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Department of the Interior
Management of Indian Affairs Records
within Selected Offices and Bureaus

Multiple-Agency Records Management Inspection Report

National Archives and Records Administration
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**DEPARTMENT OF THE INTERIOR
MANAGEMENT OF INDIAN AFFAIRS RECORDS
MULTIPLE-AGENCY RECORDS MANAGEMENT INSPECTION
INSPECTION REPORT**

INTRODUCTION

The National Archives and Records Administration (NARA) is responsible for assessing the proper management of records in all media within federal agencies to protect rights, assure government accountability, and preserve and make available records of enduring value.¹ In this capacity, and based on authority granted by 44 United States Code (U.S.C.) 2904(c)(7) and 2906, NARA inspects the records management (RM) programs of agencies to ensure compliance with federal statutes and regulations and to investigate specific issues or concerns. NARA then works with agencies to make improvements to their programs based on inspection findings and recommendations.

NARA conducted a multiple-agency inspection focusing on the records relating to Indian Affairs within the Department of the Interior (DOI). NARA selected this topic due to the historic importance and continuing value of the records. The inspection examined agency compliance with federal RM statutes and regulations and assessed the effectiveness of agency RM policies and procedures. In particular, it focused on the management of electronic records, with emphasis being placed on policies, strategic planning, training, and oversight. Additionally, it sought to identify practices of interest to the wider federal RM community.

The following DOI offices and bureaus were included in this inspection:

- Office of the Assistant Secretary-Indian Affairs (AS-IA)
- Bureau of Indian Affairs (BIA)
- Bureau of Indian Education (BIE)
- Bureau of Trust Funds Administration (BTFA)
 - Office of Trust Records (OTR)
 - American Indian Records Repository (AIRR)

The scope of the inspection included the management of federal records in the custody of these offices and bureaus. The inspection did not include a review of tribal records or tribal recordkeeping practices.

OVERVIEW OF KEY ASPECTS OF THE RM PROGRAMS

Current RM structure

¹ 44 U.S.C. Chapter 29, <https://www.archives.gov/about/laws/records-management.html>.

The Office of the Assistant Secretary for Indian Affairs (AS-IA) is at the Secretary level within the DOI. Under AS-IA, there are three bureau-level organizations:

- BIA
- BIE
- BTFA

The records management programs within AS-IA and the three bureaus are loosely coordinated, with AS-IA operating under the guidance of the DOI Office of the Secretary records officer (RO) who reports to the DOI department records officer (DRO). The three bureaus have a single agency records officer (ARO) who reports to the director of the Office of Trust Records (OTR) within the BTFA.² The BTFA employs records information management specialists (RIMSs) with training and oversight roles for records management in the 12 Indian Affairs (IA) regional offices and 83 agencies. Currently, there are sixteen RIMSs. Within their regions or agencies, the RIMSs coordinate the activities of records contacts (RC) who are responsible for the daily management of records including the creation of inventories and file plans. RCs report to program managers who ensure proper records management in their areas of oversight. (For specific areas of RM responsibilities, see Appendix A.)

The Significance of Indian Affairs Records

The management of Indian Affairs records reflects the complicated, often controversial, relationship between Indian tribes and the U.S. Government. United States Code Title 25 has covered Indian Affairs since codification in 1832 but also extends from the Indian Appropriations Act of 1883. There are currently 574 federally recognized tribes. The bureaus involved in this inspection have a significant impact on the lives and livelihoods of tribal communities. The records they retain document the interactions between the federal government and the Indian tribes.

The documentation of these interactions has been the subject of litigation that has affected how government offices and bureaus manage Indian Affairs records. The most well-known case was filed in 1996, when Elouise Cobell, a member of the Blackfoot Tribe, and four other Native American representatives filed a class-action lawsuit against two departments of the U.S. Government: the DOI and the Department of the Treasury. The plaintiffs claimed that the government had incorrectly accounted for income derived from Indian trust assets, which are legally owned by the U.S. Government but held in trust for individual Native Americans. In December 2009, a 3.4 billion dollar settlement was negotiated in favor of the plaintiffs. This case and others are very complex and deal with issues not necessarily related to records management. However, they have impacted how offices and bureaus within Indian Affairs define and manage Indian Affairs records, separating them into Indian fiduciary trust records (IFTR) managed by the Office of the Special Trustee (OST is now BTFA) and general trust records managed by BIA.

² The DOI designates AROs as responsible records officers (RRO) for bureaus and offices. This designation will be used throughout the report.

- **Indian Fiduciary Trust Records:** The BTFA was granted oversight of Indian trust fund management by the *American Indian Trust Management Reform Act of 1994* (Public Law (P.L.) 103-412) and maintains custody of certain trust asset records and finance system trust records.³ Collectively, these records are referred to as IFTR and include, but are not limited to, individual Indian monies in supervised accounts, natural resources, forestry management, probate and estate services, land buyback programs, or other assets held in trust by the Federal Government for a tribe, Alaskan Native, or individual.
- **General Trust Records:** While the BTFA assumed responsibility for the ITFR records, the BIA and the BIE continued to manage general trust records or Indian service records. These records comprise the largest volume of Indian Affairs records and include tribal government records, legal records, and contracts that document federal interactions with tribes, Alaskan Natives, and individuals. The records can include a wide range of activities from social service actions to education records. Examples of records included in general trust records are environmental records, law enforcement records, court records and student files.

Due to the importance of Indian Affairs records, in 2003 NARA and the DOI agreed to the establishment of the American Indian Records Repository (AIRR) to house, service and manage Indian Affairs records as well as preserve indigenous knowledge.

