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Department of the Interior

Bureau of Indian Affairs

Trust Reform Task Force—Report; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Trust Reform Task Force—Report

AGENCY: Bureau of Indian Affairs.

ACTION: Notice; request for comments.

SUMMARY: The Tribal Leaders/Department of the Interior Trust Reform Task Force (Task Force), composed of Tribal Leaders and representatives of the Department of the Interior (Department), has developed a number of proposed alternatives to the Bureau of Indian Trust Asset Management (BITAM) proposed by the Department in November, 2001. The elements of the various proposals are not necessarily exclusive of each other and are designed to be flexible concepts for discussion among Tribal Leadership. The Task Force believes that, with sound implementation, the options the Task Force recommends for further consultation could serve as the basis for determining the appropriate organizational structure for the Department to make progress in fulfilling its trust responsibilities toward American Indians and Alaska Natives. During the next two months, the Department will engage in a series of regional and national consultation sessions with tribal leaders on these proposals. At the recent Task Force meeting in Minneapolis, Minnesota, the Task Force agreed to initiate consultation in early June, hold regional meetings throughout June and early July, and hold a national consultation meeting in Bismarck, North Dakota on June 19, 2002. Tribal leaders are urged to provide their comments on the proposed alternatives. The Task Force believes that there is a need for reform, and that the status quo is not acceptable. The Task Force notes that significant progress has been made in the spirt and success of self-determination and self-governance policies. To date, the Task Force has largely focused on consideration of high-level reorganization options. However, the Task Force intends to address the regional and field-level organizational structure in full detail in the future, after receiving input regarding the upper-level structure. The Report the Task Force submitted to the Secretary of the Interior contains some illustrations of regional- and agency-level organizational structures, these are purely descriptive illustrations, they are not proposed options, which are included in the supplemental information section.

DATES: Comments on the Trust Reform Task Force Report are due on July 12, 2002, and/or may be submitted personally at any of the meetings as identified in the listing in this Notice.

FOR FURTHER INFORMATION CONTACT: Aurene M. Martin, Acting Deputy Assistant Secretary of Indian Affairs, at 202–208–7163.

SUPPLEMENTARY INFORMATION: The following paragraphs contain the Task Force's Report submitted to Secretary Norton on June 4, 2002, except for the summary information contained at the front of the Report.

I. Background

Pursuant to treaties, statutes, executive orders, judicial decisions and in the course of dealing with the Indian Nations, the United States government has acquired a broad trust relationship with Indian tribes. That trust relationship obligates the Federal government to protect tribal self-government, to provide services to Indian communities, and to exercise the highest degree of fiduciary responsibility with tribal and Indian lands and resources.

The Federal government has held funds in trust for American Indian tribes since 1820. In 1887, the enactment of the General Allotment Act extended the Federal government's fiduciary duties to individual Indians. The Allotment Act allocated parcels of reservation lands to Indian heads of households and opened ''surplus'' lands to non-Indian settlement. The allotted lands were to be held in trust by the United States for a designated period. Individual trust accounts were to be set up for each Indian with a stake in those lands.

The Indian Reorganization Act of 1934 (''IRA'') ended the allotment of tribal lands, provided for the return of ''surplus'' Indian lands to tribal ownership, and extended indefinitely the period for holding allotted lands in trust. Trust fund accounts primarily consist of money received through the sale or lease of trust lands, including such transactions as timber sales, agricultural fees, and oil and gas leases. Tribal trust accounts may also include funds awarded from judgments against the United States.

More recently, reports filed by the General Accounting Office and Congressional committees and lawsuits filed by Indian tribes have pointed out serious problems with the government's long-standing management of funds and resources entrusted to its care.

Congress sought to correct some of these problems through the American Indian Trust Fund Management Reform Act of 1994. That Act set out the Secretary of the Interior's responsibilities for the accounting and management of Indian trust funds and provided the opportunity for Indian tribes to directly manage their trust funds. Additionally, the Act established a Special Trustee for American Indian trust funds to prepare a comprehensive, strategic plan for management reform and to ensure that the reforms take place throughout the Department of the Interior.

The purpose of the Trust Reform Task Force as defined in the protocol agreement is as follows:

> develop and evaluate organizational options to improve the integrity, efficiency, and effectiveness of the Departmental * * * Indian Trust Operations consistent with Indian treaty rights, Indian trust law, and the government-to-government relationship.

Although the Task Force mission is to develop options for an organizational structure, the Task Force has engaged in discussions addressing the underlying problems that the reorganization must address. The purpose of the trust reform reorganization is to improve various aspects of trust responsibilities including trust accounting and trust resources management, while complementing and protecting tribal self-government and trust services, However, the Task Force only desires to expand its scope of work as authorized by the tribal leadership which they represent from their respective regions.

The Task Force has approached the development of its options in a manner that affirms tribal authority over the management of tribal lands and natural resources. Statutes such as the Indian Reorganization Act, the Indian Self-Determination and Education Assistance Act, and specific resource management statutes, such as the Indian Forest Resources Management Act, confirm the tribes' rights to be primary managers of their tribal lands and natural resources. Additionally, the Task Force recognizes that under Titles I and IV of the Indian Self-Determination and Education Assistance Act, tribes have assumed trust management responsibilities and have a proven record of effectiveness in performing those functions.

The Task Force has concluded that trust reform must be driven by the beneficiaries and must assure that the government-to-government relationship between Indian tribes and the United States is improved and strengthened, not diminished or weakened.

The Task Force was formed after Tribal Leaders throughout the country expressed serious concerns regarding

Secretary Norton's November 2001, establishment of a new Assistant Secretary position and the creation of a new agency, the Bureau of Indian Trust Asset Management (BITAM). The Secretary's plan reorganized and consolidated all Indian trust asset management functions into a new and separate organizational unit headed by a new Assistant Secretary, BITAM. This proposal provided for important additional senior management attention to this high-priority program to be retained within the Department. The Secretary believed this newly established Assistant Secretary would have the needed authority and responsibility for improved trust reform efforts and Indian trust asset management. However, through several public meetings, it became clear that the Tribal Leaders were opposed to BITAM.

