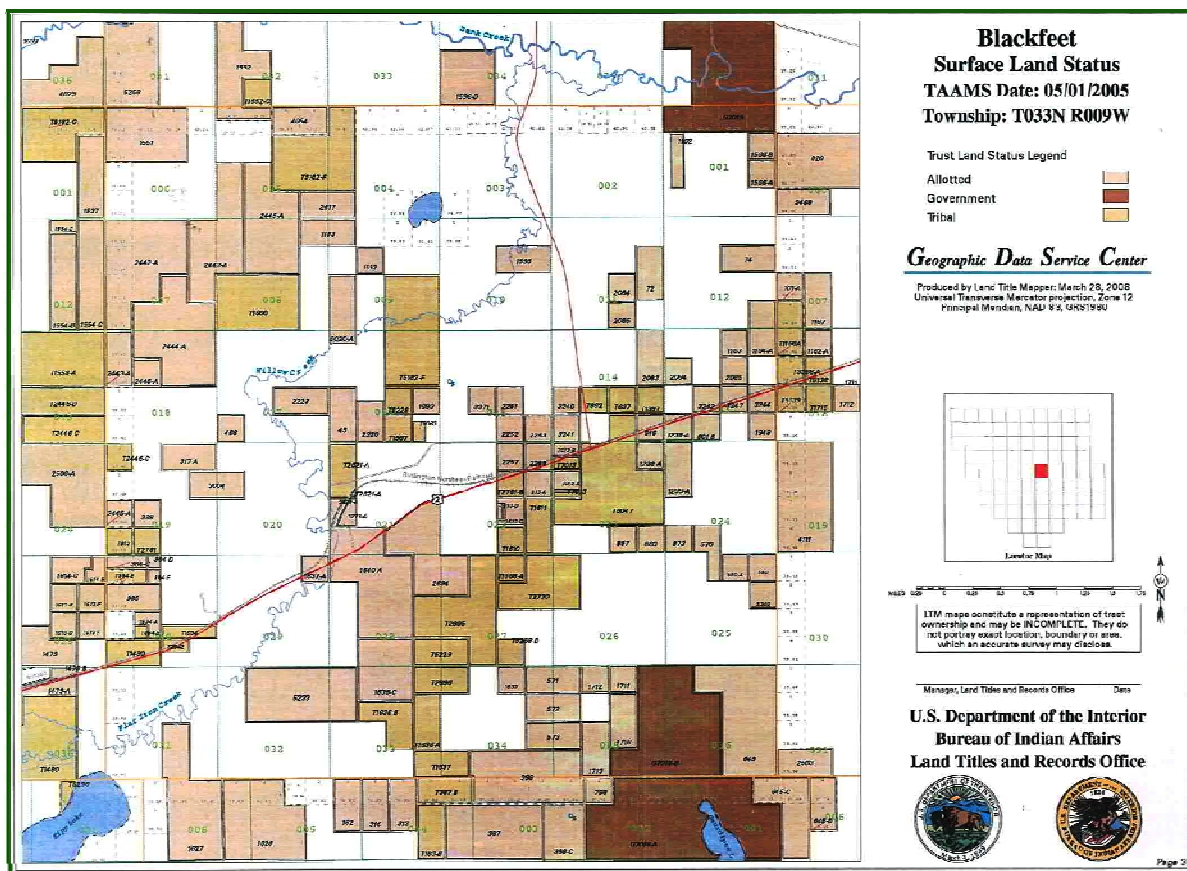




U.S. DEPARTMENT OF THE INTERIOR OFFICE OF INSPECTOR GENERAL

PROGRAM ASSESSMENT RATING TOOL PROGRESS EVALUATION

BUREAU OF INDIAN AFFAIRS REALTY AND TRUST PROGRAM



ER-RR-BIA-0001-2008

APRIL 2009



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, DC 20240

APR 23 2009

Memorandum

To: Jerold L. Gidner
Director, Bureau of Indian Affairs

From: Donald W. Cairns *Donald W. Cairns*
Deputy Assistant Inspector General
Office of Audits, Inspections and Evaluations

Subject: Program Assessment Rating Tool (PART) — Progress Evaluation of the Bureau of Indian Affairs (BIA) — Realty and Trust Program (Report No. ER-RR-BIA-0001-2008)

The Office of Inspector General (OIG) recently completed an evaluation of the progress made by the BIA Realty and Trust Program in addressing the 2006 Office of Management and Budget PART recommendations.

We interviewed BIA employees in Washington, DC, and five field sites as well as employees in the Office of the Special Trustee and the Indian Land Consolidation Center. We found that Program officials have worked steadily to address the recommendations. However, only limited progress has been made.

Although the PART initiative has been temporarily suspended, the goals of improving Program performance and demonstrating results remain valid. We offer 11 suggestions that we believe will help the Program in meeting those goals. We encourage you to discuss these suggestions with your Deputy Director for Trust Services and implement those that you agree will improve Program performance and results.

If you have any comments or questions regarding this report, please call me at 202-208-5512.

PART Progress Evaluation

Bureau of Indian Affairs Realty and Trust Program

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Acronyms Used

AIPRA	American Indian Probate Reform Act
BIA	Bureau of Indian Affairs
DOI	Department of the Interior
FTE	Full-Time Equivalent
GPRA	Government Performance and Results Act
ILCP	Indian Land Consolidation Program
IWG	Implementation Working Group
LTRO	Land Titles and Records Office
OHA	Office of Hearings and Appeals
OIG	Office of Inspector General
OMB	Office of Management and Budget
OSM	Office of Surface Mining
OST	Office of the Special Trustee
OTRA	Office of Trust Review and Audit
PART	Program Assessment Rating Tool
TAAMS	Trust Asset Accounting and Management System

Introduction

WHY WE DID THIS PROGRESS EVALUATION

Department of the Interior (DOI) officials asked the Office of Inspector General to review the progress made by programs designated **Results Not Demonstrated** by the Office of Management and Budget. OMB uses the Program Assessment Rating Tool to make these designations. More detailed information on the PART process can be found in Appendix A.

In consultation with officials in the DOI Offices of Budget and of Planning and Performance Management, we selected the Bureau of Indian Affairs (BIA) Realty and Trust Program (Program) for this progress evaluation. OMB reviewed the Program in 2006. It is unclear if OMB will review the Program in 2009 under the PART guidelines.

OBJECTIVES

Based on its 2006 review, OMB made one recommendation related to performance measures and two recommendations on performance budgets. Our objectives in conducting this progress evaluation were to:

- determine what progress the Program has made toward implementing the OMB recommendations;
- provide suggestions the Program can use to improve its score on the upcoming PART review; and
- provide observations and suggestions that DOI and the Program can use to improve program performance.