FINDINGS AND RECOMMENDATIONS

The findings and recommendations in this report are intended to support the changes that are taking place within the offices and bureaus that comprise the DOI/AS-IA with the maturation of the BTFA and the BIE as separate bureaus, as well as the transition from the management of records in analog formats to electronic or digital formats. The failure to capture, maintain, and disposition records properly entails significant risk to the DOI, particularly to the government's reputation concerning the handling of Indian Affairs records. The following findings and recommendations are directed at the management of the entire body of Indian Affairs records within AS-IA and the bureaus that participated in this inspection.

Program Administration

Finding 1: The Indian Affairs records are not effectively managed due to poorly defined lines of authority.

There are several Code of Federal Regulations (CFR) addressing the effective management of federal records.

- 36 CFR 1220.34(a) requires agencies to assign records management responsibility to a person and office with appropriate authority within the agency to coordinate and oversee implementation of the agency's comprehensive records management program.

³ <https://www.congress.gov/103/statute/STATUTE-108/STATUTE-108-Pg4239.pdf>

- 36 CFR 1220.34(c) requires agencies to issue a directive(s) establishing program objectives, responsibilities, and authorities for the creation, maintenance, and disposition of agency records.
- 36 CFR 1220.34(d) requires agencies to assign records management responsibilities in each program and administrative area.
- 36 CFR 1222.24(a)(7) requires agencies to define the special recordkeeping responsibilities of program managers, information technology staff, systems administrators, and the general recordkeeping responsibilities of all agency employees.
- 36 CFR 1222.34(c) requires agencies to assign responsibilities for maintenance of records in all formats within each agency component, including designation of the officials that are responsible for maintenance and disposition of electronic records and management of automated systems used for recordkeeping.

While there are elements that meet federal record management regulations within the offices and bureaus inspected, there are inadequately defined roles and responsibilities and little coordination between them which is contributing to programmatic confusion and ineffective management of the Indian Affairs RM program.

Overlapping manuals and delegations of authority contribute to the confusion. For example, the 2009 DOI 110 DM (Departmental Manual) 26, *Office of the Special Trustee (OST) for American Indians*, assigned the OTR director responsibility to manage the records programs of AS-IA, the BIA, the BIE, and the OST (BTFA).⁴ This is inconsistent with recent updates to DOI 380 DM 1, *Records Management Program Roles and Responsibilities*, which states that the heads of bureaus maintain active records management programs for their organizations and appoint responsible records officers (RRO) to oversee their operation.⁵

Inconsistencies between 110 DM 26 and 380 DM 1 have placed the OTR director and the BTFA in the difficult position of attempting to overlay a management structure on Indian Affairs records without the full integration of AS-IA, the BIA, and the BIE.⁶ Currently the BTFA exercises its responsibilities via the mechanism of a memorandum of understanding (MOU) in which the OTR provides policy and technical guidance to the BIA while maintaining its focus on IFTR. For its part, the BIA agrees to implement the OTR policies, but no clear line of authority between the two bureaus is delineated other than the fact the BIA will support the development of a list of records contacts in the field. AS-IA and the BIE are not part of the MOU, and their relationship with the BTFA and the BIA remains poorly defined.

Additionally, it was found that while the BTFA maintained a strong program for the

⁴ <https://www.doi.gov/document-library/departmental-manual/110-dm-26-office-special-trustee-american-indians>.

⁵ <https://www.doi.gov/document-library/departmental-manual/380-dm-1-records-management-program-roles-and-responsibilities>.

⁶ 110 DM 26 was approved in 2009 without integration with the prior version of 380 DM 1 which was in force from 1993 to 2022.

management of IFTR, less emphasis was placed on the management of records held by AS-IA, the BIA and the BIE. Regardless of legal requirements, statutes, definitions or emphasis, all Indian Affairs records must be managed in equal measure according to federal records regulations. Achievement of this goal will require Indian Affairs offices and bureaus to create mutually agreed upon policies, procedures and strategies that clearly define authorities, roles and responsibilities and eliminate overlap and conflicts.

Recommendation 1.1: Under the direction of the Assistant Secretary of the Interior for Indian Affairs, the offices and bureaus must issue policy guidance for the management of Indian Affairs records that resolves inconsistencies between 110 DM 26 and 380 DM 1. (36 CFR 1220.34(a-c))

Recommendation 1.2: Indian Affairs offices and bureaus must create mutually agreed upon roles and responsibilities that identify which office or bureau staff are to carry out specific RM program activities. (36 CFR 1222.24(a)(7) and 36 CFR 1222.34(c))

Finding 2: Records management policies are inconsistent, outdated or in draft form and are difficult to apply without a coordinating authority for policy development or implementation.

36 CFR Chapter XII, Subchapter B has several provisions that specifically require agencies to issue RM directives and policies. Policies and guidance provide the foundation for any RM program and determine how records, including permanent records, are to be handled. They provide guidance on what, where, and how those records should be created and maintained. They also outline responsibilities for staff, including senior leadership, the Senior Agency Official for Records Management (SAORM), ARO/RRO, and anyone creating and/or maintaining records for the agency.

Under 110 DM 26, the BTFA/OTR is responsible for creating RM policy and guidance for Indian Affairs. This responsibility is acknowledged by the BIA in the interagency MOU. Current policies are detailed in the Indian Affairs Records Management Manual (IARMM), which encompasses policies and procedures separated out by chapters and sections that were approved between 2009 and 2017. Several sections specifically indicate that they only apply to IFTR, without mentioning how general trust records are to be managed by the BIA and the BIE. In addition, many sections are outdated and do not reflect current federal requirements or best practices. For example, Chapter 7, Section 7.1 Electronic Records, approved in 2010, still requires staff to print and file email while updates to DOI print and file policies issued in 2018 have not been incorporated into the IARMM.