At the meeting held on December 16, 2001, in Albuquerque, New Mexico, Tribal Leader Tex Hall proposed the formation of a Task Force charged with providing concrete advice to the Department to guide its trust reform efforts. The purpose of the Task Force was to evaluate all available options and to submit to the Department one or more alternatives to BITAM. To further develop an improved reorganization plan and achieve broader consensus, Secretary Norton agreed to the creation of a Task Force.

II. Task Force Members

The composition of the Tribal Membership of the Task Force was determined by the tribes and represents a broad cross-section of tribal interests. The Task Force consists of two elected tribal leaders from each region, with a third tribal leader, from each region, acting as an alternate. Tex Hall, Chairman/President of the Three Affiliated Tribes, and Susan Masten, Chairwoman of the Yurok Tribe serve as the Tribal Co-chairs. Senior Department officials also serve on the Task Force, including Deputy Secretary Griles, and Assistant Secretary for Indian Affairs Neal McCaleb, who serve as the Department's Co-chairs.[1] Tribal Representatives are the following:

Alaska Region: Ed Thomas, President, Central Council of Tlingit Haida Indian Tribes of Alaska; Mike Williams, Aniak Village; *Alternate* Joe Williams, President, Organized Village of Saxman.

Eastern Oklahoma Region: Bill Anoatubby, Governor, Chickasaw Nation; Charles O. Tillman, Jr., Principal Chief Osage Nation; *Alternate* Grace Bunner, Mekko, Thlopthlocco Tribal Town.

Eastern Region: Keller George, President, United South and Eastern Tribes, Inc. (USET); Tim Martin, Executive Director, United South and Eastern Tribes, Inc. (USET); *Alternate* Peter Schultz, Vice-Chair, Mohegan Tribe.

Great Plains Region: Mike Jandreau, Chairman, Lower Brule Sioux Tribal Council; Richard Monette, Chairman, Turtle Mountain Band of Chippewa Indians; *Alternate* Tex Hall, Chairman/President, Three Affiliated Tribes/NCAI.

Midwest Region: Melanie Benjamin, Chief Executive, Mille Lacs Band Reservation Business Committee; Paul Ninham, Oneida Tribe of Indians of Wisconsin; *Alternate* Troy Swallow, President, Ho-Chunk Nation.

Navajo Region: Ervin Keeswood, Navajo Council Delegation; George Arthur, Navajo Council Delegation; *Alternate* Alfred Yazzie, Navajo Nation.

Northwest Region: Ernie Stensgar, Chairman, Coeur d'Alene Tribe; W. Ron Allen, Chairman, Jamestown S'Klallam Tribe; *Alternate* Colleen Cawston, Chairperson, Colville Confederated Tribes.

Pacific Region: Susan Masten, Chairwoman, Yurok Tribe; Rachel Joseph, Chairperson, Lone Pine Reservation; *Alternate* Mary Belardo, Chairperson, Torres-Martinez Desert Cahuilla Indians.

Rocky Mountain Region: Alvin Windy Boy, Chairman, Chippewa Cree Business Council; Ivan Posey, Chairman, Shoshone Business Committee; *Alternate* Geri Small, President, Northern Cheyenne Tribal Council.

Southern Plains Region: Gary McAdams, President, Wichita & Affiliated Tribes; James Potter, Treasurer, Prairie Band Potawatomi Tribe of Kansas; *Alternate*s Alonzo Chalepah, Vice Chairman, Apache Tribe of Oklahoma, and Russell Ellis, Treasurer, Absentee-Shawnee Tribe of Oklahoma.

Southwest Region: Joe A. Garcia, San Juan Pueblo; Harry E. Early, Governor, Pueblo of Laguna; *Alternate*s Clement Frost, Vice Chairman, Southern Ute Indian Tribe and Gregory Ortiz, Lt. Governor, Acoma Pueblo.

Western Region: Edward Manuel, Chairman, Tohono O'odham Nation; Alvin Moyle, Chairman, Fallon Paiute Shoshone; *Alternate* Dennis Smith, Sr., Shoshone Paiute Tribes of Duck Valley, Rose Taveapont, Vice-chair, Northern Ute Indian Tribe.

To date, the Task Force has held several multi-day meetings. These meetings have been held in Shepherdstown, West Virginia (February 2002); Phoenix, Arizona (March 2002); San Diego, California (April 2002); and Minneapolis, Minnesota (May 2002). Additionally, monthly meetings have been scheduled for the next six months to continue the activities and tasks identified by the Task Force.

From the very first joint meeting, which was held in Shepherdstown, the Task Force and the Department have earnestly attempted to achieve progress on trust reform. At the February meeting in Shepherdstown, presentations highlighted the scope of the Federal trust responsibility and the important differences from private or commercial fiduciary trust management. Subcommittees were created with specific goals.

III. Task Force Sub-Committees

The Task Force established several subcommittees as follows:

1. *Protocol Sub-Committee:* This subcommittee was charged with the development of protocols for the Task Force's activities. The Tribal Leaders serving on the Protocols Subcommittee were Tim Martin-Chair, Ervin Keeswood, Joe Williams, Ron Allen, Joe Garcia, and Rachel Joseph. This subcommittee developed the ground rules for the Task Force actions which have been followed throughout the task force process.

2. *EDS Sub-Committee:* Another subcommittee was directed to examine the scope of work for the Electronic Data Systems' (EDS) proposal. The Tribal Leaders serving on this subcommittee were Tim Martin—Chair, Alvin Moyle, Charles Tillman, George Arthur, Geri Small, Ed Thomas, Ed Manuel, and Joe Garcia. This subcommittee reviewed the EDS proposal and is also involved in reviewing and commenting on the development of the Department's Strategic Plan for Trust Reform.

3. *Legislative Sub-Committee:* The Task Force recognized that there was significant interest in trust reform legislation in the Legislative Branch of the Federal government. This year, both the House Committee on Resources and the Senate Committee on Indian Affairs have held hearings regarding trust reform. The Task Force also recognized the need to develop a consensus among the various parties—the tribes, the allottees, the Department and the Congress— if any legislation is to be passed and effectively implemented.

