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Description of document: Bureau of Indian Affairs (BIA) Answers to Congressional Questions for the Record (QFR), 2018-2020

Requested date: 23-May-2020

Release date: 13-May-2021

Posted date: 26-December-2022

Source of document: FOIA Request
Assistant Secretary - Indian Affairs (ASIA)
1849 C Street, NW
Washington, DC 20240
Fax: (202) 208-6597
[FOIAonline](#)

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United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

May 13, 2021

IN REPLY REFER TO:
DOI-ASIA-2020-001270

The Indian Affairs FOIA office received your Freedom of Information Act (FOIA) request, dated May 23, 2020, and your request was assigned control number BIA-2020-00761 but recently changed due to the new Department of Interior logging system. Your new FOIA case control number is **DOI-ASIA-2020-001270**. Please cite this number in any future communications with our office regarding your request.

We are writing to respond to your request on behalf of the Office of Congressional and Legislative Affairs – Indian Affairs (OCLA-IA).

In your request you have requested the following: *“A copy of the Questions For the Record (QFR) and agency QFR responses to Congress responding to QFRs during calendar years 2017, 2018, 2019 and 2020 to date, for BIA. These records are likely found in the BIA office that handles legislative affairs/congressional relations.”*

We have attached a total of 79 pages, which are being released to you in their entirety and is a final release.

We do not bill requesters for FOIA processing fees when their fees are less than \$50.00, because the cost of collection would be greater than the fee collected. *See 43 CFR § 2.37(g).* Therefore, there is no billable fee for the processing of this request.

If you have any questions about our response to your request, you may contact Justin Davis by phone at 202-513-7707, by email at as-ia_foia@bia.gov or by mail at 1849 C Street, NW, Office 4146 MIB, Washington, DC 20240.

Sincerely,

JUSTIN
DAVIS

Digitally signed
by JUSTIN DAVIS
Date: 2021.05.13
11:39:49 -04'00'

Justin Davis
FOIA Officer
Assistant Secretary – Indian Affairs



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

The Honorable John Hoeven
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

OCT - 7 2019

Dear Chairman Hoeven:

Enclosed are responses to the follow-up questions from the May 8, 2019, oversight hearing entitled "The President's FY2020 Budget Request for Indian Programs" before your Committee. These responses were prepared by the Bureau of Indian Affairs.

Thank you for the opportunity to respond to you on this matter.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Tom Udall
Vice Chairman

Questions from Vice-Chairman Udall

Bureau of Land Management Leasing

- 1) Earlier this year, the Bureau of Land Management (BLM) conducted a series of public meetings in Alaska and D.C. related to the environmental impact statement to drill in the Arctic National Wildlife Refuge. Reports from several of the meetings cast doubt on whether BLM had conducted meaningful consultation with Alaska Natives. Many of the hearings, including the one in Fairbanks, were scheduled with just five days advanced notice. Further, the hearing in Fairbanks did not have a translator present for comments in Iñupiaq and Gwich'in, and did not translate the information given by BLM.
- a) **Please describe the involvement of the Office of the Assistant Secretary for Indian Affairs and the Bureau of Indian Affairs in developing, conducting, or participating in the public meetings.**

Response: The Assistant Secretary – Indian Affairs (AS-IA) and her staff were not involved with the BLM consultations. The Bureau of Indian Affairs provided funding to Tribes for the purpose of translating portions of the BLM's Draft Coastal Plain Leasing Environmental Impact Statement into the Gwich'in language to aid Gwich'in communities' participation in public meetings and tribal consultations regarding the development of the Statement.

- b) **Please describe how the public meetings complied with the Department's guidance that requires Interior, through the Assistant Secretary for Indian Affairs, to consult with Alaska Native Corporations on any matter that has a substantial direct effect on them.**

Response: The Department's policy on consultation applies to all bureaus and offices independently; there is no requirement for each to consult through AS-IA. The Assistant Secretary - Land and Minerals, and BLM, consulted with regional ANCSA corporation Arctic Slope Regional Corporation and village ANCSA corporation Kaktovik Inupiat Corporation, as well as several tribes, throughout BLM's development of the environmental impact statement. In addition, while the BLM was the lead agency in the program review, cooperating agencies included the North Slope Borough, the Native Villages of Kaktovik and Venetie Tribal Government, the Venetie Village Council, and the Arctic Village Council.