WHAT IS THE PART?

Federal agencies use the Program Assessment Rating Tool (PART), a standard questionnaire, to submit information on federal programs to the Office of Management and Budget (OMB). OMB examiners assess programs based on responses to YES/NO questions in the areas of program purpose and design, strategic planning, program management, and — most importantly — program results.

OMB uses the information to determine program effectiveness, to recommend improvements for rated programs, and to follow up on those improvements.

PART results are published on the ExpectMore.gov Web site.

See Appendix A for more information on the history and use of the PART.

METHODOLOGY

To meet the objectives, we interviewed key officials at BIA's Central Office and reviewed Program and Program-related documents. We also completed site visits and interviews with BIA regional and agency staff, as indicated in Appendix B. We conducted this review in accordance with the "Quality Standards for Inspections" established by the predecessor agency of the Council of Inspectors General on Integrity and Efficiency. We based our suggestions on OMB 2008 PART guidance.

BIA REALTY AND TRUST PROGRAM OVERVIEW

The BIA Realty and Trust Program plays a key role in keeping the DOI promise “to protect and improve the trust assets of American Indians, Indian tribes, and Alaska Natives.” To this end, BIA is responsible for administering and managing approximately 56 million acres of Indian-owned land. Of this land, individual Indians own 10 million acres, and tribes own nearly 46 million acres.

Program functions include processing transfers of lands into and out of trust status; maintaining records of land titles, leases, and other encumbrances on trust lands for individual Indian owners and tribes; enforcing compliance with leases and other encumbrances; and processing probates involving trust assets.

The Program is spread across the three types of offices, termed divisions in this report, which we describe below. In the BIA Central Office, these divisions report to the Deputy Director for Trust Services; they provide policy guidance to the regions but have no direct authority over them. Program services are performed by BIA’s 12 regional offices and 88 local Indian agencies that are under the supervision of the regional directors. The regional directors report to the Deputy Director for Field Operations.

- **Real Estate Services** — This division ensures that trust and restricted Indian-owned lands are protected, managed, and utilized appropriately. Staff members in the field oversee land leasing for agricultural, commercial, residential, and mining activities. They also enforce compliance with the terms of leases; handle the transfer of land into or out of trust for individual Indians and tribes; and investigate and resolve rights-of-way cases, Indian land rights, and trespass cases.
- **Probate** — This division handles probate matters and ensures the accurate and timely distribution of assets to legal heirs. Probate staff members in the field prepare the estates of deceased owners of trust assets for probate by the Office of Hearings and Appeals (OHA) or other judicial bodies. Upon notification of OHA decisions, probate staff members prepare documents for distribution of the estate’s financial assets.
- **Land Titles and Records** — This division maintains the official records on trust land titles and encumbrances (claims on the land, such as leases and rights-of-way). Staff members in the field examine and certify the accuracy of each owner’s interest and any encumbrances on a tract. BIA undertakes 40,000 land and resource management transactions each year. Each transaction requires some form of title service or product to complete the transaction.

The Program is complex in that the divisions share responsibility for multiple processes and depend on OST and OHA to accomplish the Program mission. In addition, land fractionation — the ownership of a single parcel of land by multiple owners — has burdened BIA with ever increasing administrative costs and workload.

Analysis and Suggestions

OMB made the following three recommendations to improve program performance based on its 2006 PART review of the Realty and Trust Program.

- Establish baselines and targets for all performance measures.
- Demonstrate that budget allocation decisions are tied explicitly to accomplishment of annual and long-term performance goals, such that budget allocation decisions fully reflect performance targets.
- Include transparent discussion of program efficiency in budget submission.

We reviewed the Program in 2008 and observed limited progress toward implementing OMB's improvement plan. In the following sections, we discuss strategic planning, budget and performance integration, and independent evaluation. Although OMB did not address fractionation — the ownership of a single parcel of land by multiple owners — in its PART review, we conclude with a section on the subject because we consider land fractionation to be a serious challenge to the Program.

We offer 11 suggestions to help the Program implement OMB's recommendations and to ultimately achieve improved program performance. See the complete list of our suggestions in Appendix C.

STRATEGIC PLANNING

OMB RECOMMENDATION: Establish baselines and targets for all performance measures.

TYPES OF PERFORMANCE MEASURES

OUTCOME measures are the intended results or benefits of carrying out a program or activity. Outcome measures indicate the impact of program activities on the intended beneficiaries.

OUTPUT measures are the internal activities of a program that staff members provide over a period of time. Output measures refer to products and services produced by a program and give managers a sense of how much work is being performed.

EFFICIENCY measures capture the ability of a program to use resources economically to produce outputs or outcomes.

According to PART guidance, the Program managers should establish meaningful performance measures, quantify the “baseline” performance from which they are starting, and set targets for achievement in the near- and long-term. We found that managers have made limited progress in developing meaningful performance measures and establishing all baselines and targets, although www.ExpectMore.gov shows the relevant recommendation to have been completed. (See the complete table of the Program's current performance goals, measures, and targets in Appendix D.)

We believe the limited progress results from the lack of an integrated and systematic approach to planning and performance management within the

Program, which we discuss below. Next we address our concerns with the Program's performance measures and monitoring. We also offer suggestions for improving them. Revising targets based on performance data can be accomplished in a relatively short time and could be completed for the 2009 PART review.

Integrated Planning and Performance Management Lacking

The lack of significant progress on developing meaningful performance measures and establishing baselines and targets demonstrates a need for integrated planning and performance management. Adopting a strategic approach would help Program managers implement OMB's recommendations. Careful planning should allow the Program to set program goals and develop strategies to monitor and improve performance and progress toward meeting those goals, as well as to link budget requests to Program targets.

We believe that integrating planning and performance management could facilitate stronger links between Program goals and strategies in the planning phase and mechanisms for monitoring in the implementation phase. The Eastern and Alaska Regions have developed their own strategic plans to facilitate the transition to performance management and budgeting. See "Best Practice: Planning for Performance."

BEST PRACTICE: PLANNING FOR PERFORMANCE

The BIA Eastern Region took a collaborative approach to planning to ease the transition to performance-based management. It formed the Implementation Working Group (IWG) and invited Eastern tribes, tribal organizations, service providers, and staff members to participate.

The IWG was responsible for educating staff members and partners on the planning process and BIA goals. It drafted a plan to monitor how well programs are performing and developed budget proposals based on the Region's goals and performance.

