

of May 19, 2010, and No. 3302 of June 18, 2010, and chapters II, V, and XII of title 30, Code of Federal Regulations, as revised by final rules of the Department of the Interior at 75 F.R. 61051 and 76 F.R. 64432.

§ 4042. Office of Special Trustee for American Indians

(a) Establishment

There is hereby established within the Department of the Interior the Office of Special Trustee for American Indians. The Office shall be headed by the Special Trustee who shall report directly to the Secretary.

(b) Special Trustee

(1) Appointment

The Special Trustee shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who possess demonstrated ability in general management of large governmental or business entities and particular knowledge of trust fund management, management of financial institutions, and the investment of large sums of money.

(2) Compensation

The Special Trustee shall be paid at a rate determined by the Secretary to be appropriate for the position, but not less than the rate of basic pay payable at Level II of the Executive Schedule under section 5313 of title 5.

(c) Termination of Office

(1) Conditioned upon implementation of reforms

The Special Trustee, in proposing a termination date under section 4043(a)(2)(C) of this title, shall ensure continuation of the Office until all reforms identified in the strategic plan have been implemented to the satisfaction of the Special Trustee.

(2) 30-day notice

Thirty days prior to the termination date proposed in the plan submitted under this section, the Special Trustee shall notify the Secretary and the Congress in writing of the progress in implementing the reforms identified in the plan. The Special Trustee, at that time, may recommend the continuation, or the permanent establishment, of the Office if the Special Trustee concludes that continuation or permanent establishment is necessary for the efficient discharge of the Secretary's trust responsibilities.

(3) Termination date

The Office shall terminate 180 legislative days after the date on which the notice to the Congress under paragraph (2) is provided, unless the Congress extends the authorities of the Special Trustee. For the purposes of this section, a legislative day is a day on which either House of the Congress is in session.

(Pub. L. 103-412, title III, §302, Oct. 25, 1994, 108 Stat. 4244.)

§ 4043. Authorities and functions of Special Trustee

(a) Comprehensive strategic plan

(1) In general

The Special Trustee shall prepare and, after consultation with Indian tribes and appropriate Indian organizations, submit to the Secretary and the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate, within one year after the initial appointment is made under section 4042(b) of this title, a comprehensive strategic plan for all phases of the trust management business cycle that will ensure proper and efficient discharge of the Secretary's trust responsibilities to Indian tribes and individual Indians in compliance with this chapter.

(2) Plan requirements

The plan prepared under paragraph (1) shall include the following:

(A) Identification of all reforms to the policies, procedures, practices and systems of the Department, the Bureau, the Bureau of Land Management, and the Minerals Management Service necessary to ensure the proper and efficient discharge of the Secretary's trust responsibilities in compliance with this chapter.

(B) Provisions for opportunities for Indian tribes to assist in the management of their trust accounts and to identify for the Secretary options for the investment of their trust accounts, in a manner consistent with the trust responsibilities of the Secretary, in ways that will help promote economic development in their communities.

(C) A timetable for implementing the reforms identified in the plan, including a date for the proposed termination of the Office.

(b) Duties

(1) General oversight of reform efforts

The Special Trustee shall oversee all reform efforts within the Bureau, the Bureau of Land Management, and the Minerals Management Service relating to the trust responsibilities of the Secretary to ensure the establishment of policies, procedures, systems and practices to allow the Secretary to discharge his trust responsibilities in compliance with this chapter.

(2) Bureau of Indian Affairs

(A) Monitor reconciliation of trust accounts

The Special Trustee shall monitor the reconciliation of tribal and Individual Indian Money trust accounts to ensure that the Bureau provides the account holders, with a fair and accurate accounting of all trust accounts.

(B) Investments

The Special Trustee shall ensure that the Bureau establishes appropriate policies and procedures, and develops necessary systems, that will allow it—

(i) properly to account for and invest, as well as maximize, in a manner consistent with the statutory restrictions imposed on

the Secretary's investment options, the return on the investment of all trust fund monies, and

(ii) to prepare accurate and timely reports to account holders (and others, as required) on a periodic basis regarding all collections, disbursements, investments, and return on investments related to their accounts.