Budgetary Certainty

- 2) As discussed at the hearing, the recent partial government shutdown had an acutely negative impact on Tribes and Native communities. I understand that you sent out a Dear Tribal Leader letter asking for feedback to document these impacts.
- a) **Please provide a copy of the referenced Dear Tribal Leader letter for the record.**

Response: Attached hereto as Appendix A and Appendix B.

b) Please summarize any and all responses to the letter the Department has received so far.

Response: To date, the Department has received 13 responses to our Tribal Leader letters regarding the lapse in appropriations. The general concerns raised were lack of communication and updates from BIA during the appropriations lapse; the curtailment of services and freezing of available funding streams from BIE; delays in issuing permits, processing 93-638 contracts, and conducting environmental impact studies.

Tribes were also concerned that the appropriations lapse caused grant programs to fall behind in deliverables, hiring freezes, suspension of travel and inability to participate in important planning meetings, financial hardship and disruption of vital health and public safety services, and overall inability to connect and communicate with federal staff due to the furlough.

Climate Change

- 3) The Department has a responsibility to Tribes to protect trust lands, trust resources, and treaty hunting, fishing, and subsistence rights. Protecting and enhancing healthy and resilient ecosystems that are particularly vulnerable to climate change is integral to ensuring the Department is able to fulfill these responsibilities. But for the third year in a row, the President's budget proposes to eliminate funding for the Tribal Climate Resilience program, which provides Tribes with direct funding to develop science-based information and create decision support tools to enable adaptive resource management. The program also bolsters Tribal ability to plan for climate resilience, provides for nationwide training in climate adaptation planning, Tribal capacity building, and regional science outreach.

How would eliminating funding for programs, like the Tribal Climate Resilience program, ensure Tribes have resources to address the impacts of climate change?

Response: Previous funding from the Tribal Climate Resilience Program was used for adaptation planning, training, technical support, and capacity-building. The Department chose to direct funding to improve Tribes' ability to plan for actions, such as housing relocation and improved fisheries and natural resources management, that can mitigate actual impacts to tribal communities.

Irrigation Projects

- 4) BIA administers 17 Indian irrigation projects that provide irrigation water to over 780,000 acres, through over 6,300 miles of canals and more than 52,000 irrigation structures, with receipt fund revenues of over \$35 million. These projects are vital economic contributors for Tribes, collectively producing in excess of \$960 million in gross crop revenues annually. However, most Indian irrigation project facilities are approximately 100 years old and in need of major capital improvements. Several critical structures are in such poor condition that their long-term viability to deliver irrigation water is in question. Nevertheless, the President's Budget Request would cut funding for natural resource management construction, which

includes line items for irrigation projects and dam safety, from \$71.2 million to \$36.1 million (49%). **Please provide a justification for these cuts in light of the estimated need and age of Indian irrigation systems administered by the BIA.**

Response: The Resource Management Construction funds address critical deferred maintenance and construction work on BIA owned and operated irrigation facilities, with an emphasis placed on infrastructure rehabilitation that addresses health and safety concerns for Indian Affairs (IA) employees and the public. The funds also address dam safety on Indian lands by reducing the potential for loss of human life and property damage caused by dam failure by making IA dams as safe as practically possible.

With the proposed funding level, the Irrigation program will continue to prioritize and fund rehabilitation of structures.

The program will also be able to support basic program functions, including expenses related to Central Office, Regional, and Agency staffing, Early Warning System support and maintenance, Emergency Action Plan updating and exercising and scheduled dam inspections and risk analyses.

Arctic National Wildlife Refuge

- 5) During your confirmation process, I voiced concerns relating to your potential involvement in decisions that would benefit the Arctic Slope Regional Corporation (Corporation), of which you are a former executive and ongoing birthright shareholder. You committed to recuse yourself from participating in particular matters at the Department of the Interior, to which the Corporation is a specific party, including Interior's work to open the Coastal Plain of Arctic National Wildlife Refuge to oil and gas drilling.
- a) **Since being confirmed, have you participated in any meetings with the Corporation? If yes, please provide a list of meeting dates, attendees, and topics, along with the written waiver authorizing your participation. If no, please identify the individual delegated the responsibility to oversee the consultation and provide a brief description of their involvement.**

Response: Since confirmation, I have not participated in any meetings related to the Arctic National Wildlife Refuge (ANWR) or the Corporation's interest in ANWR. During my time as Assistant Secretary, when accepting meetings with Alaska tribes and organizations with which I am affiliated, I have always ensured that such meetings are not in violation of and are consistent with my ethics agreement. *See attached as Appendix C.*

- b) **Since being confirmed, have you participated in any meetings or decision making related to either seismic permitting in the Arctic Refuge or the leasing program in the Coastal Plain? Again, if yes, please provide a list of meeting dates, attendees, and topics.**

Response: No. During my time as the Assistant Secretary, I have not participated in any

meetings or decision making regarding these issues.