[1] Other Departmental representatives to the Task Force included: the Associate Deputy Secretary, the Special Trustee, the Director of the Office of Trust Transition, the Associate Solicitor for Indian Affairs, the Director of Congressional and Legislative Affairs, the Director of Communications and the Counselor to the Assistant Secretary of Indian Affairs.

Therefore, in Phoenix, Arizona, the Task Force decided to establish the Legislative Subcommittee as its forum for that discussion. The members of the Legislative Subcommittee are Governor Anoatubby-Chair, Ervin Keeswood, Alvin Windy Boy, Grace Bunner, Joe Williams, and Colleen Cawston. The Legislative Subcommittee will continue to review options for trust reform legislation and work with the Task Force and Congress in the development of any trust reform legislation. The Chairman of this Subcommittee, Governor Anoatubby, has kept key Congressional Staff apprised of the Task Force's activities, invited staff to attend Task Force Meetings, and worked with key committees regarding hearings related to Task Force activity.

4. *Alternative Proposal Sub-Committee:* Another subcommittee was formed to review the alternative proposals to BITAM that had been submitted. The Subcommittee's Tribal Leaders were, Alvin Windy Boy—Chair, Mike Jandreau, Tim Martin, Ed Thomas, Ervin Keeswood, Ernie Stensgar, Ervin Carlson, Governor Anoatubby, Grace Brunner, Ron Allen, Alvin Moyle, Rachel Joseph and Joe Garcia.

IV. Creating a Better Alternative Than BITAM

By the end of April, a total of twenty-nine separate alternative proposals (or submissions with observations) had been received. These alternative proposals provide a wide variety of options for consideration; the options ranged from the status quo to a new Department of Indian Affairs. The alternative proposals or comments were from the following:

- Affiliated Tribes of Northwest Indians
- Agua Caliente
- BIA Regional Directors
- Cherokee Nation (OK)
- Cheyenne River Sioux
- Chippewa Cree
- Cobell Plaintiffs Receiver
- Confederated Salish & Kootenai
- Forest J. Gerard
- Fort Peck Business Council
- Hoopa Valley
- Hualapai and Yavapai
- Intertribal Timber Council
- Lower Brule
- Mille Lacs Band of Ojibwe
- Native American Mutual
- Navajo Nation
- Nixon Peabody
- Northwest Region
- OST Advisory Board
- Oglala Sioux
- Raven-Pack Central
- Resolution Trust Corporation
- Salt River Pima—Maricopa Indian Community
- Bureau of Indian Trust Assets Management
- Seminole Nation of Oklahoma
- United South and Eastern Tribes (USET)
- Van Ness Feldman P.C.
- Senate Bill 2212

The Task Force charged its Alternative Proposals Subcommittee to evaluate each of the proposals. Each proposal was reviewed for key features and relevant nuances. The proposals contain unique features intended to address a variety of concerns, but reflect many common perspectives. Most of the proposals state opposition to the BITAM proposal. Some proposals state a preference to place the Department's trust responsibilities outside of the Department. Some proposals address preferences for higher levels of authority within the Department for officials charged with handling Indian Affairs. Others feature organizational attributes such as the need for performance standards, improved computer systems, or a focus on ''breach''@ issues identified by the District Court in the Cobell case.

To facilitate consultation with the broader tribal community, the Subcommittee chose to create several generic composite options that reflected the best features and major elements presented by the entire body of the alternative proposals. These options focus on high level positions responsible for providing policy direction for American Indian and Alaska Natives programs. Following consultation, the Task Force will provide the Secretary of the Interior with comments and analyses of the options regarding the configuration of the Bureau of Indian Affairs and its subordinate line management positions.

The paragraphs that follow describe the alternative options identified by the Subcommittee for consideration by the Task Force. These descriptions also briefly describe some of the advantages and disadvantages associated with the selection of a particular option. However, the paragraphs that follow are highlights and do not fully reflect the totality of the discussion, study and consideration the Subcommittee and Task Force gave each generic option prior to determining whether it merited further consideration.

V. Cross-Cutting Principles

In addition to the organizational options stated below, the Task Force recommended that certain cross-cutting principles be incorporated into any organizational option receiving further consideration. Each option meriting further consideration would include these principles. These cross-cutting principles include:

- Support for the role of Tribal self-determination/self-governance (direct service, Title I–638, and Title IV).
- Recognition that Tribal and individual Indian interests are closely related.
- Creation of an independent oversight entity that would have responsibility for trust administration.
- Phasing out of the Office of Special Trustee.
- Regrouping of operations-related functions currently under control of the Special Trustee with other Bureau of Indian Affairs' functions.
- Departmental auditing and internal and external controls capability.
- A clear definition of the Department's ''fiduciary responsibility'' to manage Indian trust assets.

VI. Options/Advantages/Disadvantages

- Option 1(a): Create A New Department of Indian Affairs—This alternative envisioned a new Cabinet position and organization. All of the American Indian and Alaska Natives related functions within the Department would be moved to this new organization.

Advantages:

- Higher profile within the Executive Branch.
- Consolidates American Indian and Alaska Natives functions into one Department.
- Improves coordination between American Indian and Alaska Native programs.

Disadvantages:

- Politically difficult to achieve.
- Executive Branch implementation would be difficult.
- Small Department, with inadequate clout.

While this alternative has attractive features, it was determined there was no need for further consultation by the Task Force. This option was viewed as being too difficult to pursue—it would take substantial effort and political capital to seek ''Departmental'' status and the likelihood of success is not high. [See Figure 1]

- Option 1(b): Create A New Independent Agency Within The Executive Branch of Government—This alternative envisioned a new independent agency, possibly temporary, outside of the Department, that would be dedicated to managing all of the American Indian and Alaska Native-related trust functions within the Department.

Advantages:

• Outside entity with line authority to make changes.

• Improved ability to foster organizational change.

Disadvantages:

• Tribal involvement may be constrained.

• Executive branch implementation would be difficult.