(C) Ownership and lease data

The Special Trustee shall ensure that the Bureau establishes policies and practices to maintain complete, accurate, and timely data regarding the ownership and lease of Indian lands.

(3) Bureau of Land Management

The Special Trustee shall ensure that the Bureau of Land Management establishes policies and practices adequate to enforce compliance with Federal requirements for drilling, production, accountability, environmental protection, and safety with respect to the lease of Indian lands.

(4) Minerals Management Service

The Special Trustee shall ensure that the Minerals Management Service establishes policies and practices to enforce compliance by lessees of Indian lands with all requirements for timely and accurate reporting of production and payment of lease royalties and other revenues, including the audit of leases to ensure that lessees are accurately reporting production levels and calculating royalty payments.

(c) Coordination of policies

(1) In general

The Special Trustee shall ensure that—

(A) the policies, procedures, practices, and systems of the Bureau, the Bureau of Land Management, and the Minerals Management Service related to the discharge of the Secretary's trust responsibilities are coordinated, consistent, and integrated, and

(B) the Department prepares comprehensive and coordinated written policies and procedures for each phase of the trust management business cycle.

(2) Standardized procedures

The Special Trustee shall ensure that the Bureau imposes standardized trust fund accounting procedures throughout the Bureau.

(3) Integration of ledger with investment system

The Special Trustee shall ensure that the trust fund investment, general ledger, and subsidiary accounting systems of the Bureau are integrated and that they are adequate to support the trust fund investment needs of the Bureau.

(4) Integration of land records, trust funds accounting, and asset management systems among agencies

The Special Trustee shall ensure that—

(A) the land records system of the Bureau interfaces with the trust fund accounting system, and

(B) the asset management systems of the Minerals Management Service and the Bureau of Land Management interface with the appropriate asset management and accounting systems of the Bureau, including ensuring that—

(i) the Minerals Management Service establishes policies and procedures that will allow it to properly collect, account for, and disburse to the Bureau all royalties and other revenues generated by production from leases on Indian lands; and

(ii) the Bureau of Land Management and the Bureau provide Indian landholders with accurate and timely reports on a periodic basis that cover all transactions related to leases of Indian resources.

(5) Trust Management program budget

(A) Development and submission

The Special Trustee shall develop for each fiscal year, with the advice of program managers of each office within the Bureau of Indian Affairs, Bureau of Land Management and Minerals Management Service that participates in trust management, including the management of trust funds or natural resources, or which is charged with any responsibility under the comprehensive strategic plan prepared under subsection (a) of this section, a consolidated Trust Management program budget proposal that would enable the Secretary to efficiently and effectively discharge his trust responsibilities and to implement the comprehensive strategic plan, and shall submit such budget proposal to the Secretary, the Director of the Office of Management and Budget, and to the Congress.

(B) Duty of certain program managers

Each program manager participating in trust management or charged with responsibilities under the comprehensive strategic plans shall transmit his office's budget request to the Special Trustee at the same time as such request is submitted to his superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to the Congress under section 1105(a) of title 31.

(C) Certification of adequacy of budget request

The Special Trustee shall—

(i) review each budget request submitted under subparagraph (B);

(ii) certify in writing as to the adequacy of such request to discharge, effectively and efficiently, the Secretary's trust responsibilities and to implement the comprehensive strategic plan; and

(iii) notify the program manager of the Special Trustee's certification under clause (ii).

(D) Maintenance of records

The Special Trustee shall maintain records of certifications made under subparagraph (C).

(E) Limitation on reprogramming or transfer

No program manager shall submit, and no official of the Department of the Interior

may approve or otherwise authorize, a reprogramming or transfer request with respect to any funds appropriated for trust management which is included in the Trust Management Program Budget unless such request has been approved by the Special Trustee.

(d) Problem resolution

The Special Trustee shall provide such guidance as necessary to assist Department personnel in identifying problems and options for resolving problems, and in implementing reforms to Department, Bureau, Bureau of Land Management, and Minerals Management Service policies, procedures, systems and practices.