Bears Ears National Monument Advisory Committee

- 6) Secretary Bernhardt recently appointed members to the Bears Ears National Monument Advisory Committee. The proclamation and the Federal Advisory Committee Act requires the committee to be composed of a "fair and balanced representation of interested stakeholders." Yet, the appointments appear to reflect an effort to select individuals opposed to the very existence of the monument about which they are charged with advising. The committee ignores the official position of San Juan County by including the only county commissioner who opposed the original monument designation. It also ignores the unanimous position of the five sovereign tribal nations of the Bears Ears Inter-Tribal Coalition and instead selected two monument opponents to represent "Tribal concerns."
- a) **Were you consulted in appointing the committee or play a role in advising Secretary Bernhardt, or others involved in the appointments? If yes, how did you advise the Secretary or others on this decision?**

Response: The Department engaged in meaningful dialogue regarding the Bears Ears National Monument Advisory Committee. These efforts were coordinated by the Secretary.

- b) **As Assistant Secretary, do you believe a committee stacked with anti-monument voices that ignores the unanimous position of five sovereign tribal nations is "fair and balanced?" Did you advocate against placing representatives opposed to the position of the Bears Ears Inter-Tribal Coalition on the committee?**

Response: In recognition of the importance of tribal participation in the management of the monument and to ensure tribal expertise and traditional and historical knowledge are taken into account, Proclamation 9558, as modified by Proclamation 9681, provides American Indian Tribes specific opportunities to provide input on the management of Bears Ears National Monument, including participating in the Shash Jáa Commission. Additionally, the proposed Monument Management Plans have been developed with Tribal input through government-to-government consultation. These plans include a specific American Indian Tribal Collaboration Framework to ensure that interested American Indian Tribes and the Shash Jáa commission continue to have opportunities to make contributions to inform decisions regarding the management of the monument in the future.

Questions from Sen. Cortez Masto

1. In your testimony, you highlighted the importance of the Bureau of Indian Affairs (BIA) law enforcement programs that directly serve American Indians and Alaska Natives, particularly when it comes to addressing the crisis of missing and murdered American Indians and Alaska Natives. You also highlighted the White House proclamation, “Missing and Murdered American Indians and Alaska Natives Awareness Day, 2019,” as an indication of the administration’s focus on the issue of violent crime in Indian Country. In the proclamation, President Trump states, “we are improving public safety, we are expanding funding and training opportunities for law enforcement in Indian country, and we are better equipping them with tools like access to criminal databases.”¹ However, the Department of the Interior’s BIA law enforcement funding requests have remained roughly the same in recent years.² Additionally, in response to Senator Tester’s questions during the hearing as to whether the President’s budget provides adequate funding levels to hire the law enforcement that’s needed in Indian country, you responded that due to budget constraints BIA would only be maintaining current operations.

- a) **Do you believe that law enforcement priorities, specifically the crisis of missing and murdered American Indians and Alaska Natives, can be properly addressed by maintaining current funding levels at BIA?**

Response: Current funding levels do support all law enforcement priorities, including the on-going missing and murdered investigations. The Administration’s fiscal year 2020 budget proposal includes \$409.2 million for Public Safety and Justice Activities, of which \$376.7 million directly supports 191 law enforcement programs and 96 corrections programs run both by tribes and as direct services. The 2020 budget includes an increase of \$2.5 million to address the opioid crisis, an Administration priority, in Indian Country. This initiative will expand BIA’s capacity to address the increase in drug-related activities through interdiction programs to reduce drug use, distribution, and drug-related crime and supports OJS participation in intra- and inter-agency initiatives targeting opioid and substance abuse prevention efforts. The budget request also includes \$22.3 million for Tribal Justice Support Programs, which include VAWA training and implementation strategies critical to the protection of women in Indian communities.