• Small organization with limited clout.

While this alternative had attractive features, it was determined there was no need for further consultation by the Task Force for reasons similar to the reservations stated in 1(a). [See Figure 1]

• Option 2: Create A New Deputy Secretary for Indian Affairs—This alternative envisioned the creation of a new top-level Interior official who would be responsible for all of the Indian-related functions within the Department.

Advantages:

• Raises profile of American Indian and Alaska Native programs within the Department.

• Makes span of control more manageable.

• Provides clear lines of authority over all trust functions.

• Improves coordination with other Departmental Bureaus.

• Ensures consistent policy of American Indian and Alaska Native Affairs.

Disadvantages:

• Inconsistent with Reorganization Act (one Deputy Secretary per Department).

• Difficult to obtain sufficient support.

• Recruitment & confirmation of a Deputy Secretary.

The Task Force determined this option merited further consultation. [See Figure 2]

• Option 3: Create An Organizational Structure With Two Assistant Secretaries—This alternative envisioned the creation of a new Assistant Secretary's position to manage portions of the Department's Indian trust responsibilities.

Advantages:

• Higher profile within the Department.

• Improved span of control.

• Improved ability to focus on key program areas.

Disadvantages:

• Too similar to the BITAM proposal

• May undermine BIA's historical trust obligations.

• May result in confused chain of command

Although this option was not patterned after the BITAM proposal, the similarity was sufficient for the Task Force to determine this option did not merit further consultation. [*See* Figure 3]

• Option 4: Create An Organizational Subdivision At the Bureau Level—This alternative envisioned the subdivision of the BIA into two or more subordinate organizations. The Subcommittee identified three logical groupings of current BIA functions—Education, Trust Funds and Trust Resources, and Trust Services. The functional grouping facilitates reasonable ''span of control'' considerations and permits the agency to increase management attention to key trust responsibilities.

Advantages:

• Flexible organizational structure—contains several options.

• Improves program focus and accountability.

• Ability to direct and coordinate Trust activities with other Bureaus of the Department of the Interior including the Fish and Wildlife Service, the Bureau of Land Management, and the Minerals Management Service.

Disadvantages:

• May be perceived as fragmenting Indian services.

The Task Force determined this option merited further consultation. [*See* Figure 4]

• Option 5: Create A New Leadership Position of Under Secretary and Group BIA Functions—This option envisions the creation of an Under Secretary of Indian Affairs and the grouping of BIA functions into logical units. In large part, it is a composite option reflecting the key features of Option 2 and Option 4.

Advantages:

• New Under Secretary as single executive sponsor.

• Ability to direct and coordinate Trust activities with other Bureaus of the Department of the Interior including the Fish and Wildlife Service, the Bureau of Land Management, and the Minerals Management Service.

• Under Secretary position more likely to be approved (versus a new Deputy Secretary position).

• Coordinates all American Indian and Alaska Native functions within the Department.

• High-profile position elevates American Indian and Alaska Native Affairs.

Disadvantages:

• Recruitment & confirmation of an Under Secretary.

The Task Force determined this option merited further consideration. [*See* Figure 5]

VII. Further Consideration of the Acceptable Options

The Task Force recommended option 2, which would create a New Deputy Secretary for Indian Affairs, option 4 which would create an organizational subdivision at the Bureau Level, and option 5, which would create a new leadership position of Under Secretary and group BIA functions, for consultation, consideration and input from Tribal Leaders. The principal focus of further consultation involves the configuration of line management officials, from top to bottom, in each alternative as well as the grouping of staff support functions.

VIII. Line Management

Most duties and responsibilities within the Department, including Indian Affairs, are assigned by the President, Congress, or the Courts to the Secretary of the Interior. The Secretary groups these functions into compatible groups and delegates most of them to subordinate Assistant Secretaries. The Assistant Secretaries further delegate most responsibilities to subordinate Bureau Directors. The process goes on to successively lower layers of the organization until the delegation rests with the individuals responsible for implementing program responsibilities. In most cases, the delegation process moves from high-level policy related decision making, through strategic/priority/budget decision making, to field implementation.

The Task Force supports the continuation of a line management structure that would facilitate tribal self-determination through direct services as well as contracting/compacting pursuant to self-determination agreements. Within the Department, the line management structure for Indian Affairs involves five levels—see Figure 7 for further illustration. The options selected for further consideration include possible changes to the status quo.

IX. Changes Needed at Successive Levels of Authority

• *Level 1: Secretary of the Interior*—Because the Task Force determined there was no need for further consultation regarding the new Department of Indian Affairs and Independent Agency options, no changes have been recommended at this level. The creation of a separate Deputy Secretary or Under Secretary of Interior for Indian Affairs would elevate the visibility of Indian Affairs within the Department. These positions would have direct line authority over all

aspects of Indian Affairs within the Department, including the coordination of trust reform efforts across all relevant agencies and programs, such as the U.S. Fish and Wildlife Service. Option 4 would involve the Department making formal changes to the Departmental Manual to clearly designate the current (or incumbent) Deputy Secretary as the single accountable executive in charge of Indian Trust responsibilities within the Department on an ongoing basis. Currently, the Secretary has tasked the Deputy Secretary with these responsibilities, in addition to being the Chief Operating Officer for the entire Department. Option 2 would require the creation of a separate Deputy Secretary for Indian Affairs position. A similar provision, sponsored by Senators Daschle and McCain, has been included in Senate Bill 2212. As mentioned earlier, this position may be difficult to obtain.

Option 5 would not alter the duties of the Deputy Secretary, but would accomplish the same objective of elevating Indian Affairs with the creation of an Under Secretary for Indian Affairs. This new Under Secretary would be responsible for coordinating and directing all Indian Affairs programs within the Department including the various bureaus, and would be positioned above the Assistant Secretary for Indian Affairs. The Task Force recognized that the creation of a new Under Secretary may be more readily achievable than creating a second Deputy Secretary position within a cabinet agency.