PART QUESTION 2.2

Does the program have ambitious targets and timeframes for its long-term measures?

PART QUESTION 2.3

Does the program have a limited number of specific annual performance measures that can demonstrate progress toward achieving the program's long-term goals?

PART QUESTION 2.4

Does the program have baselines and ambitious targets for its annual measures?

In the absence of a Program-level strategic planning process, senior management revised three of the Program's five performance measures during the Department's FY 2007 strategic planning discussions. The changes not only meant that Program staff with on-the-ground knowledge had little input into the measures, but they necessitated setting new baselines, which are now in place. In addition, two performance measures still lack long-term targets.

Where targets have been set, they do not always make sense, which provides further evidence that the performance management process is not strategic or well-planned. For example, the long-term target for one real estate measure is lower than the annual targets proposed for prior years.

Planning typically lays out a program's mission and identifies key goals and strategies for fulfilling that mission. Each tier of a plan offers a greater level of detail

than the tier above it about the work to be done and can be logically linked to tiers above and below (see Figure 1). Nested within each strategic goal is a bundle of performance goals that

includes performance measures, baselines, and targets. Performance goals establish the desired result of performance, while measures enable managers to determine whether staff members have met a specified level of performance. Targets establish how well a program must perform or how much work must be done within a given period of time to meet program performance goals. Whereas planning moves from the mission statement downward to the targets, implementation begins by meeting targets and building back up to the strategic goals.

According to the Deputy Director for Realty and Trust, the Program has no strategic plan or planning process. She has indicated that she intends to convene a small planning group among her senior staff in FY 2009 to take the first steps in developing a strategic plan process. While engagement of senior staff is important, we believe it is as important to engage staff in the field — at least at the regional manager level — as it is to engage key partners, such as the tribes, OST, and OHA. Such engagement at multiple levels with stakeholders who have varied interests should facilitate the planning process. It should also result in strategies that improve coordination of work processes across regional offices, divisions, and bureaus and help individual units — and the Program — become more efficient. Further, including a representative group of field staff members in the process may also facilitate “buy-in” to the goals and performance standards.



Figure 1. Representation of OMB’s Strategic Planning Process

SUGGESTION 1

Initiate a Program-level planning process that includes regional managers, OHA, OST, the tribes, and other key partners.

Performance Measures Inadequate

We found several limitations with the Program’s performance measures that, if addressed, would help meet OMB’s expectations and assist managers and staff in improving Program

performance. The limitations include 1) an incomplete set of measures that overlooks important functions; 2) over reliance on output measures; 3) measures that are too broadly defined to be useful management tools; and 4) imprecise measure definitions that result in unreliable performance data.

The PART measures are not meant to be comprehensive. Our discussion of measures below pertains to a broader vision of performance measures, rather than merely PART measures themselves.

Incomplete Set of Measures The current set of measures fails to address all functions and to allow for regional differences. We believe the consequence has been the inability of Program managers to consistently identify Program performance strengths and weaknesses.

The most notable gap is a measure for Land Titles and Records. With the 2007 implementation of the Trust Asset Accounting and Management System (TAAMS), the Land Titles and Records Offices (LTROs), as the field-level offices are known, became the sole owner of land title records. The LTROs maintain the official title records for trust assets and play a vital role in ensuring the accuracy and timeliness of ownership information. According to one deputy regional manager, his region's operations depend on the functioning of the LTRO. In fact, Land Titles and Records functions impact the entire Program. A measure that captures the LTROs' effectiveness is, therefore, critical.

In Real Estate Services, acquisition and disposal of land and lease compliance activities are significant functions that also lack measures. Compliance activities ensure that actions being taken on trust lands are carried out in compliance with the terms of the lease(s). The acquisitions and disposal staff oversee the transfer of lands into and out of trust status. Both processes can have environmental and financial consequences for the Bureau and land owners if not implemented properly. Developing a measure can help to ensure accountability and appropriate attention.

We also found that Program managers have developed a limited number of "one-size-fits-all" performance measures. These measures do not reflect regional differences, such as differing land uses, tribal norms, and the amount of land that goes through probate. For example, the two agricultural lease measures do not capture how land is used in the Midwest and Southwest Regions. In the Midwest, the tribes invest in non-agricultural income-producing activities. In the Southwest, tribal lands are located in remote, high desert areas with little vegetation or water available for agricultural or range leasing. Families there tend to keep land for family activities and do not lease it out to non-tribal persons.

Overreliance on Output Measures In addition to the limitations discussed thus far, Program managers have emphasized output measures, rather than develop a balanced mix of output, outcome, and efficiency measures, as required by OMB. Each type of measure provides useful but different kinds of information (see box on page 3). The Program's PART measures currently include only one outcome measure, the "percent of eligible trust land acres under lease for agricultural use." Not only is this the sole outcome measure, it should be classified as an output measure as it does not directly measure a benefit for or impact on the Program's beneficiaries.

An outcome results from one or more outputs or activities. For example, Real Estate Services tracks the number of agricultural leases it issues — a measure of staff output. The leases generate income for land owners; Program managers could measure how much income these leases generate — an outcome measure. If advancing the economic welfare of American Indians is a Program goal, measuring income generated from leases would be one way to demonstrate progress toward that goal.

PART QUESTION 4.1

Has the program demonstrated adequate progress in achieving its long-term performance goals?

PART QUESTION 4.2

Does the program (including program partners) achieve its annual performance goals?

Broadly Defined Measures We found that existing measures fail to address the interrelated nature of the work the divisions perform. For example, probate begins when a local BIA agency receives notification of death (see Figure 2 for an illustration of the process). Agency employees work with probate staff in the

regional office and with the LTRO to prepare the case for adjudication. Once OHA has determined the distribution of assets to the heirs, the LTRO changes titles to the property,