- b) **To what “expanded funding” does the White House proclamation refer?**

Response: As noted in the previous response, the Administration’s fiscal year 2020 budget proposal includes \$409.2 million for Public Safety and Justice Activities, of which \$376.7 million directly supports 191 law enforcement programs and 96 corrections programs run both by tribes and as direct services. The budget request

¹ <https://www.whitehouse.gov/presidential-actions/missing-murdered-american-indians-alaska-natives-awareness-day-2019/>

² https://www.doi.gov/sites/doi.gov/files/uploads/2020_highlights_book.pdf

May 8, 2019

also includes an increase of \$2.5 million to expand capacity and address the opioid crisis, an Administration priority, in Indian Country.

c) To what "expanded training opportunities" does the White House proclamation refer?

Response: Through BIA OJS, in January 2018, the BIA Indian Police Academy (BIA-IPA) began discussions with the National Criminal Justice Training Center (NCJTC) on collaborating to create joint training programs for cold case investigations, long-term missing investigations, and child abduction investigations for use throughout Indian Country. BIA OJS continues to assess the need for greater training opportunities in the northern tier states to better support Indian Country Officers and Agents.

BIA-IPA also launched human trafficking courses in the Indian Country Police Officer Training Program; the Basic Police Officer Bridge Training Program; and the Indian Country Criminal Investigator Training Program (a joint FBI, BIA, and Tribal attended program). The NCJTC and BIA-IPA conducted three pilot training programs on Advanced Cold Case Long Term Missing Investigations in Montana and North Dakota, which trained a total of 117 personnel. The joint training effort has also provided additional missing persons training to tribes in Montana (Fort Peck), North Dakota (United Tribes Technical College), Arizona (Fort McDowell), and Michigan (Lac View Desert).

d) Please detail any plans or requests the White House has made to expand funding and training opportunities for law enforcement in Indian country.

Response: In addition to the expanded training opportunities listed above in c), the increase in funding to expand capacity and address the opioid crisis in Indian Country has allowed over 40 Opioid Community Awareness events and trained over 700 tribal community and service providers throughout Indian Country. OJS also trained over 600 Indian Country law enforcement officers in Opioid identification and enforcement.

e) How will you ensure that law enforcement efforts to aid the American Indian and Alaska Native community are not impeded by a lack of funding and resources?

Response: The Department always works hard to provide public safety in Indian Country. The Department will continue to use current and future funding to provide the best public safety services possible. Appropriated amounts do not change the goals and mission of the Department. Programs will continue to find ways to collaborate with other agencies and partners to maximize our efforts.

2. The White House proclamation states that federal agencies have established "improved protocols based on our government-to-government relations with the tribes, and have become more transparent and accountable in our efforts."

- a) Please provide these improved protocols and documentation of all of the federal agencies that were involved in their creation.**

Response: The Department cannot speak to the protocols of the other federal agencies, but the Department has improved protocols on responding to missing person cases after receiving feedback from tribal leaders and community members. These efforts are demonstrated by the installation of Tribal Access Program for National Crime Information kiosks and better communication with DOJ and U.S. Attorneys regarding prosecutions.

- b) Please describe the steps that were taken to coordinate with and receive input directly from the American Indian and Alaska Native community on the creation of these improved protocols. Please provide documentation of the tribal consultation process.**

Response: Indian Affairs has held listening sessions at major tribal events to hear from Tribal leaders on public safety issues, the most recent of which was in Farmington, NM. BIA OJS held the inaugural Indian Country Public Safety Summit where the Administration brought together federal resource partners and Tribal leaders from around the country to discuss Indian Country public safety. On the first day, federal partners discussed resources available to Tribes, and how to access them. On the second day, Tribal leaders, Tribal Chiefs of Police, and Tribal judicial staff discussed their public safety needs and ideas on moving forward.

- c) Please describe the steps that were taken to "become more transparent and accountable" in these efforts.**

Response: The Department consistently works to improve our level of communication with Tribes. The Department conducts face-to-face meetings with Tribes to discuss actions and programs, which allows the Department to receive relevant information and feedback from Tribal Leaders. This process promotes greater programmatic transparency and allows Tribal Leaders to hold programs more accountable for services.

3. The White House proclamation states that the Attorney General has "developed a working group dedicated to addressing violent crime in Indian country." Does the Department of Interior have any involvement in this working group?