• *Level 2: Assistant Secretary*—The Task Force determined there was no need for further consultation on the bifurcation of Indian-related functions at the Assistant Secretary level. The Task Force and Indian Country broadly rejected the subdivision of Indian trust responsibilities under two (or more) Assistant Secretaries as was suggested by the BITAM proposal. Therefore, all options for further consideration envision the continuation of just one Assistant Secretary for Indian Affairs.

• *Level 3: Bureau Director*—Currently, the Bureau Director level is titled Commissioner (which has been vacant) and Deputy Commissioner. The Task Force has discussed a number of options at this level of the line organization (see Figure 4 for more details). Depending upon the results of further consultation, the Bureau Director level could involve the BIA (with Office Directors), separate organizations with Bureau Directors or the use of Deputy Assistant Secretaries in lieu of Bureau Directors.

• *Level 4: Regional Directors*—Currently, the BIA hosts several line management structures for various purposes. Education Services has five regions. Law Enforcement also has five regions. Most trust programs are subdivided into twelve (12) different regions, each under the supervision of a Regional Director.

Each trust program's regional office is responsible for most Bureau activities within a geographical area. Within the regional boundaries, Regional Directors are responsible for representing the BIA in its interaction with Tribal, State and local governments, other Federal agencies, and the public; and directing and assisting in the application and implementation of overall policies and programs by agency and field offices, along with a number of other coordinating roles. Regional offices are supported by agency offices and, in some cases, by discrete field offices.

• *Level 5: Agency Offices*—Currently, there are approximately eighty-five agency offices throughout the BIA. These offices, under the supervision of a Superintendent, represent geographical subdivisions within each Region. Agency offices represent the BIA in interactions with local tribal governing bodies, municipal and county governments, other Federal agencies, and with the general public. The Agency Superintendent, assisted by one or more specialists, directs and supervises the operation of programs administered by the BIA and monitors, supports and provides technical assistance to the tribal governments when an agency program is administered under a self-determination award. Agency offices may be further supported by sub-agency offices.

The Task Force supports the continuation of a line-management structure that would facilitate direct services to tribes as well as activities pursuant to self-determination agreements. As Figure 4 demonstrates, there are several approaches for providing management direction at the Bureau Director level. There are distinct advantages and disadvantages to each approach. Comments received during the consultation process will help the Task Force define more clearly the most beneficial way to organize the Bureau Director level and below. Following consultation, the Task Force will provide the Secretary of the Interior with additional comments and analysis of the options regarding the configuration of the BIA in its regional and agency positions.

X. Key Program Staff Positions

Each layer of line management may be supported by one or more staff positions; these staff support positions may range from Senior Executive Service (SES) individuals to lower-graded positions (General Schedule (GS) grades 5–15) depending upon the program and location.

Indian Education programs report directly to the Assistant Secretary for Indian Affairs, and the Task Force did not discuss any change in this reporting relationship. Other key support functions, currently reporting to the Deputy Commissioner, are grouped into the following program areas: Administration, Facilities Management and Construction, Tribal Services, Trust Responsibilities, Law Enforcement, Indian Gaming Management, Economic Development, Planning, Budget and Management Support, Information and Technology Support.

Depending upon the results of the consultation process, these staff functions may be grouped in other ways at the Bureau level. An assessment of the BIA suggests that there are significant commonalities in the program staff offices (and functions) located in the Regional Offices and Agency Office levels. For example, the Bureau Level ''Information and Technology Support'' function may have subordinate staff attention at the Regional and Agency organizational levels.

Pending decisions on the Bureau level functions and higher, the Task Force has not yet addressed the lower-level staff organizations in detail. Once the higher-level organizational decisions are made, it is the intent of the Department to compile the detailed information needed to facilitate organizational realignment at these subordinate levels and to discuss the results with the Task Force. To the extent practicable, efforts will be made to streamline decision making and to align program functions between organizational layers. [See Figure 7 for an illustrative example.]

XI. Evaluation Criteria

The Task Force also discussed a set of criteria, and is planning to use these criteria, to evaluate various organizational options. A summary of the key criteria is presented below to facilitate further consultation:

Does the option ensure that the United States faithfully discharges its trust duties to tribal governments as set forth in treaties, statutes, Executive Orders and case law?

Does the option support tribal self-determination and self-government?

Does the option ensure full and continuing accountability for management of Indian trust assets?

Does the option address the various costs of implementation?

Does the option ensure that individuals responsible for Indian trust asset management are adequately trained?

Does the option deal with potential conflicts of interest?

Does the option address the key issues identified in the Cobell litigation?

Does the option allow for sufficient flexibility to accommodate tribal needs, special laws or treaties?

This summary of the criteria is not exhaustive and does not include all of the questions designed to evaluate various organizational proposals. However, the criteria list does indicate a rigorous process to evaluate the strengths and weaknesses of the current organization and the potential to improve program performance through organizational change.

XII. Conclusion

This report is intended to facilitate consultation with the broader Indian community. The package presents several high-level options for organizing Indian Affairs within the Department of the Interior. Upon making decisions on the higher-level functional areas, the Department and the Task Force can proceed to make lower-level decisions at the Regional and Agency level of the organization. Many questions remain. However, it is useful to make some decisions along the way. The views of Indian Country are valuable to ensure well-informed organizational decisions are made, which will enhance the long-term success of the Department's trust reform efforts.