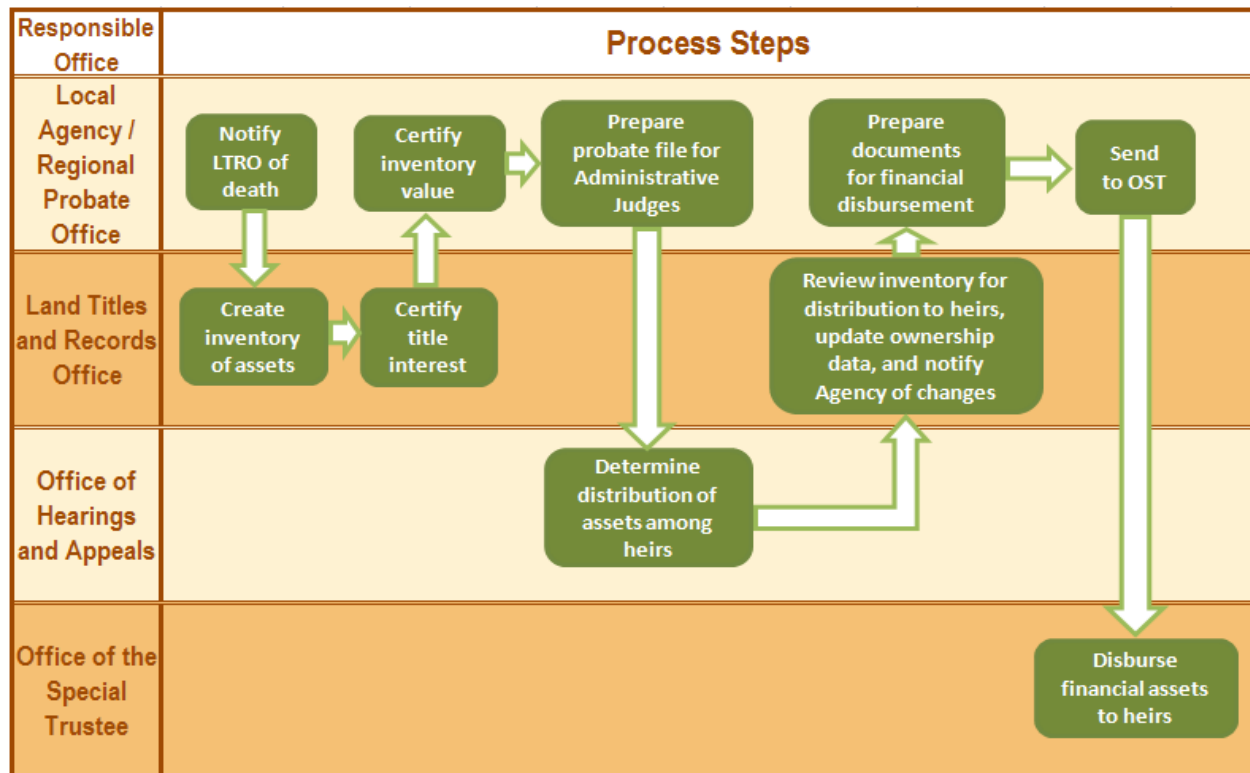


Figure 2. Probate Process

probate staff members prepare documents for OST, and OST disburses financial assets. A probate case cannot be closed until every office has carried out its responsibilities. However, managers have defined measures too broadly to accommodate the specific activities of the individual divisions.

We believe that measures that capture the work of multiple offices or bureaus are not useful to managers in terms of performance management. Program managers could develop sub-measures for processes that span more than one division, which should allow identification of any bottlenecks that exist. Finally, broadly defined measures that span multiple divisions and offices result in staff members being held responsible for work outside their control.

SUGGESTION 2

Develop a full set of output and outcome measures for the Realty and Trust Program, including:

- a. division-specific measures for processes that span more than one division to enable division managers to monitor their own staff members' performance and to identify potential roadblocks in the workflow and**
- b. region-specific measures, where appropriate, to encompass regions with distinctive activities.**

Imprecise Measure Definitions During our review, staff members and managers expressed doubts about the reliability of the efficiency measure “total number of agriculture and range acres leased where lease proceeds exceed administrative cost of the leased-acres base in the reporting year.” Specifically, regional managers were unsure which costs to include when calculating their administrative costs. During quarterly conference calls to verify performance data, the regional managers discovered inconsistencies in how the regions calculated this measure. After initial problems surfaced, the measure was redefined. According to regional staff, however, inconsistencies in data collection methods persist. We discuss our concerns with imprecise probate data in the next section.

SUGGESTION 3

Clarify the definition for the performance measure “percent of agriculture and range acres under lease where lease proceeds exceed administrative cost of the leased-acres base” to ensure that consistent data are collected from the regions.

Integrity of Probate Data Questionable

In 2006, the Congress appropriated additional money to the Program to close out its backlog of probate cases. BIA then defined the backlog to create a finite set of cases and to ensure priority of the oldest cases. The backlog is comprised of cases that were part of the managed probate inventory as of September 30, 2005, and in which the decedent's date of death was either unknown or occurred prior to January 1, 2000. Program managers then established the “percent of backlog cases closed” as a key PART performance measure.

Performance goals are considered “met or exceeded” only when the target was reached exactly as stated or exceeded.

**— OMB Circular A-11,
Section 220 (c)**

Central Office provides regional managers with probate progress reports and case inventory reports to help them monitor progress toward the performance goals. These reports show the number of cases completed at each stage of the probate process, the level of effort expended, and progress made on achieving PART performance goals.

We identified problems, however, with the reports' data that raised questions about its integrity, reliability, and usefulness for measuring progress. Improper changes in data and unclear data definitions have led to a situation in which regional managers are unable to use the reports to improve performance.

Improper Changes in Data We found changes in the PART backlog performance measure data in the reports from one data run to the next — within a short period. The backlog measure “percent of backlog cases closed” is officially defined in the PART as the number of backlog cases closed during the reporting year (numerator) divided by the total number of backlog cases at the beginning of the reporting year (denominator). The table below displays data from three progress reports that we obtained for the Midwest Region for June 2008. In the June 13 report, the number of backlog cases at the beginning of the reporting year was specified as 836. By the end of the month, this number had fallen to 597 — a 29 percent decline.

Table 1. Percent of Backlog Cases Closed			
Report Date	Number of backlog cases reported as closed (numerator)	Total number of backlog cases (denominator)	Percent of backlog closed using changing denominator
6/13/08	360	836	43
6/26/08	371	582	64
6/30/08	421	597	71

Consequently, the percent of backlog cases closed rose, perhaps falsely inflating the results reported to policy makers. Because the pool of backlogged cases was established as a finite number, the denominator should be constant.

Unclear Data Definitions We also found a lack of clarity in probate data, which undermines the reliability of the performance data. The probate progress reports and case inventory reports discussed above classify probate cases as backlog, estates closed, quota, non-quota, target, and incentive. The definitions of these terms and the relationships among them are not clear to the regional managers or to us.

Furthermore, the data source of the “percent of backlog cases closed during the reporting year” measure is not readily apparent from the information contained in the reports. Regional managers and staff members, therefore, are unclear about how their performance is measured. If Program managers intend to use the reports to assist in monitoring progress toward performance measures, the key terms need to be clearly defined, relationships among them need to be transparent, and sources of data should be made available. Not only are clarity and reliability vital to Program managers, they are key to demonstrating the integrity of data reported to the Congress, the Department, and OMB.