Response: At the White House's direction, the Departments of Justice (DOJ), the Department of the Interior, including the BIA, and the Department of Health and Human Services are all collaborating on a cross-agency effort to address this important problem. Moreover, at DOJ, the U.S. Attorney community has initiated work through the Attorney

General’s Native American Issues Subcommittee to identify priorities related to reducing violent crime in Indian Country, including missing and murdered Indigenous women.

a) If so, please provide a list of members of the working group.

Response: Because the Attorney General’s Native American Issues Subcommittee is housed within DOJ, the Department defers to DOJ for additional details about the Subcommittee.

b) If so, please detail the mission, duties, and responsibilities of the working group.

Response: Because the Attorney General’s Native American Issues Subcommittee is housed within DOJ, the Department defers to DOJ for additional details about the Subcommittee.

c) If so, please provide an accounting of all prior meetings of the working group.

Response: Because the Attorney General’s Native American Issues Subcommittee is housed within DOJ, the Department defers to DOJ for additional details about the Subcommittee.

4. The Department of Interior (DOI) Budget in Brief for FY 2020 details a new initiative to focus on violence in Indian Country.³

a) Has the initiative held any meetings? Please provide an accounting of all prior meetings held through the initiative.

Response: The “initiative” is an internal operations effort and is still in development stages. However, in addition to the focused efforts of BIA OJS, the Assistant Secretary’s office has been directly engaged in three listening sessions within Indian Country and Alaska since June 2019. In June, an inaugural roundtable was hosted by the Gila River Indian Community in Sacaton, Arizona. With the leadership of Governor Stephen Lewis, we convened tribal leadership, the Administration, and other stakeholders to engage in a discussion on, “Reclaiming Our Native Communities.” In August, the “Reclaiming Our Native Communities” roundtable also occurred in Bethel and Nome, Alaska with several Alaska Native Communities in attendance.

b) Please provide information on any planned future meetings and whether those will be open to the public.

Response: All meetings are internal and discuss law enforcement operations, thus are not open to the public.

³ https://www.doi.gov/sites/doi.gov/files/uploads/2020_highlights_book.pdf

May 8, 2019

- c) **Please provide a list of key stakeholders the initiative is working with, including from Tribes, all levels of law enforcement, court systems, hospitals, and schools.**

Response: The Department is currently working with Tribal Leaders, stakeholders and advocates.

- d) **Please provide a breakout of the initiative’s separate teams and their team members.**

Response: The “initiative” is an internal effort and is still in development stages. Thus, we do not have a breakout of separate teams and team members at this time.

- e) **Please provide a list of the federal agencies that are participating in the initiative and detail each agency’s level of participation.**

Response: To date, Department leadership, the Domestic Policy Council, the Office of Intergovernmental Affairs, the Department of Health and Human Services, the Administration for Native Americans, and the Department of Justice have participated in one or more “Reclaiming Our Native Communities” listening sessions.

- f) **Does the initiative plan to make any of its recommendations available to Congress or the public? Please detail those plans.**

Response: If fully implemented, the Department will produce an annual report outlining the successes, lessons learned, and recommendations for each task force discipline. A version of the report without sensitive information or investigative techniques could be released to the public or Congress.

Appendix A



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

APR 12 2019

Dear Tribal Leader:

The partial shutdown of the Federal Government impacted the nation in many ways and most importantly, Indian Country. Since we resumed full operations on January 25, many of you shared, through various forums, the level of hardships the partial shutdown placed on your Tribal communities and members. Furthermore, I monitored the series of natural disasters that took place across Indian Country whether they were earthquakes, snowstorms, fires, or flooding.

While this lapse of appropriations constrained Indian Affairs' activities, our skeleton crew worked hard within those parameters to continue delivering services to you, and Indian Affairs emergency management crews worked diligently to coordinate activities across the country and around the clock.

In my role as the Assistant Secretary – Indian Affairs, it is important to me that we continue to fulfill our responsibilities to Indian Country. Therefore, I am interested in learning about how the partial shutdown and the subsequent emergency situations affected your Tribe. In particular, I would like to know about the ways you were or were not able to operate Indian Affairs and all other Federally-funded programs in your service area(s). In order to make Indian Affairs proactive, prepared, and responsive, I am requesting the following information from you:

- Situations, programs or projects affected by the lack of Indian Affairs funding;
- Situations affected by the lack of funding from other Federal agencies you work with that were also shut down;
- Emergency situations your Tribe faced that needed, but did not receive, emergency funding;
- Emergency situations your Tribe faced that would be covered by Federal funds other than those of the Federal Emergency Management Agency (FEMA); and
- Emergency situations your Tribe faced that are not covered by any Federal programs.