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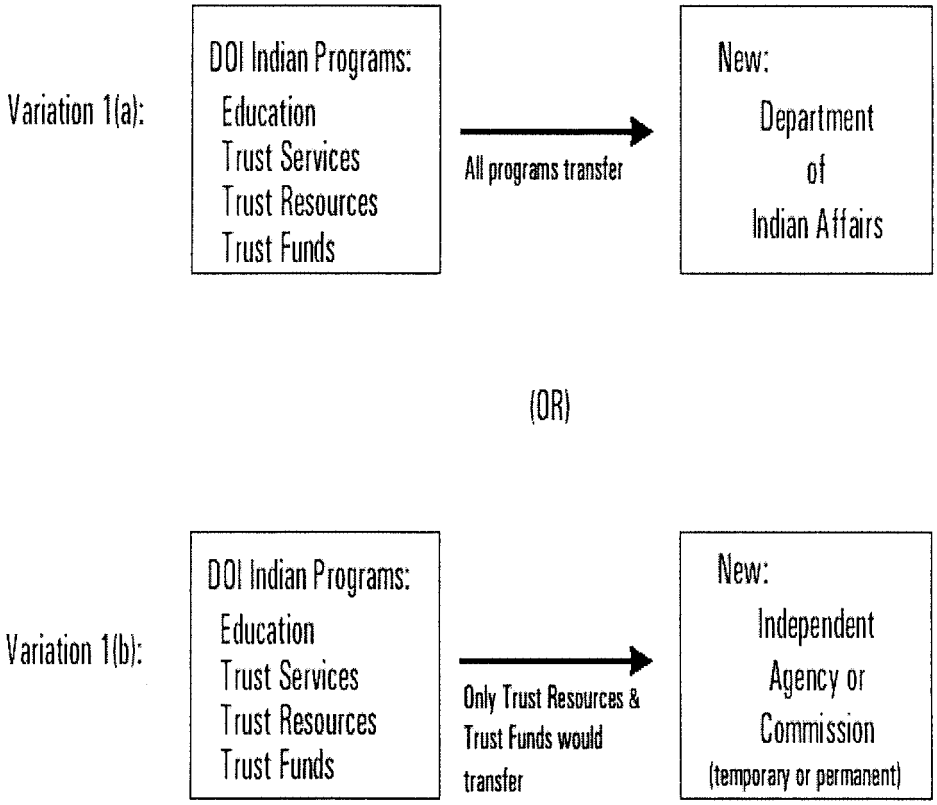
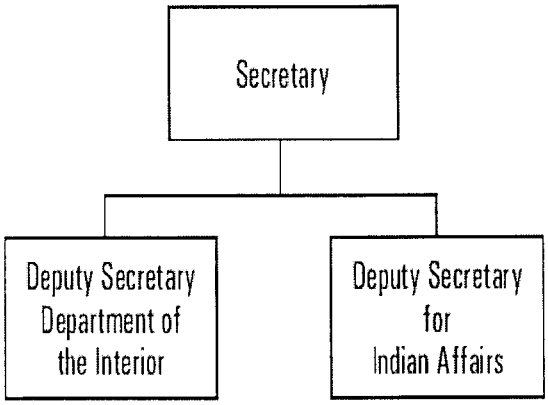
Option 1



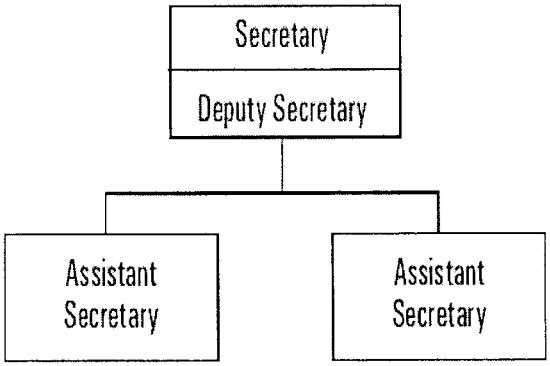
While attractive in some respects, the Task Force did not recommend these options. The Task Force concluded that these options would be politically difficult to achieve and would be disruptive to implement. However, the Task Force recognizes other views may be expressed during consultation.

Option 2



The Task Force recommended this option for further consideration.

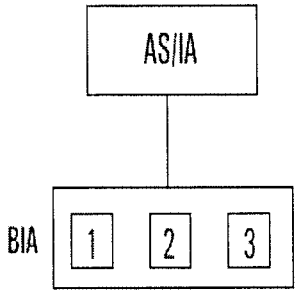
Option 3



The Task Force did not recommend this option for further consideration.

Option 4

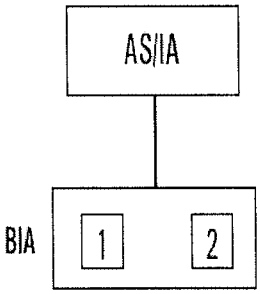
Variation 4(a):



GROUP & SUBDIVIDE PROGRAM FUNCTIONS WITHIN BIA

1. Education
2. Trust (Resources & Funds)
3. Other Trust (Services)

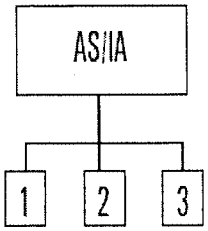
Variation 4(b):



GROUP & SUBDIVIDE PROGRAM FUNCTIONS WITHIN BIA

1. Education
2. Trust (Resources/Funds/Services)

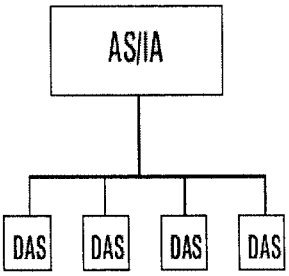
Variation 4(c):



