

**Morris K. Udall and Stewart L. Udall Foundation
Plan for Agency Operations in the Absence of Appropriations (FY 2018)**

Background:

Mission:

In 1992, Congress created the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation (Udall Foundation).¹ In 1998, Congress amended the enabling legislation to create the U.S. Institute for Environmental Conflict Resolution as a program of the Udall Foundation.² Congress again modified the Udall Foundation’s enabling legislation in 2000, authorizing management and leadership training, assistance and resources for policy analysis and other appropriate activities related to Native American health care and tribal leadership.³ All of this authorizing legislation is codified at 20 U.S.C. §§ 5601-5609. Most recently, in 2009, Congress enacted legislation to recognize Stewart L. Udall through the Foundation, renaming it the Morris K. Udall and Stewart L. Udall Foundation.⁴

Organizational Structure

The Foundation is organized into two distinct program areas: education programs and the U.S. Institute for Environmental Conflict Resolution. Operations staff support both program areas. Each program area has a separate funding structure. As of October 1, 2018, the Udall Foundation is authorized 29 FTEs. As described in the sections below, the employees are funded either by annually appropriated funds, other than annually appropriated funds, or a mix of funding sources.

| Program | FTEs | Status | Treasury Account | Funding Type |
|---------------|-----------|--------|---------------------------------------|--------------|
| Education | 3 | Exempt | Trust Fund | no-year |
| U.S Institute | 17 | Exempt | Environmental Dispute Resolution Fund | no-year |
| Operations | 9 | Exempt | Shared by both accounts | no-year |
| | <u>29</u> | | | |

Education Programs

The Foundation is authorized to award scholarships, fellowships, internships and grants for educational purposes, as well as other programs necessary to perform its statutory purposes. These include:

- Scholarships for college undergraduates in two areas: 1) those who intend to pursue careers related to the environment and 2) Native Americans and Alaska Natives who intend to pursue careers in health care or tribal public policy.

¹ Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992, Public Law 102-259.

² Environmental Policy and Conflict Resolution Act of 1998, Public law 105-156

³ Omnibus Indian Advancement Act, Public Law 106-568, Section 817.

⁴ Public Law 111-90

- Internships, including awards to Native American and Alaska Natives, in federal, state and local agencies, or in offices of major public health or public policy organizations.
- Fellowships to graduate students pursuing advanced degrees in fields related to the environment and to outstanding Native American and Alaska native graduate students preparing for careers in health care and tribal public policy, including law and medicine.
- The Parks in Focus® Program, which connects youth from underserved communities to nature through photography.
- Allocation of not less than 20% of the current year’s interest earned from the Trust Fund (described more fully below) to the Udall Center for Studies in Public Policy at the University of Arizona to be used for various purposes including research on environmental policy, Native American and Alaska Native health care issues and tribal public policy issues.
- Native Nations Institute, which is housed at the University of Arizona and serves as a self-determination, development, and self-governance resource for indigenous peoples. It provides assistance to tribes that are facing constitutional issues, research and analysis regarding policy decisions in such areas as intergovernmental relations, natural resource management, development of strategy, law enforcement, cultural affairs and social services, and customized executive education to senior leaders and managers of the Native Nations.

The Foundation’s educational programs are funded by the interest earned from investment (by the Secretary of the Treasury) of the Morris K. Udall and Stewart L. Udall Foundation’s Fund (Trust Fund). 20 U.S.C. § 5606. The Trust Fund is discussed more fully below

The U.S. Institute for Environmental Conflict Resolution

The U.S. Institute for Environmental Conflict Resolution (U.S. Institute) provides collaboration and conflict resolution services such as assessment, mediation and training, to resolve environmental disputes involving the federal government. Congress has provided annual operating appropriations for the U.S. Institute every year since Fiscal Year 1999. The U.S. Institute is also authorized to collect and retain fees to reimburse the cost of the services it provides under the enabling legislation, which moneys (along with the annual appropriation) are deposited into the Environmental Disputes Resolution Fund (EDRF). 20 U.S.C. §§ 5607a and 5607b.