(e) Special Trustee access

The Special Trustee, and his staff, shall have access to all records, reports, audits, reviews, documents, papers, recommendations, files and other material, as well as to any officer and employee, of the Department and any office or bureau thereof, as the Special Trustee deems necessary for the accomplishment of his duties under this chapter.

(f) Annual report

The Special Trustee shall report to the Secretary and the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate each year on the progress of the Department, the Bureau, the Bureau of Land Management, and the Minerals Management Service in implementing the reforms identified in the comprehensive strategic plan under subsection (a)(1) and in meeting the timetable established in the strategic plan under subsection (a)(2)(C).

(Pub. L. 103-412, title III, §303, Oct. 25, 1994, 108 Stat. 4245; Pub. L. 104-109, §6(a), Feb. 12, 1996, 110 Stat. 764.)

AMENDMENTS

1996—Subsec. (c)(5)(D). Pub. L. 104-109 substituted “subparagraph (C)” for “paragraph (3)(B)”.

TRANSFER OF FUNCTIONS

The Minerals Management Service was abolished and functions divided among the Office of Natural Resources Revenue, the Bureau of Ocean Energy Management, and the Bureau of Safety and Environmental Enforcement. See Secretary of the Interior Orders No. 3299 of May 19, 2010, and No. 3302 of June 18, 2010, and chapters II, V, and XII of title 30, Code of Federal Regulations, as revised by final rules of the Department of the Interior at 75 F.R. 61051 and 76 F.R. 64432.

LANDS TITLE REPORT COMMISSION

Pub. L. 106-569, title V, §501, Dec. 27, 2000, 114 Stat. 2959, provided that:

“(a) ESTABLISHMENT.—Subject to sums being provided in advance in appropriations Acts, there is established a Commission to be known as the Lands Title Report Commission (hereafter in this section referred to as the ‘Commission’) to facilitate home loan mortgages on Indian trust lands. The Commission will be subject to oversight by the Committee on Banking and Financial Services [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

“(b) MEMBERSHIP.—

“(1) APPOINTMENT.—The Commission shall be composed of 12 members, appointed not later than 90 days

after the date of the enactment of this Act [Dec. 27, 2000] as follows:

“(A) Four members shall be appointed by the President.

“(B) Four members shall be appointed by the Chairperson of the Committee on Banking and Financial Services [now Committee on Financial Services] of the House of Representatives.

“(C) Four members shall be appointed by the Chairperson of the Committee on Banking, Housing, and Urban Affairs of the Senate.

“(2) QUALIFICATIONS.—

“(A) MEMBERS OF TRIBES.—At all times, not less than eight of the members of the Commission shall be members of federally recognized Indian tribes.

“(B) EXPERIENCE IN LAND TITLE MATTERS.—All members of the Commission shall have experience in and knowledge of land title matters relating to Indian trust lands.

“(3) CHAIRPERSON.—The Chairperson of the Commission shall be one of the members of the Commission appointed under paragraph (1)(C), as elected by the members of the Commission.

“(4) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

“(5) TRAVEL EXPENSES.—Members of the Commission shall serve without pay, but each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

“(c) INITIAL MEETING.—The Chairperson of the Commission shall call the initial meeting of the Commission. Such meeting shall be held within 30 days after the Chairperson of the Commission determines that sums sufficient for the Commission to carry out its duties under this Act [probably should be “section”] have been appropriated for such purpose.

“(d) DUTIES.—The Commission shall analyze the system of the Bureau of Indian Affairs of the Department of the Interior for maintaining land ownership records and title documents and issuing certified title status reports relating to Indian trust lands and, pursuant to such analysis, determine how best to improve or replace the system—

“(1) to ensure prompt and accurate responses to requests for title status reports;

“(2) to eliminate any backlog of requests for title status reports; and

“(3) to ensure that the administration of the system will not in any way impair or restrict the ability of Native Americans to obtain conventional loans for purchase of residences located on Indian trust lands, including any actions necessary to ensure that the system will promptly be able to meet future demands for certified title status reports, taking into account the anticipated complexity and volume of such requests.

“(e) REPORT.—Not later than the date of the termination of the Commission under subsection (h), the Commission shall submit a report to the Committee on Banking and Financial Services [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the analysis and determinations made pursuant to subsection (d).