SUGGESTION 4

Conduct a thorough review of probate performance data to ensure that accurate data are being provided to regional managers and reported to DOI, the Congress, and the Courts.

SUGGESTION 5

Provide written communications to regional managers and staff members that clearly define how the data are collected and the measures are calculated to ensure they are useful for improving performance.

BUDGET AND PERFORMANCE INTEGRATION

OMB RECOMMENDATION: Demonstrate that budget allocation decisions are tied explicitly to accomplishment of annual and long-term performance goals, such that budget allocation decisions fully reflect performance targets.

To determine what progress Program managers have made regarding this recommendation, we reviewed BIA's FY 2007 and FY 2009 budget justifications. We also interviewed officials in the Central Office and several regional offices regarding budget development. We found the Program's FY 2009 Budget Justification (Justification) to be both confusing and inconsistent.

The FY 2007 Budget Justification served as the basis for OMB's assessment and resultant NO answer on Question 2.7 in the Program's 2006 PART. To receive a YES on Question 2.7, OMB requires that a program's budget presentation 1) demonstrate how the requested resources will enable the program to meet its performance targets and 2) clearly show how funding and policy or legislative changes are expected to impact the program's ability to meet annual and long-term performance targets.

PART QUESTION 2.7

Are budget requests explicitly tied to accomplishment of the annual and long-term performance goals, and are the resource needs presented in a complete and transparent manner in the program's budget?

More specifically, a budget justification must meet the requirements set forth in OMB Circular A-11. That Circular, "Preparation, Submission, and Execution of the Budget," requires agencies to set performance targets for outcome goals and specifies that "integrated budget and performance information for the listed outcomes and outputs [be provided] in sufficient detail to allow OMB to [comment on or recommend] both budget and performance levels."

To fulfill these requirements, a program must present a full set of measures, from outcome goals down to the outputs that support them, and annual and long-term performance targets for each measure. How the requested funds are to be used so that the program can meet those targets must be explained.

The Justification does not present as the result of a coordinated, across-the-board planning and allocation effort. Only two measures¹ were in place at the beginning of FY 2006 and could be listed in the FY 2007 Budget Justification's Goal Performance Table. These measures pertained to subactivities in only one division, Probate, of the Program's three divisions. Consequently, the Program was given a NO answer on PART Question 2.7.

¹ The measures were "percent reduction in the case preparation backlog (pre-2000) each year" and "average age of probate cases in preadjudication (# in years)."

As discussed earlier in this report, the Program still lacks a full set of performance measures with baselines and targets. Without performance goals, measures, and targets covering the extent of Program activities, it is not possible to demonstrate clearly that the Program is actually using performance information to allocate funds.

To earn a high PART rating, a program must use performance to manage, justify its resource requests based on the performance it expects to achieve, and continually improve efficiency...

— Guide to the Program Assessment Rating Tool (PART), OMB, January 2008

In our examination of the FY 2009 Justification, we found that the Funding by Goals Table ties the funding request for each of the five subactivities within the Program (Probate, Probate Backlog, Land Title and Records Offices, Real Estate Services, and Land Records Improvement) to the DOI “fulfill Indian fiduciary trust responsibilities” outcome goal.

The Program’s performance measures and targets, as shown in the Justification’s Goal Performance Table (GPT) and in Appendix D of this report, now include measures for real estate services goals. This is in addition to revised measures for probate and probate backlog goals; however the measures remain incomplete and unclear. Notably, Land Titles and Records lacks even a single performance measure.

In addition, budget information is not included in the GPT. Officials from Indian Affairs and DOI told us that discussions are ongoing with OMB on how DOI and its bureaus can present that information consistently. They expect the FY 2010 Indian Affairs Justification to have those figures.

In terms of staffing, OMB looks for workload analyses with unit costs and performance standards to justify requirements. The Justification narrative does contain a Probate Staffing Justification Table with quotas, task hours, and full-time equivalent (FTE) positions needed. However, the data are not explicitly tied to the probate performance measure targets or to the requested funding. The Program Change Justification Section also presents the estimated additional probate workload for FY 2008 and the FTEs needed to meet that workload. The discussion, however, fails to relate the additional funding and FTEs requested to the expected workload or targets.

The Real Estate Services narrative references OMB’s recommendation to “demonstrate that allocation decisions are tied explicitly to accomplishment of annual and long-term goals...” and states that the recommendation has been completed. However, we found neither a link between funds requested and targets nor complete measures. The measure “percent of title encumbrances requested during the reporting year that are completed by the end of the reporting year” is an output measure incorrectly identified in the Justification as an end outcome measure. It has a percentage target for FY 2009; the Justification does not discuss how funds are to be used to meet that target. Oddly, no performance goals exist for cadastral (boundary) surveys, lease compliance, or unresolved Indian rights activities, yet performance targets are presented in the Justification narrative.

...budget requests should be justified on the basis of resources needed to make planned progress toward the strategic goals.

— OMB Circular A-11, Section 220 (b)

It is apparent that budgeting for performance is not well understood and that it is applied only sporadically. For the most part, the budget is focused on the past, not the future. Our interviews with officials in the Central Office and several regional offices support this analysis. One official told us the budget is constructed by requesting funds to fill FTEs allocated. Another noted that, without meaningful performance measures, it is difficult to tie budget to performance. This official told us that distribution of funds among regions is based on criteria such as the number of trust land acres, number of allotted acres, number of approved transactions, etc. — none of which is forward-looking. Beyond creating performance measures and targets to which the budget can be linked, the first step in meeting OMB’s budget justification requirements is for Program officials to understand what a performance-based budget is, its value in managing a program, and how to develop one.

SUGGESTION 6

Hold budgeting workshops with managers at all levels to develop processes for linking budgeting with performance targets.

OMB RECOMMENDATION: Include transparent discussion of program efficiency in budget submission.

For a YES answer to Question 4.3, a program must explain improvements in efficiency or cost effectiveness over the previous year, in dollars where possible. The Program received a SMALL EXTENT answer on this question due to the completion and fielding of several handbooks that offered improved and standardized processes. However, the FY 2007 Budget Justification, cited in the evidence for Question 4.3, contained little information on efficiency improvements and none on dollar savings. We reviewed the FY 2009 Justification to assess the Program’s progress on OMB’s recommendation.

PART QUESTION 4.3

Does the program demonstrate improved efficiencies or cost effectiveness in achieving program goals each year? (This question received a SMALL EXTENT answer.)