There have been numerous efforts to update or supersede the IARMM. In 2020, the BTFA director approved the BTFA-003, *Records and Information Management Policy*, which lists roles and responsibilities, but does not address records management policies for IA. Concurrent efforts to update sections of the IARMM with newer policies have been delayed. A revised path forward needs to be developed. In many cases, appropriate stakeholders have not been included in the work while suggestions and drafts forwarded by RIMs have not been taken up or acted on.

Currently, there are sixteen policy actions in draft status, including a more inclusive update to BTFA-003, as well as numerous policies and procedures, with most dating from 2021. The delay in completing these actions have caused inconsistent management of Indian Affairs records. Some staff continue to follow the instructions given in the IARMM, including printing out electronic records, while others use a combination of approved and draft policies, as well as DOI RM policies.

Recommendation 2.1: Under the direction of the Assistant Secretary of the Interior for Indian Affairs and in coordination with the SAORM, the offices and bureaus must create and/or update policies and procedures to manage Indian Affairs records. (36 CFR 1220.34(c))

Recommendation 2.2: The Assistant Secretary of the Interior for Indian Affairs in coordination with the SAORM must delineate lines of authority, review, and signature related to policies and procedures for the management of Indian Affairs records. (36 CFR 1220.34(d))

Finding 3: The RRO is not recognized as having the authority to oversee implementation of records management policies for the three bureaus.

36 CFR 1220.34(a) requires agencies to assign records management responsibility to a person and office with appropriate authority within the agency to implement program principles, issue directives, and ensure incorporation of recordkeeping requirements and records maintenance, storage, and disposition practices.

There is a single RRO appointed for the BTFA, the BIA, and the BIE. The RRO is appointed to advise senior management of all aspects of the record and information management program, but there is no formal relationship between the position and other Indian Affairs offices and bureaus other than the above-mentioned MOU.⁷ The RRO reports to the OTR director but has no reporting responsibilities to the senior management in AS-IA, the BIA, and the BIE concerning records operations in their programs. There are limited interactions by the RRO concerning key programmatic issues such as planning, policy creation and procedures between offices and bureaus to engender a spirit of coordination and collaboration between AS-IA, the BIA, and the BIE. The designation of a RRO outside of a bureau requires additional management communications and buy-in to ensure a coordinated Indian Affairs records management program.

Additionally, duties assigned to the position by BTFA-003 do not allow for effective program oversight by the RRO with many program responsibilities assigned to the position by 380 DM 1 being absent or assigned to the OTR director.⁸ As a result there is confusion among staff in the field regarding the role of the RRO with limited or conflicting guidance from the BTFA or

⁷ 110 DM 26 authorized the creation of a Division of RM Policies, Procedures and Training. The chief of this division was to develop a department-wide records program for trust records and oversee operations in the field based on working agreements with other DOI/Indian Affairs offices and bureaus. The division was never established and the duties assigned to the chief to oversee RM across Indian Affairs were never assumed by the OTR director.

⁸ Section F of 380 DM 1 assigns RROs oversight of bureau records management programs in line with 36 CFR 1220.34(d).

Indian Affairs. Finally, while there is a records officer appointed for AS-IA in the office of the secretary, there is little coordination between that position and the RRO.

Recommendation 3.1: Under the direction of the Assistant Secretary of the Interior for Indian Affairs and in coordination with the DOI DRO, the offices and bureaus must resolve the conflicts between 110 DM 26 and 380 DM 1 and decide if designating separate RROs would more effectively meet the needs of the bureaus and better ensure compliance with RM statutes and regulations. (36 CFR 1220.30(c)(1))

Recommendation 3.2: Under the direction of the Assistant Secretary of the Interior for Indian Affairs, the offices and bureaus must issue a directive that designates the RRO(s) and gives the position(s) the authority needed to carry out their responsibilities. (36 CFR 1220.34(a))

Recommendation 3.3: The relationship between the AS-IA RO and the RRO(s) must be clearly defined through policy and procedure. (36 CFR 1220.34(a) and 36 CFR 1220.34(c))

Finding 4: RIMSs are responsible for very large areas with little or no authority over staff in the bureaus, or resources such as time, staff, and travel funding.

36 CFR 1220.34(d) requires agencies to assign staff to oversee records management in each program and administrative area to ensure recordkeeping requirements including records maintenance, storage, and disposition practices are implemented across agencies. 380 DM 1 directs the SAORM to provide budgetary and personnel resource guidance to heads of bureaus and offices to implement an efficient and effective departmental records program while bureau heads are charged with the responsibility to coordinate, review, and approve records management budgets.

The BTFA employs sixteen RIMSs to serve as liaisons with the other bureaus and offices. They report to the RRO and provide day-to-day records management assistance to BIA and BIE staff. Many of the RIMSs are responsible for large geographical areas covering several states. Some RIMSs are responsible for more than one region due to position vacancies. The RIMS assigned to the BIE is responsible for records management operations of the bureau across the entire country. It is not uncommon for a single RIMS to coordinate the records management activities of over 50 program offices with several handling over 100 offices.

Interviews with RIMSs indicated that the size and scope of their assignments undermines the effectiveness of their work. In addition, RIMSs are given few resources by the BTFA to oversee the implementation of records management programs in the regions and agencies under their direct oversight. One RIMS relies on travel funds provided by the BIA to make staff assistance visits to his assigned region. In many instances, RIMSs can only provide remote technical assistance to program staff or BIA records contacts. Persistent staffing vacancies in the regions and agencies hinder the proper management of records.

Compounding issues for RIMSs is the fact that most program records are still paper based, requiring the need for on-site assistance in many cases. Even where electronic records are concerned, because they are BTFA staff, RIMSs do not have access to BIA and BIE electronic

records files and systems due to inter-bureau information technology (IT) security restrictions and concerns.