DIVIDE BIA INTO THREE SEPARATE BUREAUS

1. Bureau of Education
2. Bureau of Trust (Resources & Funds)
3. Bureau of Other Trust (Services)

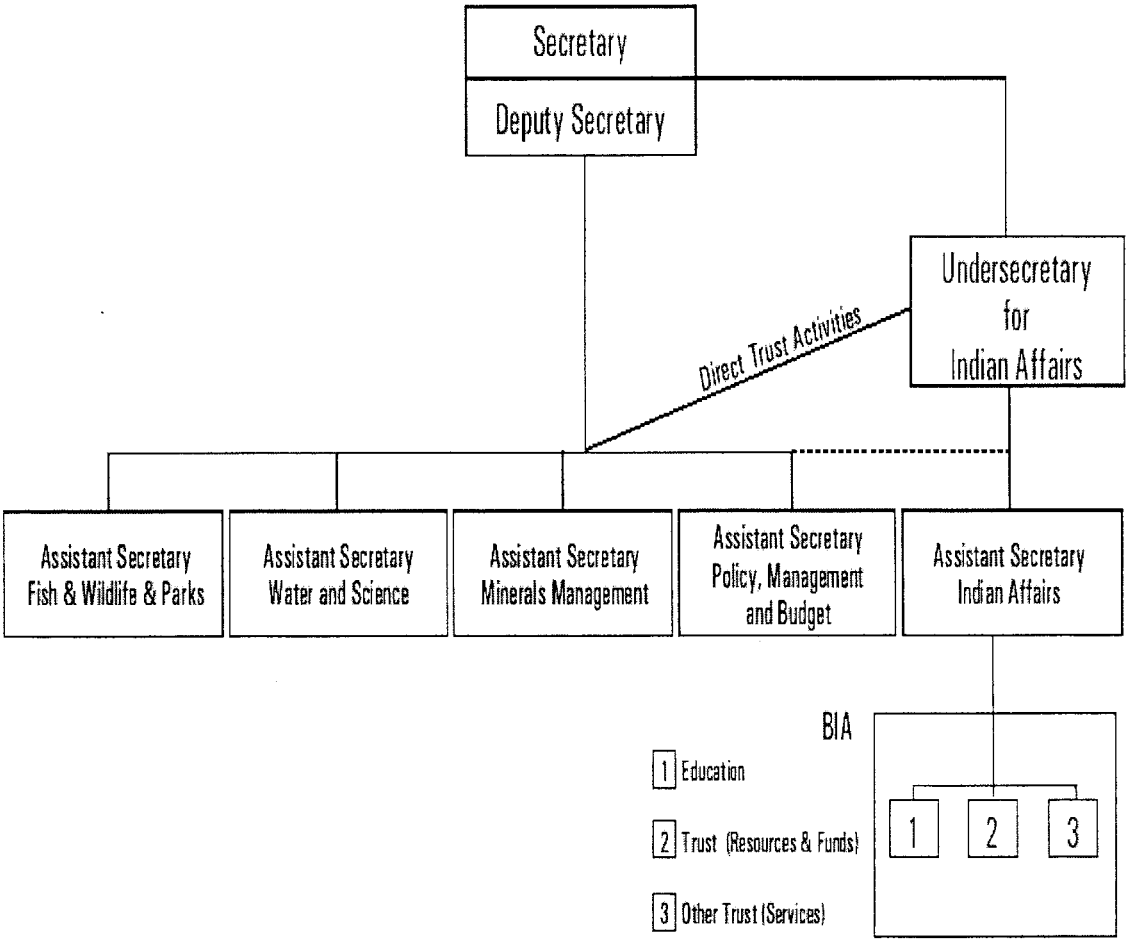
Variation 4(d):



NO BUREAU LEVEL ORGANIZATIONAL STRUCTURE. Major program responsibilities would be managed by Deputy Assistant Secretaries (DAS).

The Task Force recommended this option, which contains several possible variations; other similar variations may be explored during consultation.

Option 5



The Task Force recommended this option for further consideration. Lower level decisionmaking (Regional/Agency) needs to be discussed during the consultation process.