In terms of meeting the OMB Circular A-11 requirement that budget submissions “. . . should highlight effectiveness and efficiency gains and how the agency has used or plans to use them,” we note that the lack of transparency remains. In the Justification, we found efficiency improvement figures of 75 percent and 80 percent in recordation time for conveyance title and encumbrance documents, respectively. These figures are

calculated based on FY 2005 data and indicate improvement over two years. We also found an instance in which an 85 percent decrease in average number of days for processing conveyance documents from start to finish reflected data spanning FYs 2004 to 2007. Not only is the stated 85 percent decrease nonresponsive to the FYs 2006-2007 period, its inclusion implies a greater improvement than the reality supports.

The time it takes to process conveyance documents is important efficiency information. If we calculate the reduction for the last 2 years reported (23 days in FY 2006 and 22 days in FY 2007), we see that Land Titles and Records had improved its start-to-finish processing time by 4.3 percent. Program managers would have improved transparency by making that calculation for the reader and clearly explaining what it means.

In another example, the Real Estate Services Section of the Justification listed a number of manuals the division had developed to standardize policy and practice but classified them as “recent accomplishments.” The classification leaves the reader to wonder if the manuals were completed in FY 2007 or in a previous year. Also, TAAMS, which consolidates agricultural leases and land titles in one database and automates lease invoicing and payments, is recognized as providing Real Estate Services with the capability to determine time and cost information, but the data are not presented.

The Deputy Director for Trust Services informed us that she can use TAAMS to determine how many encumbrances have been issued but not how many were requested or where the requests are in the process. She also told us that she is currently working with the TAAMS contractor to obtain additional information on encumbrances. BIA also plans to expand TAAMS to include mineral and other types of leases and to provide access to major partners, such as OHA. Because of these improvements, we believe the Program is well positioned to invest time and resources to determine what kind of performance data are needed to better manage and budget for performance.

SUGGESTION 7

Work with the data systems contractors to expand the type of performance data collected and reported to managers.

As stated previously, we found the Program’s Justification as a whole to be confusing and inconsistent. The managers of each subactivity provided different types of information, which was then plugged into the Indian Affairs budget. For example, Probate and Probate Backlog provided staffing justification based on workload; Land Titles and Records provided efficiency data but no staffing information at all. The Justification is clearly not the result of a coordinated, across-the-board planning and allocation effort.

To fare better on the Program’s budget questions in the next PART, Program managers could benefit from other programs’ best practices in developing a consistent and coordinated budget justification that clearly communicates how requested funding is to be used to meet performance targets. See the OSM Budget Justification at <http://www.osmre.gov/topic/budget/docs/FY09.pdf> for an excellent example of tying program performance to a budget request. OMB rated two of OSM’s three programs Effective and the third Moderately Effective in their PART reviews. All three received YES answers to PART Questions 2.7 and 4.3.

SUGGESTION 8

Require all Program subactivities to submit budget requests that comply with the requirements of OMB Circular A-11 Sections 51 (Budget Justification Materials) and 220 (Preparing and Submitting Performance Budgets).

INDEPENDENT PROGRAM EVALUATION

The overall objective of independent program evaluation is to determine a Program’s effectiveness in a more rigorous and comprehensive manner than the PART alone can do. While OMB did not offer a recommendation on independent evaluation, the Office does focus on the

effectiveness of a program as a whole. Specifically, the Program rated a NO answer on PART Question 2.6 and a SMALL EXTENT² on Question 4.5.

Program managers would be well-advised to address the need for independent evaluation to improve the Program's scores on the next PART. To meet OMB requirements, high quality evaluations of sufficient scope must be conducted by independent, unbiased parties on a regular basis. OMB, however, recognizes that not every program is amenable to a large-scale impact evaluation. In the case of the complex BIA Realty and Trust Program, it would be appropriate to conduct a set of evaluations that, together, fulfill the scope criterion, rather than to conduct one large evaluation.

When we asked the Deputy Director for Trust Services about developing a schedule for evaluations, she replied that OST does regular evaluations of the Program. To the contrary, the Acting Director of the OST Office of Trust Review and Audit (OTRA) told us that his Office conducts reviews of regions, LTROs, and tribes. OTRA makes sure that realty transactions dealing with trust lands meet the Code of Federal Regulations, DOI policies and procedures, and fiduciary standards.

Our review of the Indian Trust Examiners Guide and two OTRA trust examination reports revealed that, although comprehensive, the OTRA reviews do not meet OMB's scope requirement. The reports do address some activities within the Program's divisions, Real Estate Services, Probate, and, minimally, Land Titles and Records. They are, however, agency- and tribe-specific and do not rise to the Bureau level.

OTRA's trust examination work would provide a good starting point for evaluations that cover each of the Program's divisions or specific functions within those divisions — but on a national basis. For example, the need to provide customer service was mentioned by several interviewed officials. An evaluation of customer service needs, practices, and workload, as well as customer satisfaction, would provide valuable information to management.

SUGGESTION 9

Request assistance from OTRA on planning a series of regular, recurring evaluations that meet OMB's quality, scope, and independence criteria.

SUGGESTION 10

Build evaluation funding into future budget requests.

PART QUESTION 2.6

Are independent evaluations of sufficient scope and quality conducted on a regular basis or as needed to support program improvements and evaluate effectiveness and relevance to the problem, interest, or need?

PART QUESTION 4.5

Do independent evaluations of sufficient scope and quality indicate that the program is effective and achieving results? (This question received a SMALL EXTENT answer.)

² OMB gives partial credit for less than full performance. SMALL EXTENT indicates minimal performance; LARGE EXTENT indicates notable performance.

LAND FRACTIONATION

While land fractionation falls outside the PART process, it is a significant challenge for BIA and DOI and directly affects Program performance. We believe that if BIA can help slow down the rate of fractionation and consolidate ownership interests, Program efficiency will increase, as will economic benefits of the land to Indians.

Land fractionation arose out of a legal prohibition against Indian landowners subdividing trust lands. In reality, it breaks up trust lands into economically unviable and administratively costly units and negatively affects Indian landowners, tribes, and BIA.

Owners hold “undivided interests,” much like shares in a company, rather than individual parcels of land. With each new generation of owners, the economic benefit of land ownership declines through shrinking interests and an inability to use the land productively.

Figure 3 illustrates how control of an original allotment of 160 acres is diluted over six generations such that an individual owner would be unable to use the land because they hold 1/432 interest in the tract. The exponential growth in number of interests increases BIA’s administrative burden and its cost of tracking owners’ accounts and processing probates. According to the BIA Indian Land Consolidation Center, 225,000 owners have 3.2 million interests in over 10 million acres of land.