Financial Structure

The annual financial statements prepared by the Udall Foundation for OMB and Congress (and independently audited) combine the financial data for the Trust Fund and the EDRF. However, the Foundation’s annual appropriation designates funding separately for the Trust Fund and the U.S. Institute, and is deposited by the Department of the Treasury into the appropriate funds (the Trust Fund and the EDRF). Both Treasury accounts are designated as “no-year” funding, therefore available balances are carried forward year-to-year. In addition, the Secretary of the Treasury invests available

balances from both funds in Treasury obligations. Following is an explanation of how the moneys in those funds may be utilized to fund Foundation programs.

Education

Congress established the Morris K. Udall Trust Fund with an initial appropriation and has added to the Trust Fund with additional appropriations in subsequent years. Except as described above for the Native Nations Institute (NNI), the appropriations for the Trust Fund are added to principal and invested, and only the income may be used to fund the Foundation's educational programs. 20 U.S.C. §§ 5606, 5607 and 5609. The Foundation may also accept gifts to support its educational programs. 20 U.S.C. § 5608.

Since 2001, the Foundation has received Congressional authorization on an annual basis to transfer a portion of its appropriation for the Trust Fund to support the purposes of NNI. Typically, the Foundation Board of Trustees determines the transfer amount and the money is disbursed monthly to NNI to reimburse its actual, authorized expenses. A transfer in FY 2018 is contingent upon a Trust Fund appropriation and transfer authorization, both of which were included in the President's FY 2018 Budget. A lapse in appropriations for FY 2018 will delay the ability of the Board of Trustees to make such a transfer until an appropriation is provided.

U.S. Institute

U.S. Institute appropriations remain available until expended (that is, these are "no-year" funds) and are used for annual operations. 20 U.S.C. §§ 5607a and 5609. In addition to appropriations, the U.S. Institute collects fees, primarily from federal agencies via reimbursable inter-agency agreements, to reimburse the U.S. Institute for the services it provides. The Institute generally retains 20 - 30% of the amount received in fees in reimbursement for U.S. Institute staff hours expended; the remaining 70 - 80% is expended by contracting with private-sector neutrals to perform services on behalf of the Institute and its partners.

Plan for Agency Operations in the Absence of Appropriations:

Education

The Education Programs, including the salaries of the staff administering each program, are paid entirely from the interest generated by the Trust Fund, grants and gifts. As a result, an absence of appropriations for the upcoming 2018 fiscal year will not impact the operation of the Education Programs, other than NNI. The Foundation's education programs will continue normal operations because there will not be a gap in the available funding. The Foundation education programs are operated using approximately three (3) FTE positions. These three (3) positions are funded entirely from the Trust fund interest, including one Director of Education and two Program Managers. The personnel so funded are therefore "exempt" from furlough, and will continue to perform their Education Program functions; no "shut down" of Education Programs will be required. In addition, the interest income from the Trust Fund is used to fund a portion of the salary of several employees with Foundation-wide responsibilities, in proportion to their work on Education/U.S. Institute matters, as discussed further below.

Until there is an appropriation designated for NNI, there will be no funds to transfer to NNI in FY 2018. The NNI employees are not employees of the federal government, so a lapse in federal appropriations will not require the furlough of NNI's staff, and will not affect NNI operations except insofar as the failure to transfer might impact NNI's financial position.

U.S. Institute

As mentioned above, the U.S. Institute utilizes reimbursable inter-agency agreements for project work. There is a delay between the payment for services and reimbursement; therefore, carryforward funds are used to maintain a positive cash flow. In the absence of appropriations, the U.S. Institute will utilize carryforward funds (all no-year funding). These funds are sufficient to maintain normal operations for one month. The personnel so funded are therefore “exempt” from furlough, and will continue to perform their program functions; no “shut down” of Institute activities will be required for one month. The Institute is operated using approximately 17 FTE positions. These 17 positions are funded entirely from the EDRF.

If a lapse in funding is greater than one month, the Foundation will re-assess the ability to maintain normal operations to determine if less than 100% operational capacity is advised.

Positions funded by both Treasury Accounts

Nine Foundation positions are funded through a mix of the Foundation’s Trust Fund interest and EDRF, based upon the time they expend in each area. To ensure the continued smooth operation of Foundation operations, these positions will be authorized to continue work. The personnel so funded are therefore “exempt” from furlough, and will continue to perform their operational duties; no “shut down” of these activities will be required. If a lapse in funding is greater than one month, the Foundation will re-assess the ability to maintain normal operations to determine if less than 100% operational capacity is advised.

Designated contacts regarding the plan:

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