Finally, due to the absence of policy coherence and resource utilization, RIMSs often operate independently of the OTR and each other. For instance, there is no coordinated manner in which file plans from the BIA/BIE records contacts are captured and managed by the RIMSs creating the situation in which the OTR and the ARO/RRO have limited knowledge of the true state of records management in program offices.

Recommendation 4.1: The DOI SAORM and bureaus must review records management staffing structures and other resources within Indian Affairs regions and agencies to determine appropriate program integration and lines of authority. (36 CFR 1220.34(d))

Finding 5: The Indian Affairs records schedules cannot be implemented and need to be updated to reflect current business practices.

36 CFR 1224.10(a)(c) requires agencies to schedule records, review them regularly and update them if necessary. 36 CFR 1225.22 describes circumstances when scheduled records need to be rescheduled and states that every five years, agencies must review all records schedules that are ten years old and older, based on the date that NARA approved the schedule.

An updated records schedule for Indian Affairs records is overdue. The existing schedules were created at the height of civil litigation in the 1990s and reflect the uncertain outcomes of those legal actions, with many records series that would normally be scheduled as temporary or covered by the General Records Schedule (GRS) being designated as permanent records. Currently, over 600 records series and systems are scheduled as permanent. Many of these records need to be reviewed and evaluated for temporary retention.

A secondary reason for the development of new schedules is that the disposition instructions of the current schedules state that legal transfers of permanent records will take place when “jointly agreed to by the DOI and NARA” or in accordance with a signed agreement to transfer records to NARA. This conflicts with 36 CFR 1225.14(3)(i) that requires agencies to specify a time period after which the records will be transferred to the National Archives. Under the current schedule language, there have been few efforts to review permanent records for transfer to NARA. Even the destruction of temporary records has been delayed due to litigation holds that freeze the disposition of the records.

These long-standing schedule issues and legal holds have resulted in the retention of over 330,000 cubic feet of records in AIRR. There are also estimates of between 140,000 to 400,000 cubic feet of records still stored in the field. AIRR itself has reached capacity and will either need to locate space elsewhere or expand in its current location. Either of these options is costly and could be mitigated with the resolution of the scheduling issues.

There have been efforts by the DOI and NARA to address the scheduling issues. The DOI has been working for over ten years on a departmental records schedule (DRS). The DRS is divided into business process or functional area chapters. Updates for the chapter on Indian Affairs,

including IFTR, are in draft and will require considerable consultation within the bureaus and with Indian Tribes. The OTR is working with NARA appraisal staff to update the chapter, but the project has encountered numerous difficulties that require high-level support and interest to overcome.

Recommendation 5: The DOI DRO, working with bureaus and offices responsible for Indian Affairs records, must finalize and submit to NARA updated Indian Affairs records schedules. (36 CFR 1224.10(a)(c), (36 CFR 1225.12(d), and 36 CFR 1225.14(3)(i))

Finding 6: Records management evaluations are not routinely conducted.

36 CFR 1220.34(j) requires agencies to conduct formal evaluations to measure the effectiveness of records management programs and practices, and to ensure that they comply with NARA regulations. Additionally, updates to 380 DM 1 now require RROs to conduct periodic evaluations of their records management programs to monitor compliance with applicable laws and NARA, department, and bureau regulations, policies, standards, and procedures.

IARMM section 5.1 (2015) specifies the method for records evaluations for the BTFA and the BIA, with the BTFA having responsibility for IFTR while the BIA assesses general trust records. Each entity is required to assess its records at scheduled intervals to ensure that:

- Records are being created, maintained, and dispositions met.
- Legal and financial rights are being protected.
- Effective management controls are in place.
- Safeguards against unauthorized removal or destruction are in place.
- There is compliance with the IARMM.

In line with its regulatory responsibilities to manage IFTR, the BTFA conducts recordkeeping audits of IA offices that create and maintain these records. These audits are conducted by the Division of Trust Evaluation and Review (DTER) on a rotating basis every three years. Audits include site visits, interviews, reports, findings, and corrective action plans that are reviewed by regional trust managers. Follow-up actions are acted on and tracked by regional offices in association with the assigned RIMSs. Completed actions are reported to DTER on a quarterly basis. This program is highly effective in reviewing and correcting issues with IFTR in the regions and received excellent management support within the BTFA. However, the reports are not forwarded to upper management in the DOI/Indian Affairs and are only available to other offices and bureaus upon request.

While DTER emphasizes the BTFA responsibilities for IFTR, there was less emphasis on the review of general trust records within Indian Affairs. Under the records management MOU with the BTFA, the BIA is responsible for conducting its own records assessments in accordance with the IARMM. These assessments are carried out by the Office of Information Management Technology (OIMT). In its oversight capacity, the OIMT does not conduct on-site assessments in accordance with IARMM 5.1.

With only two nominal RIMSs on staff, the OIMT has resorted to the issuance of remote records

management self-assessments rather than site visits. Assessments were conducted from 2016 to 2019 and were to include AS-IA, the BIA, and the BIE. The reception to these assessments was mixed, with many offices and agencies failing to respond to the surveys. In addition, there was no real enforcement mechanism for the findings and recommendations listed in the surveys and no management review of the results within the BIA or the DOI/Indian Affairs. Since 2019, no surveys have been conducted by the BIA effectively halting oversight of general trust records as agreed to in the MOU. This places the largest portion of Indian Affairs records at risk and the BTFA/BIA out of compliance with 380 DM 1 and 36 CFR 1220.34(j).

Recommendation 6.1: Under the direction of the Assistant Secretary of the Interior for Indian Affairs and in coordination with the DOI SAORM, the heads of each bureau must establish evaluation programs covering the entire body of Indian Affairs records. (36 CFR 1220.32(d) and 36 CFR 1220.34(j))

Recommendation 6.2: Each bureau must develop a procedure to compile evaluation results and provide a report to the DOI SAORM and other senior DOI/Indian Affairs leaders for review and action. (36 CFR 1220.32(d) and 36 CFR 1220.34(j))

Transition to Electronic Records Management

Finding 7: The Indian Affairs offices and bureaus continue to rely on analog records management processes and have no coordinated plan to transition to electronic records management.