Figure 1

Current Line Oganization

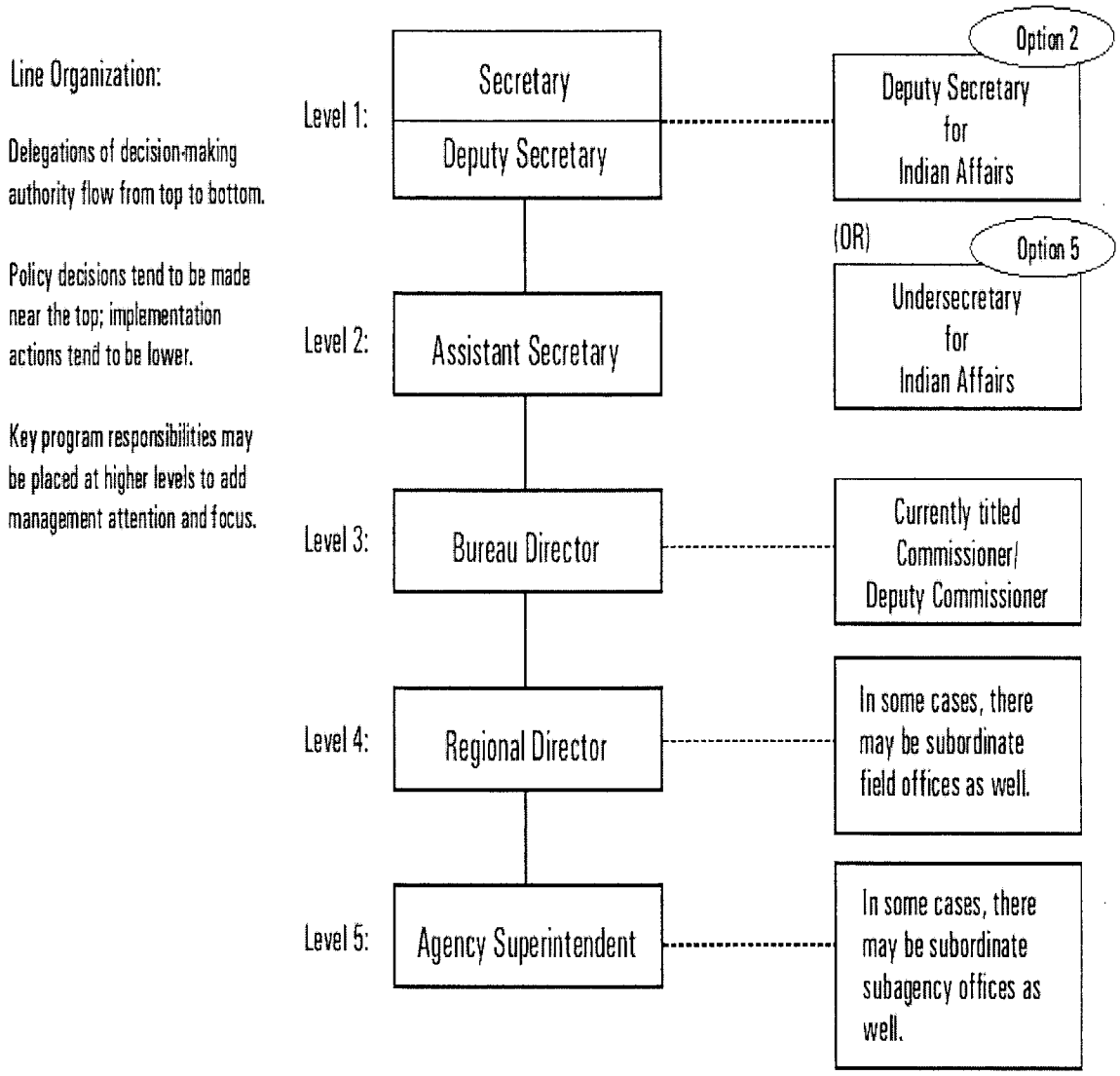
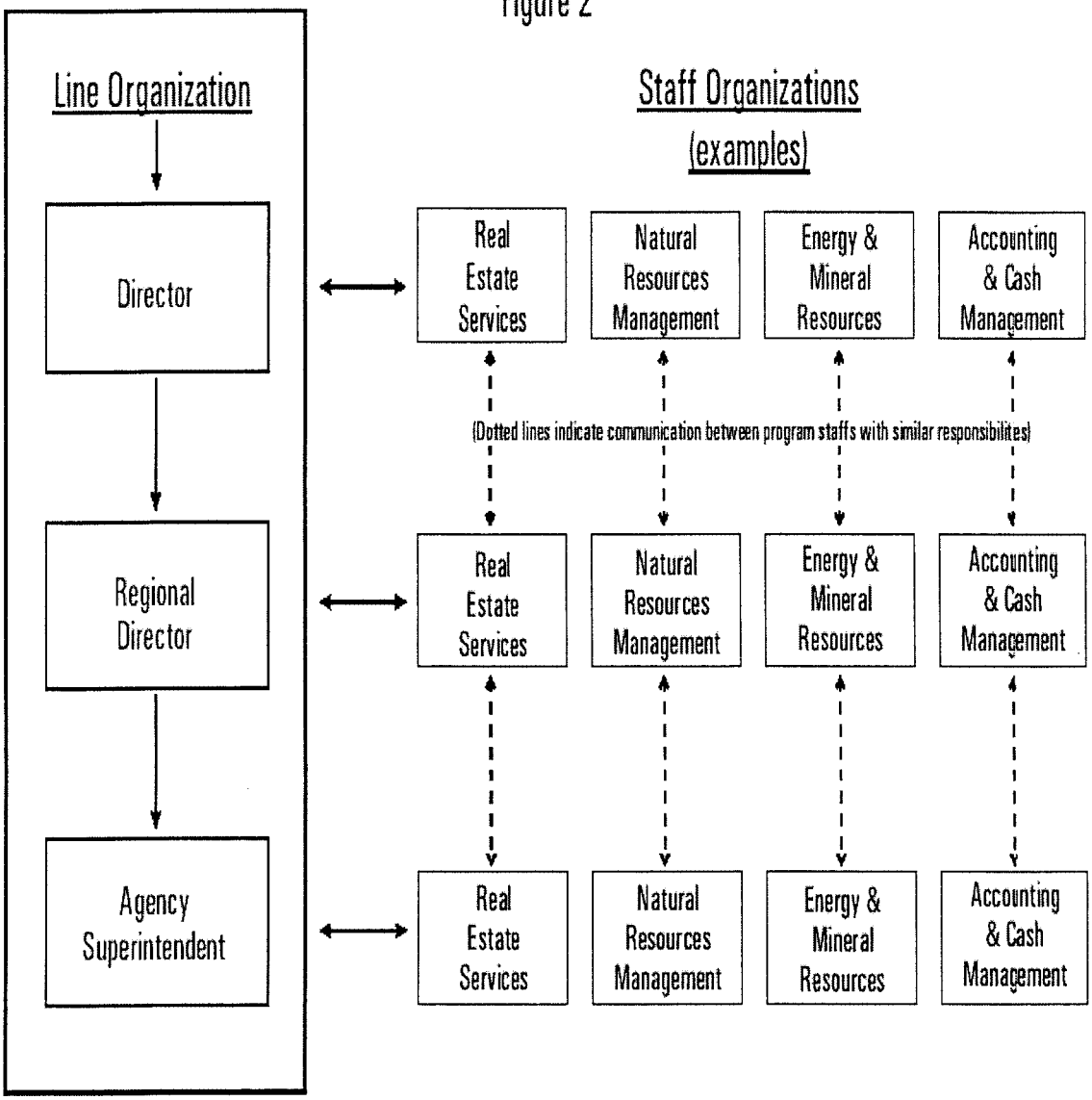


Figure 2



The line management organizational structure is uncomplicated. Description of staff support organizations tend to vary by region and agency. The Department, with task force consultation, will seek to standardize the delegations of authority and functional grouping to improve program communication and accountability.

A tentative schedule for consultation and further Task Force efforts was developed at the Task Force Meeting in Minneapolis	
Activity	**Date**
Draft Consultation Package	May 29, 2002
Task Force Teleconference	May 31, 2002
Tribal and Public Notice	Early June
Regional Meetings	June 5 on-going to July 11
Compile Available Comments	June 12, 2002
Alternative Proposal Committee Evaluation	June 13, 2002
Task Force Meeting; Bismarck, ND	June 13-15, 2002
Presentation by Co-Chairs to NCAI Midyear; Bismarck, ND	June 18, 2002
Consultation with Interior (Sec. Norton Tentative); Bismarck, ND	June 19, 2002
Senate Commmittee on Indian Affairs Hearing	June 26, 2002
Develop a Legislative Package	July 6, 2002
Comment Period Ends	July 12, 2002
Task Force Meeting; Portland, OR	July 22-24, 2002
Develop Report to Secretary	July 25, 2002
Task Force Meeting; Anchorage, AK	August 26-28, 2002
Task Force Meeting, Eastern Region	September 25-2, 2002
Task Force Meeting; Billings, MT	October 23-25, 2002

Dated: June 10, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

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