PART QUESTION 1.4

Is the Program design free of flaws that would limit the program’s effectiveness or efficiency?

To help address the problem posed by fractionation, BIA initiated a land consolidation pilot program in 1999 on three reservations in the Midwest Region. The pilot program demonstrated that owners were willing to sell their interests to the tribe and that DOI could acquire these interests at a reasonable cost. The consolidation of land under tribal ownership increased the capacity of the tribes to undertake economic development projects and generate income for members. DOI benefited from the reduction in the number of individual accounts and small dollar transactions.

Based on pilot program results, the Congress, through the American Indian Probate Reform Act of 2004 (AIPRA)³, authorized the Secretary of the Interior to acquire and consolidate fractionated land interests in the name of the tribe with jurisdiction over the land. DOI then established the Indian Land Consolidation Program (ILCP) to address the fractionation problem. By the end of September 2008, ILCP had acquired 393,282 individual interests and prevented the establishment of an estimated 804,924 new fractionated land interests over its 8-year life. As a result, the growth rate in the number of interests on 219 reservations declined from 12.9 percent to 4.8 percent. ILCP calculated that these purchases prevented an estimated 5,224 new Individual Indian Money accounts and 7,453 new probates. ILCP expended \$173 million over 8 years to save or avoid estimated future costs of over \$587 million.

³ Public Law 108-374.

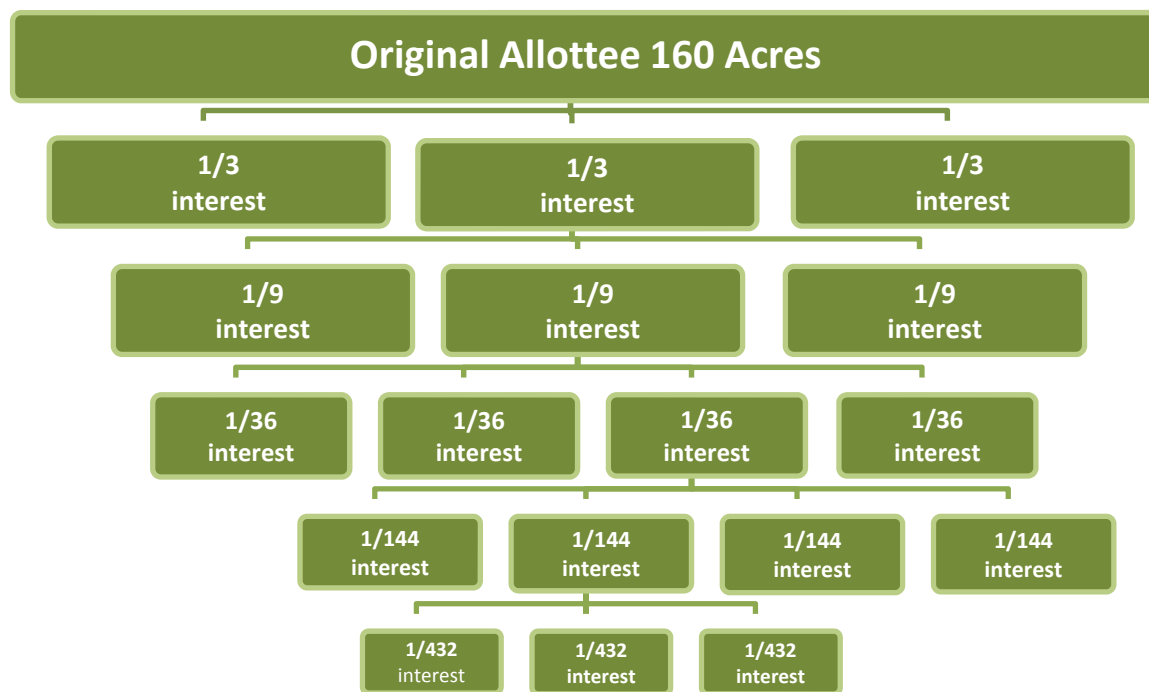


Figure 3. Representation of Land Fractionation

Despite these achievements, OST eliminated ILCP from its FY 2009 budget request. According to ILCP officials, OST decision-makers concluded that the ILCP's impact did not justify its costs.

PART QUESTION 4.3

Does the Program demonstrate improved efficiencies or cost effectiveness in achieving program goals each year? (This question received a SMALL EXTENT answer.)

The Congress also included estate planning provisions in AIPRA. Estate planning entails educating Indians on the benefits of writing wills. Use of wills would allow Indians to consolidate their land interests in one or a few specific heirs or to bequeath interest(s) back to the tribe with jurisdiction. Both options would avoid equal division among all eligible heirs through probate.

Finally, OST contracted with the Inter-Tribal Monitoring Association to consult with tribes and recommend alternative strategies for addressing fractionation to the Special Trustee by FY 2009.

SUGGESTION 11

Work with OST, tribes, tribal organizations, and other Indian-related organizations to develop and implement estate planning and educational strategies for slowing the rate of land fractionation.

Appendix A

History and Use of the PART

Planning and performance monitoring are required by law

In 1993, the Congress found federal managers to be “disadvantaged in their efforts to improve program efficiency and effectiveness, because of insufficient articulation of program goals and inadequate information on program performance.” The Government Performance and Results Act (Public Law 103-62), or GPRA, was passed to promote a focus on results by requiring federal agencies to engage in strategic planning and performance reporting.

Objectives and results of federal programs are assessed during budget formulation

The “President’s Management Agenda,” which includes a U.S. Government-wide initiative to improve budget and performance integration, was published in 2001. The Agenda calls for agencies to monitor program performance and to incorporate performance review into budgetary decision-making.

To support this initiative, the Office of Management and Budget (OMB) instituted a new activity within the context of budget formulation. OMB uses a standard questionnaire called the Program Assessment Rating Tool to engage federal programs in a review of program design, strategic planning, program management, and the achievement of results that demonstrate value for the taxpayer. Through the PART process, OMB rates programs as **Effective**, **Moderately Effective**, **Adequate**, or **Ineffective**. Alternatively, OMB deems programs that are unable to provide reliable performance information (thus precluding assignment of a program rating) **Results Not Demonstrated** and recommends establishment or improvement of mechanisms for performance measurement.

OMB has found that many DOI programs lack performance information

Of the 70 DOI programs assessed between 2002 and 2008, OMB rated only eight programs (11 percent) **Effective** and placed 13 programs (19 percent) in the category **Results Not Demonstrated**. DOI programs assessed through the PART process reflect over \$10 billion dollars in annual budget authority. Approximately one fifth of this spending is associated with programs that lack reliable performance information.