36 CFR 1222.34(c) requires agencies to assign responsibilities to maintain records in all formats within each agency, including designation of the officials who are responsible for maintenance and disposition of electronic records and management of automated systems used for recordkeeping.

Office of Management and Budget (OMB) M-19-21, *Transition to Electronic Records* and M-23-07, *Update to Transition to Electronic Records*, requires that by June 30, 2024, federal agencies will manage records in an electronic format with appropriate metadata. Additionally, agencies are to manage temporary records in an electronic format or store them in commercial facilities.

There are specific circumstances for Indian Affairs to maintain certain analog records including legal records, policy documents and agreements with tribal partners. However, many offices in Indian Affairs adhere to outdated print and file policies to maintain their program records. This has resulted in the maintenance of large volumes of analog records in the field and a reluctance among bureau staff members interviewed to transition to electronic recordkeeping. As a result, the BTFA/OTR is expending considerable resources to manage analog records. Among the initiatives underway are the large-scale efforts to digitize permanent records through the work of the Digital Center for Excellence (DCE) at AIRR (see Noteworthy section). Additionally, there are intensive projects to inventory large volumes of analog records and transfer them to storage at AIRR or some other facility.

The BTFA is in the early stages of development of an electronic records management transition project (ERMTP). This will include a repository for images that are being captured by the DCE. The ERMTP will have a portal for access to digital images and is envisioned as a robust system that will interact with other electronic information systems (EIS) as well as utilize artificial intelligence capabilities to manage records. However, as the ERMTP is in its early stages, there has been minimal coordination with the DOI, AS-IA, the BIA, or the BIE about the full extent of its scope or IT requirements for the system.

The BTFA is developing an electronic records management transition project (ERMTP) as a repository for images that are being captured by the DCE. The ERMTP is a portal for access to digital images and is envisioned as a robust system that will interact with other electronic information systems (EIS) as well as utilize artificial intelligence capabilities to manage records. However, the ERMTP is in its early stages and there has been minimal coordination with the DOI, AS-IA, the BIA, or the BIE about the full extent of its scope or IT requirements for the system. With such a heavy focus on analog records, the development of electronic records policies and initiatives across Indian Affairs is minimal. There are few policies regarding the management of electronic records and limited activity to ensure that offices and bureaus are working to meet the OMB/NARA directives to transition to electronic recordkeeping. This contributes to inconsistencies in the management of electronic records by staff. In several cases, electronic records were being printed and then sent to AIRR where they are being digitized by staff at that facility.

While the OTR is given authority to direct the RM programs of IA by 110 DM 26, the same authority is not extended to IT management. There are no cooperative agreements between IA IT programs to coordinate or integrate recordkeeping requirements for structured and unstructured electronic records. For example, the associate chief information officer (ACIO) for the BTFA is developing the ERMTP to manage digital images and systems for Indian Affairs records; however, there was little or no awareness by the deputy ACIOs in the BIA and the BIE of plans for the system. In each case, the deputy ACIOs noted that significant changes to the IT infrastructure would be required to implement the ERMTP. These challenges will need to be addressed sooner rather than later if the ERMTP is to be the recordkeeping system for Indian Affairs.

The BTFA must coordinate the development of the ERMTP for Indian Affairs with the DOI, AS-IA, the BIA, and the BIE. Coordination between the offices and bureaus is required to achieve the transition to electronic recordkeeping. The following recommendations are designed to foster cooperation.

Recommendation 7.1: In coordination with the Director of OTR and the DOI DRO, each office and bureau must inventory and create file plans of Indian Affairs records with the purpose of transitioning to electronic recordkeeping (36 CFR 1222.26 and 36 CFR 1225.12(b))

Recommendation 7.2: In coordination with the Director of OTR and the DOI DRO, each office and bureau must develop a policy and procedure for Indian Affairs to manage unstructured electronic records. (36 CFR 1236.24(a))

Recommendation 7.3: In coordination with the Director of OTR and the DOI DRO, each office and bureau must develop training for the management of electronic records. (36 CFR 1220.34(f) and NARA Bulletin 2017-01)

NOTEWORTHY PRACTICES

There are noteworthy practices recognized by the inspection team. However, even here, NARA notes challenges that need to be addressed.

Digitization Center for Excellence (DCE)

36 CFR 1236.42 prescribes records management requirements for digitization projects. The procedures established by the OTR and AIRR for digitization are excellent. These include tracking, document preparation, metadata capture and image quality controls. The electronic system for capturing images and metadata, known as Gateway, is expandable for future integration and/or compatibility with other DOI document management. Gateway includes the current repository and index in an Azure environment. It was created within the BTFA as a homegrown system using Azure Tenet and Active Directory. Processes, while labor intensive, include removing staples, adding various explanatory targets (similar to microfilming processes) that are removed once scanning is completed and the files are ‘re-assembled’ to their original condition (except for staple, paperclips, etc.) The equipment is ‘top of the line’ and is calibrated daily. There are extensive image control and quality checks incorporated into the process. However, there are some challenges:

- The digitization process does not have an overall strategy to target what should be scanned in priority order. Currently, scanning is handled similar to scan-on-demand processes determined by reference or litigation needs.
- Digitization with the intent of being able to destroy the source records needs to be decided because the retention of both analog and digital media will be costly to the DOI.
- The DCE does not have dedicated archival staff to assist with the processing and conservation of permanent records.

