call center.

TAAMS

ITMA was briefed on the nationwide conversion to TAAMS, and advised that all Indian trust lands in all BIA regions had been migrated to TAAMS. As a result, any Indian trust beneficiary can now go to any BIA office in the country and be provided information about his trust assets, and trust funds, wherever those assets may be located. Ms. Erwin indicated that restoration of Youpee interests has been largely completed, but that this work would continue as additional Youpee interests were discovered through the revision of land titles in the probate process.

LockBox

ITMA raised the issue with OST of accounting for direct pay to landowners by lessees of Indian lands, and OST advised that the matter had been dealt with. As part of the effort to develop what has been called an "accounts receivable" system, she said that an invoice is now being sent to all lessees of recorded leases, and the lessee is required *either* to submit timely payment to the lockbox, *or* to submit to the lockbox a signed declaration that payment has been made directly to the landowner. Thus, an audit trail is created that permits assurance that lessors on direct pay leases are paid timely as well as those whose money is transmitted through the lockbox.

March 2008

In March, ITMA was invited to participate at the mid-year meeting of the National Congress of American Indians, and was able to share with attendees at this large organization's semi-annual meeting the information gained from its monitoring activities. This included not only the information provided by OST in the course of monitoring and liaison activities, but also information regarding the latest developments in the trust fund litigation and in the initiatives indicated in the President's budget and the Advisory Board recommendations.

A number of concerns were expressed to ITMA regarding the decision to eliminate ILCP and to make OST a permanent office within Interior. ITMA agreed to take these concerns back to OST at the upcoming Tribal Leader's meeting scheduled in Albuquerque on April 23-24.

ITMA was able to announce the ITMA Tribal Fractionation Project that we have been discussing with OST. At this point there is nothing formal in place with OST, however, ITMA views it a critical issue and have begun the act of tribal outreach.