“(f) POWERS.—

“(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

“(2) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

“(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency

of the United States information necessary to enable it to carry out this section. Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission.

“(4) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

“(5) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its duties under this section.

“(6) **STAFF.**—The Commission may appoint personnel as it considers appropriate, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall pay such personnel in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

“(g) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section such sums as may be necessary, and any amounts appropriated pursuant to this subsection shall remain available until expended.

“(h) **TERMINATION.**—The Commission shall terminate 1 year after the date of the initial meeting of the Commission.”

Substantially identical provisions were contained in Pub. L. 106-568, title X, §1001, Dec. 27, 2000, 114 Stat. 2923.

§ 4044. Reconciliation report

The Secretary shall transmit to the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate, by May 31, 1996, a report identifying for each tribal trust fund account for which the Secretary is responsible a balance reconciled as of September 30, 1995. In carrying out this section, the Secretary shall consult with the Special Trustee. The report shall include—

(1) a description of the Secretary’s methodology in reconciling trust fund accounts;

(2) attestations by each account holder that—

(A) the Secretary has provided the account holder with as full and complete accounting as possible of the account holder’s funds to the earliest possible date, and that the account holder accepts the balance as reconciled by the Secretary; or

(B) the account holder disputes the balance of the account holder’s account as reconciled by the Secretary and statement explaining why the account holder disputes the Secretary’s reconciled balance; and

(3) a statement by the Secretary with regard to each account balance disputed by the account holder outlining efforts the Secretary will undertake to resolve the dispute.

(Pub. L. 103-412, title III, §304, Oct. 25, 1994, 108 Stat. 4248.)

SETTLEMENT OF TRIBAL CLAIMS

Pub. L. 107-153, §1, Mar. 19, 2002, 116 Stat. 79, as amended by Pub. L. 109-158, §1, Dec. 30, 2005, 119 Stat. 2954, provided that:

“(a) **IN GENERAL.**—Notwithstanding any other provision of law, for purposes of determining the date on which an Indian tribe received a reconciliation report

for purposes of applying a statute of limitations, any such report provided to or received by an Indian tribe in response to section 304 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4044) shall be deemed to have been received by the Indian tribe on December 31, 2000.

“(b) **STATEMENT OF PURPOSE.**—Subsection (a) is solely intended to provide recipients of reconciliation reports with the opportunity to postpone the filing of claims, or to facilitate the voluntary dismissal of claims, to encourage settlement negotiations with the United States.”

§ 4045. Staff and consultants

(a) Staff

The Special Trustee may employ such staff as the Special Trustee deems necessary. The Special Trustee may request staff assistance from within the Department and any office or Bureau thereof as the Special Trustee deems necessary.

(b) Contracts

To the extent and in such amounts as may be provided in advance by appropriations Acts, the Special Trustee may enter into contracts and other arrangements with public agencies and with private persons and organizations for consulting services and make such payments as necessary to carry out the provisions of this subchapter.

(Pub. L. 103-412, title III, §305, Oct. 25, 1994, 108 Stat. 4248.)

§ 4046. Advisory board

(a) Establishment and membership

Notwithstanding any other provision of law, the Special Trustee shall establish an advisory board to provide advice on all matters within the jurisdiction of the Special Trustee. The advisory board shall consist of nine members, appointed by the Special Trustee after consultation with Indian tribes and appropriate Indian organizations, of which—

(1) five members shall represent trust fund account holders, including both tribal and Individual Indian Money accounts;

(2) two members shall have practical experience in trust fund and financial management;

(3) one member shall have practical experience in fiduciary investment management; and

(4) one member, from academia, shall have knowledge of general management of large organizations.

(b) Term

Each member shall serve a term of two years.

(c) FACA

The advisory board shall not be subject to the Federal Advisory Committee Act.

(d) Termination

The advisory board shall terminate upon termination of the Office of Special Trustee.

(Pub. L. 103-412, title III, §306, Oct. 25, 1994, 108 Stat. 4249; Pub. L. 104-109, §6(b), Feb. 12, 1996, 110 Stat. 764.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as