36 CFR 1236.44 prescribes what documentation must be created when digitizing permanent source records. Once the DOI finalizes the update to Indian Affairs records schedules, the DCE will be able to determine which records are going to remain permanent. At that point they will need to consider how to create the documentation necessary under the regulations.

Individual RIMS maintenance of their RC Network

The RIMS and RC network on individual levels have various ways of keeping track of each other depending on size and location. Those interviewed all had a good understanding of their responsibilities and are responsive to the records management needs of their programs. Because records are largely maintained in permanent series and systems, there is little risk of unauthorized disposition. However, there are records being stored in questionable locations,

including poorly maintained buildings. Since these interviews were done virtually for this inspection, the team could not verify this information and cannot make any specific recommendations. NARA does believe it is necessary for the OTR to make all necessary efforts to verify this information and make recommendations to Indian Affairs and DOI leadership to ensure records are properly maintained. There is frequent communication between the RCs and RIMSs in each area, as well as between the ARO/RRO and RIMSs. The RIMSs conduct some evaluations and records management training where feasible based on resources.

American Indian Records Repository Policies and Procedures

The inspection included a site visit to AIRR located in Lenexa, Kansas. AIRR is well-managed with policies and procedures that meet the expectations of a records storage facility. Space management is handled well. The current tracking system uses older software, Versatile, that is pending integration and replacement with DCE's Gateway product. AIRR is strictly for internal DOI use for storage and records reference. There is a process for handling Freedom of Information Act requests (FOIA) and accommodating research requests. The majority of the usage is for litigation and FOIA response purposes. Most requests of this kind are handled by scanning the materials for use and returning the source records to the NARA Federal Records Center (FRC), which is co-located in Lenexa. Overall, it was found that AIRR was efficiently and effectively managed by the BTFA staff.

CONCLUSION

The records managed by the offices and bureaus included in this inspection are significant administratively, financially, legally, and historically. NARA recognizes the importance of the DOI's efforts to properly create and maintain Indian Affairs records and fulfill its trust responsibilities. It was found, however, that cooperation and coordination between AS-IA, the BIA, the BIE, and the BTFA for the management of these records is a primary concern. All records, whether trust, fiduciary trust, general trust, or program records must be managed with equal emphasis and in accordance with federal records regulations. The findings and recommendations in this report are made with the intent to encourage better communication and coordination between the offices, bureaus, and the department RM programs in anticipation that such actions will improve the overall management of Indian Affairs records. The improvements will in turn assist with the assurances required by Tribal governments that these records are being maintained in keeping with Indian Affairs and DOI trust responsibilities.

APPENDIX A
OVERVIEW OF RESPONSIBILITIES OF EACH INSPECTED AGENCY

NARA is providing feedback as a tool for agencies to focus on how the consolidated findings and recommendations documented in the report relate to each respective organization. NARA is also providing specific tactical areas of improvement for each agency. Agencies should view these as a starting point and not all-inclusive for improving respective RM components and processes.

OFFICE OF THE ASSISTANT SECRETARY FOR INDIAN AFFAIRS

Overview: The Office of the Assistant Secretary-Indian Affairs is headed by the Assistant Secretary for Indian Affairs. The Assistant Secretary-Indian Affairs assists the Secretary of the Interior in fulfilling the department's trust responsibilities to American Indian and Alaska Native tribes and individuals. The position of the Assistant Secretary-Indian Affairs is established under the authority contained in 43 U.S.C. 1453.

The Assistant Secretary discharges the duties of the Secretary with the authority and direct responsibility to:

- Strengthen the government-to-government/nation-to-nation relationship with American Indian and Alaska Native tribes.
- Advocate policies that support American Indian and Alaska Native self-determination and tribal sovereignty.
- Protect and preserve American Indian and Alaska Native trust assets held by the Federal Government for their benefit.
- Administer a wide array of laws, regulations, and functions relating to American Indian and Alaska Native tribes, individual American Indian and Alaska Native trust beneficiaries, tribal members, and Indian Affairs bureaus, offices, and programs that are vested in the Secretary by the President and the Congress of the United States.

Records Management Responsibilities for Indian Affairs Records: There is very little coordination between AS-IA and the three bureaus in records management matters. The AS-IA RO oversees the management of records at the Office the Secretary level which typically includes high level policy and planning records for Indian Affairs as a whole but has little interaction with the bureaus in Indian Affairs.

BUREAU OF TRUST FUND ADMINISTRATION

Overview: The BTFA manages the financial assets of American Indians and Alaska Natives held in trust by the Department of the Interior. In the late 1800s, Indian Tribes signed treaties with the U.S. Government. While terms varied, most treaties involved Tribes ceding title for their lands to the U.S. Government in exchange for protection, health care, education, permanent reservations, and sovereignty. In many cases, Tribes retained rights to resources and how they can be used on lands they ceded to the government, even when those lands extended beyond the borders of their reservations. These rights included drilling, grazing, hunting, mining, timber production, and other land uses through which companies make money.

Records Management Responsibilities for Indian Affairs Records: The BTFA was designated an independent bureau in 2020 to assume the responsibilities of the Office of the Special Trustee which was established by Congress in 1994 to manage Indian fiduciary trust records.

In 1998, the OST was given custody of certain trust fund records, individual Indian money records, and finance system trust records while the BIA retained custody of all other records. In 1999, the OTR was established within the OST and took responsibility for an increasing body of fiduciary trust records and established AIRR to house and service these records. Interagency agreements gave the BIA access to the records at AIRR. Today, AIRR houses over 300,000 cubic feet of records and is managed by the BTFA staff. The BIA and BIE records are also shipped to AIRR for storage.

As the OST/OTR responsibilities grew the office was given oversight of Indian Affairs records management including the maintenance of the IARMM outlines records keeping policies and procedures for bureau and trust bureau records management programs. At the bureau level, however, the BTFA is still concerned primarily with the oversight and management of fiduciary trust records, not their creation and maintenance.