PART Ratings for DOI Programs, 2002-2008	Number of Programs	Percent of Programs
Effective	8	11
Moderately Effective	24	34
Adequate	25	36
Ineffective	0	0
Results Not Demonstrated	13	19
TOTAL	70	100

PART findings can be used to 1) justify termination or substantial curtailment of federal programs, 2) support legislative or fiscal enhancements, or 3) promote management improvements. OMB publishes PART results on its ExpectMore.gov Web site, together with recommended improvement actions for every program it has assessed. Agency officials and program managers are expected to follow up on these recommendations and to keep OMB, and ultimately the public, apprised of progress through updates of the information posted to ExpectMore.gov and through internal communications. OMB then reassesses programs on schedules developed in consultation with responsible agencies.

Appendix B

Sites Visited or Contacted

BIA Midwest Regional Office, Minneapolis, Minnesota
BIA Rocky Mountain Regional Office, Billings, Montana
Crow Indian Agency, Crow Agency, Montana
BIA Eastern Regional Office, Nashville, Tennessee
BIA Southwest Regional Office, Albuquerque, New Mexico
OST Office of Probate, Albuquerque, New Mexico
OST Office of Trust Review and Audit, Albuquerque, New Mexico
Indian Land Consolidation Center, Ashland, Wisconsin



OIG Staff Photo

Appendix C

Suggestions

<i>Number</i>	<i>Suggestion</i>	<i>Page</i>
Strategic Planning		
1	Initiate a Program-level planning process that includes regional managers, OHA, OST, the tribes, and other key partners.	5
2	Develop a full set of output and outcome measures for the Realty and Trust Program, including a) division-specific measures for processes that span more than one division to enable division managers to monitor their own staff members' performance and to identify potential roadblocks and b) region-specific measures, where appropriate, to encompass regions with distinctive activities.	8
3	Clarify the definition for the performance measure "percent of agriculture and range acres under lease where lease proceeds exceed administrative cost of the leased-acres base" to ensure that consistent data are collected from the regions.	8
4	Conduct a thorough review of probate performance data to ensure that accurate data are being provided to regional managers and reported to DOI, the Congress, and the Courts.	9
5	Provide written communications to regional managers and staff members that clearly define how the data are collected and the measures are calculated to ensure they are useful for improving performance.	9
Budget and Performance Integration		
6	Hold budgeting workshops with managers at all levels to develop processes for linking budgeting with performance targets.	12
7	Work with the data systems contractors to expand the type of performance data collected and reported to managers.	13
8	Require all Program subactivities to submit budget requests that comply with the requirements of OMB Circular A-11 Sections 51 (Budget Justification Materials) and 220 (Preparing and Submitting Performance Budgets).	13

<i>Number</i>	<i>Suggestion</i>	<i>Page</i>
Independent Program Evaluation		
9	Request assistance from OTRA on planning a series of regular, recurring evaluations that meet OMB's quality, scope, and independence criteria.	14
10	Build evaluation funding into future budget requests.	14
Land Fractionation		
11	Work with OST, tribes, tribal organizations, and other Indian-related organizations to develop and implement estate planning and educational strategies for slowing the rate of land fractionation.	17

Appendix D
Performance Goals and Measures
Mission Area: Serving Communities
End Outcome Goal: Fulfill Indian Fiduciary Trust Responsibilities

Intermediate Outcome Goals	DIVISION	PERFORMANCE MEASURE	Term	Type	2005 Actual	2006 Actual	2007 Actual	2008 Plan Target	2009 Budget Target	Long-term Target 2012
Ownership Information That is Accurate, Timely, and Reliable	Probate	Percent of estates closed ¹	Long-Term/Annual	Output	Unknown	58%	89% baseline	90% (87% actual)	95%	100%
	Probate	Percent of backlog cases closed during the reporting year ¹	Long-Term/Annual	Output	Unknown	55% baseline	52%	100%	100%	100%
	BIA/Real Estate Services	Percent of title encumbrances requested during the reporting year that are completed by the end of the reporting year ¹	Long-Term/Annual	Output	Unknown	Unknown	89% baseline	90%	95%	TBD
Cost-effective Lease Mgmt That is Accurate, Timely, and Reliable	BIA/Real Estate Services	Percent of agricultural and range acres under lease where lease proceeds exceed administrative cost of the leased acres base ¹	Long-Term/Annual	Efficiency	Unknown	68,022 ²	72% baseline	75% (88% actual)	80%	TBD
No Associated Intermediate Outcome Goal	BIA/Real Estate Services	Percent of eligible trust land acres that are under lease for agricultural use	Annual	Outcome	73% baseline	Unknown	72%	99%	100%	78%

¹Measure names and definitions were changed in FY 2007, resulting in new baselines.

²2007-2012 DOI Strategic Plan and FY 2008 PAR show this as an end outcome performance measure without an intermediate outcome goal.

Sources: 2006 PART, 2008 PAR, FY 2009 Budget Justification, 2007-2012 DOI Strategic Plan, PART Performance Measure Definitions

Appendix E

PART Questions That Elicited a NO Answer

Strategic Planning

PART Question 2.2. Does the program have ambitious targets and timeframes for its long-term measures?

PART Question 2.3. Does the program have a limited number of specific annual performance measures that can demonstrate progress toward achieving the program's long-term goals?

PART Question 2.4. Does the program have baselines and ambitious targets for its annual measures?

PART Question 4.1. Has the program demonstrated adequate progress in achieving its long-term performance goals?

PART Question 4.2. Does the program (including program partners) achieve its annual performance goals?

Budget and Performance Integration

PART Question 2.7. Are budget requests explicitly tied to accomplishment of the annual and long-term performance goals, and are the resource needs presented in a complete and transparent manner in the program's budget?

PART Question 4.3. Does the program demonstrate improved efficiencies or cost effectiveness in achieving program goals each year? (This question received a SMALL EXTENT answer.)

Independent Program Evaluation

PART Question 2.6. Are independent evaluations of sufficient scope and quality conducted on a regular basis or as needed to support program improvements and evaluate effectiveness and relevance to the problem, interest, or need?

PART Question 4.5. Do independent evaluations of sufficient scope and quality indicate that the program is effective and achieving results? (This question received a SMALL EXTENT answer.)

Land Fractionation

PART Question 1.4. Is the program design free of major flaws that would limit the program's effectiveness or efficiency?

PART Question 4.3. Does the program demonstrate improved efficiencies or cost effectiveness in achieving program goals each year? (This question received a SMALL EXTENT answer.)

Report Fraud, Waste, Abuse, and Mismanagement



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