BUREAU OF INDIAN AFFAIRS

Overview: Since its inception in 1824, the Bureau of Indian Affairs has been both a witness to and a principal player in the relationship between the Federal Government and Indian tribes and Alaska Native villages. The BIA has changed dramatically over the past 185 years, evolving as federal policies designed to subjugate and assimilate American Indians and Alaska Natives have changed to policies that promote Indian self-determination. The BIA carries out its core mission to serve 574 federally recognized tribes through four offices. The Office of Indian Services operates the BIA's general assistance, disaster relief, Indian child welfare, tribal government, Indian self-determination, and reservation roads programs. The Office of Justice Services directly operates or funds law enforcement, tribal courts, and detention facilities on federal Indian lands. The Office of Trust Services works with tribes and individual American Indians and Alaska Natives in the management of their trust lands, assets, and resources. Finally, the Office of Field Operations oversees 12 regional offices and 83 agencies which carry out the mission of the bureau at the tribal level.

Records Management Responsibilities for Indian Affairs Records: The BIA offices are responsible for the creation and maintenance of the majority of Indian records, fiduciary trust and general trust, on a daily basis. Utilizing program managers and records coordinators, the bureau is responsible for the tracking and maintenance of these records under the guidance of BTFA RIMSs. Established in 1824, the BIA is the oldest bureau and has over 4,000 Full-time Equivalent (FTE) staff and a budget of over 2.4 billion dollars. The bureau maintains custody of a large volume of legacy records in the field including administrative records, program records, fiduciary trust records, and general trust or Indian service records. The BIA has two specialists in the OIMT who function as RIMSs for the bureau but has no formal records management program and relies on BTFA RIMSs for technical support in its regions and agencies.

BUREAU OF INDIAN EDUCATION

Overview: There have been three major legislative actions that restructured the BIA with regard to educating American Indians since the Snyder Act of 1921. First, the Indian Reorganization Act of 1934 introduced the teaching of Indian history and culture in BIA schools (until then it had been federal policy to acculturate and assimilate Indian people by eradicating their tribal cultures through a boarding school system). Second, the Indian Self-Determination and Education Assistance Act of 1975 (P.L. 93-638) gave authority to federally recognized tribes to contract with the BIA for the operation of Bureau-funded schools and to determine education programs suitable for their children. The Education Amendments Act of 1978 (P.L. 95-561) and further technical amendments (P.L. 98-511, 99-99, and 100-297) provided funds directly to tribally operated schools, empowered Indian school boards, permitted local hiring of teachers and staff, and established a direct line of authority between the Education Director and the AS-IA.

Formerly known as the Office of Indian Education Programs, the BIE was renamed and established on August 29, 2006, to reflect the parallel purpose and organizational structure the BIE has in relation to other programs within the AS-IA. The BIE is headed by a director, who is responsible for the direction and management of all education functions, including the formation of policies and procedures, the supervision of all program activities, and the approval of the expenditure of funds appropriated for education functions.

Currently, the BIE has over 3,000 FTE and a budget of 1.4 billion dollars. The BIE maintains program and student records for over 45,000 students in 183 bureau schools with 57 being operated by the bureau while 126 are operated by the Indian tribes and Alaska Native villages. The BIE operates the schools and coordinates with the tribes to manage grants and funding for their school operations. The bureau also operates two universities, Haskell Indian Nations University and Southwestern Indian Polytechnic Institute.

Records Management Responsibilities for Indian Affairs Records: The BIE has no formal records management program and relies on the assistance of one BTFA RIMS to support their program across the nation. There is no agreement between the BTFA and the BIE for the integration of records management practices between the two bureaus.

APPENDIX B INSPECTION PROCESS

OBJECTIVE AND SCOPE

The objective of this inspection was to determine if the RM programs of the selected agencies and offices are in compliance with the Federal Records Act (44 U.S.C. Chapter 31); 44 U.S.C. Chapters 29, 33, and 35; 36 CFR Chapter XII, Subchapter B; and internal policies and procedures. This inspection focused on the development of RM policies and procedures in accordance with 36 CFR Chapter XII, Subchapter B, and their implementation by participating agencies and offices.

To determine the level of compliance we assessed the implementation of internal records management policies and procedures of AS-IA, the BIA, the BIE, and the BTFA. There was a particular emphasis on electronic records management and agency policies and procedures for transitioning to a fully electronic recordkeeping environment. NARA's inspection also focused on the implementation of agency records schedules and the digitization of permanent records by the BTFA at AIRR at Lenexa, Kansas.

METHODOLOGY

NARA carried out this inspection through a combination of document reviews, virtual interviews, and an on-site visit to AIRR. As part of this, we

- Reviewed RM policies, directives, and other documentation provided by the agencies.
- Used a detailed checklist of questions based on federal statutes and regulations, and NARA guidance.
- Reviewed responses to current and past annual Records Management Self-Assessments (RMSA), electronic records and email management reports, and Senior Agency Official for Records Management (SAORM) reports.

IA OFFICE AND BUREAU INTERVIEWS

- Department of the Interior Records Officer
- Department of the Interior Senior Official Records for RM
- AS-IA
 - Records Officer, Office of the Secretary of Interior
 - Indian Affairs Privacy Officer
- Designed Agency Records Officer for BTFA, BIA, BIE

- Bureau of Trust Funds Administration
 - Director of BTFA
 - Deputy Director of BTFA
 - Director and staff Office of Trust Records
 - Director and staff of American Indian Records Repository
- Bureau of Indian Affairs
 - Deputy Associate Chief Information Officer
 - Program Managers and Records Coordinators Eastern Region
 - Program Managers and Records Coordinators Eastern Oklahoma Region
 - Office of FOIA Coordinators
 - Office of Information Management Technology
- Bureau of Indian Education
 - Deputy Associate Chief Information Officer
 - Division of Education Technology Support Operations

APPENDIX C
RELEVANT INSPECTION DOCUMENTATION

Office of Management and Budget

Circular A-130, *Managing Information as a Strategic Resource*, 2016

Department of the Interior

110 DM 26, *Office of the Special Trustee for American Indians*, November 24, 2009

303 DM 6, *Indian Fiduciary Trust Records*, September 5, 2003

380 DM 1, *Records Management Program Roles and Responsibilities*, April 22, 2022

Departmental Records Management Guidebook, May 23, 2023

Office of the Secretary

Order 3197, *Establishment of the Office of Special Trustee for American Indians and Transfer of Trust Funds Management Functions from the Bureau of Indian Affairs*, February 9, 1996.

Order 3384, *Creation of the Bureau of Trust Funds Administration and Realignment of the Office of the Special Trustee for American Indians, Land Buy-Back Program for Tribal Nations, and Office of Historical Trust Accounting*, August 31, 2021.

Bureau of Trust Funds Administration

Indian Affairs Records Management Manual, Chapters 1-7, 2009-2015.

BTFA-003, *Records and Information Management Policy*, December 18, 2020.

Memorandum of Understanding between Office of Special Trustee for American Indians and Bureau of Indian Affairs, May 6, 2021.

United States Congress

Public Law 103-412, *American Indian Trust Fund Management Reform Act of 1994*, October 25, 1994.

The inspection team received and reviewed copies of the following documentation provided by each of the offices and bureaus, if applicable:

- Organizational charts
- RM policies, directives, manuals, standards, and other RM-related issuances
- Internal controls or guidance used to manage records
- Data/records management templates or other instruments used for managing the data/records lifecycle
- Agency records schedules
- Documentation of RM training
- Digitization authority and quality assurance standards
- Migration and metadata standards and practices in use for digital records
- Inspection, audit, or evaluation reports of RM records practices and any follow-up actions
- Notices of records freezes or holds
- Departing staff exit clearance procedures and/or checklist including senior executive staff, political appointees, and other senior agency officials

APPENDIX D
AUTHORITIES AND FOLLOW-UP ACTIONS

AUTHORITIES

- 44 U.S.C. Chapter 29
- 36 CFR Chapter XII, Subchapter B
- 36 CFR 1239, Program Assistance and Inspections

OTHER GUIDANCE

- OMB/NARA *Transition to Electronic Records* (M-19-21)
- OMB/NARA *Update to Transition to Electronic Records* (M-23-07)
- Other NARA Bulletins currently in effect - <https://www.archives.gov/records-mgmt/bulletins>

STATUTES AND REGULATIONS

36 CFR Chapter XII, Subchapter B, specifies policies for federal agencies' records management programs relating to proper records creation and maintenance, adequate documentation, and records disposition. The regulations in this Subchapter implement the provisions of 44 U.S.C. Chapters 21, 29, 31, and 33. NARA provides additional policy and guidance to agencies at its records management website - <http://www.archives.gov/records-mgmt/>.

At a high level, agency heads are responsible for ensuring several things, including:

- The adequate and proper documentation of agency activities (44 U.S.C. 3101);
- A program of management to ensure effective controls over the creation, maintenance, and use of records in the conduct of their current business (44 U.S.C. 3102(1)); and
- Compliance with NARA guidance and regulations, and compliance with other sections of the Federal Records Act that give NARA authority to promulgate guidance, regulations, and records disposition authority to federal agencies (44 U.S.C. 3102(2) and (3)).

FOLLOW-UP ACTIONS

The Assistant Secretary of the Interior for Indian Affairs will submit to NARA a Plan of Corrective Action (PoCA) that will address each applicable inspection report recommendation, including a timeline for completion and proposed progress reporting dates. The plan must be submitted within 60 days after the date of transmittal of the final report to the heads of the agencies.

NARA will analyze the adequacy of the PoCA, provide comments on the plan within 60 calendar days of receipt, and assist in implementing recommendations.

Progress reports on the implementation of their PoCA must be submitted to NARA until all actions are completed.

APPENDIX E
ACRONYMS AND ABBREVIATIONS

ACIO	Associate Chief Information Officer
AIRR	American Indian Records Repository
ARO	Agency Records Officer
AS-IA	Office of the Assistant Secretary-Indian Affairs
BIA	Bureau of Indian Affairs
BIE	Bureau of Indian Education
BTFA	Bureau of Trust Funds Administration
CFR	Code of Federal Regulations
DCE	Digital Center for Excellence
DM	Department Manual
DOI	Department of the Interior
DRO	Department Records Officer
DRS	Departmental Records Schedule
DTER	Division of Trust Evaluation and Review
EIS	Electronic Information Systems
ERMTP	Electronic Records Management Transition Project
FOIA	Freedom of Information Act
FTE	Full-time Equivalents
FRC	Federal Records Center
GRS	General Records Schedule
IA	Office of Indian Affairs
IARMM	Indian Affairs Records Management Manual
IFTR	Indian Fiduciary Trust Records
IT	Information Technology
MOU	Memorandum of Understanding
NARA	National Archives and Records Administration
OIMT	Office of Information Management Technology
OMB	Office of Management and Budget
OST	Office of the Special Trustee
OTR	Office of Trust Records
PoCA	Plan of Corrective Action
PL	Public Law
RC	Records Contact
RIMS	Records and Information Management Specialist
RM	Records Management
RMSA	Records Management Self-Assessment
RO	Records Officer
RRO	Responsible Records Officer
SAORM	Senior Agency Official for Records Management
U.S.C.	United States Code



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