Please send a detailed response to consultation@bia.gov by June 30, 2019. You may also mail your response to Ms. Elizabeth Appel, Director, Regulatory Affairs and Collaborative Action, 1849 C Street, NW, MS-4660-MIB, Washington, DC, 20240. If you have any questions or need assistance on this request, please contact Ms. Carol J. Brown, Senior Counselor, at (202) 208-6120, or by email at: carol.brown@bia.gov.

As we identify important lessons to guide us in the future, your response will assist Indian Affairs with understanding your Tribe's needs and minimizing the financial impact that these types of events have in Indian Country. I look forward to hearing from you on this important matter.

Sincerely,

Tara Sweeney
Assistant Secretary – Indian Affairs

Appendix B



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

JUN 06 2019

Dear Tribal Leader:

I encourage you to share, by June 30, 2019, how the partial shutdown of the Federal Government earlier this year affected your Tribe. As I stated in my April 12, 2019, letter, I am interested in ways you were or were not able to operate Indian Affairs and all other Federally-funded programs in your service area(s).

Your experience with any of the following impacts from the partial shutdown would be particularly helpful:

- Situations, programs or projects affected by the lack of Indian Affairs funding;
- Situations affected by the lack of funding from other Federal agencies you work with that were also shut down;
- Emergency situations your Tribe faced that needed, but did not receive, emergency funding;
- Emergency situations your Tribe faced that would be covered by Federal funds other than those of the Federal Emergency Management Agency (FEMA); and
- Emergency situations your Tribe faced that are not covered by any Federal programs.

Please provide your input to consultation@bia.gov or by mail to Ms. Elizabeth Appel, Director, Regulatory Affairs and Collaborative Action, 1849 C Street, NW, MS-4660, Washington, DC, 20240. If you have any questions or need assistance on this request, please contact Ms. Carol J. Brown, Senior Counselor, at (202) 208-6120, or by email at: carol.brown@bia.gov.

As we identify important lessons to guide us in the future, your response will assist Indian Affairs with understanding your Tribe's needs and minimizing the financial impact that these types of events have in Indian Country.

I look forward to hearing from you on this important matter and respectfully request a reply by June 30, 2019.

Sincerely,

Tara Sweeney
Assistant Secretary – Indian Affairs

Appendix C



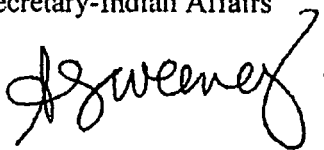
United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

September 26, 2018

MEMORANDUM

To: Secretary
Deputy Secretary
Solicitor
Assistant Secretaries
Bureau Directors
Associate Deputy Secretary
Chief of Staff
Deputy Chief of Staff
Designated Agency Ethics Official (DAEO) and Director, Ethics Office
Principal Deputy Assistant Secretary-Indian Affairs
Deputy Assistant Secretary for Policy and Economic Development-Indian Affairs
Acting Chief of Staff, Assistant Secretary-Indian Affairs

From: Tara Sweeney
Assistant Secretary-Indian Affairs 

Subject: Ethics Recusals & Recusal Screening Arrangement

I have previously consulted with the Departmental Ethics Office (DEO) and have been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Ethics Pledge that I signed.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner, or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have been granted a limited waiver under 18 U.S.C. § 208(b)(1) with respect to my financial interest in the Arctic Slope Regional Corporation. Accordingly, for the duration of my

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appointment, unless I first obtain an additional written waiver pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption under 18 U.S.C. § 208(b)(2) or a statutory exemption under 18 U.S.C. § 208(b)(4), I am recused from particular matters affecting the Arctic Slope Regional Corporation in which the Arctic Slope Regional Corporation is a party. I have consulted with the DEO and been advised that I must also remain vigilant regarding my financial interests in Apple, Inc. and Michael Kors. These recusal requirements are set forth in Attachment A to this memorandum.

IMPARTIALITY

Additionally, as required by 5 C.F.R. § 2635.502, if I know that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of my household, or know that a person with whom I have a covered relationship is or represents a party to such matter, and where I determine that the circumstances would cause a reasonable person with knowledge of the relevant facts to question my impartiality in the matter, I will not participate in the matter unless I have informed the DEO of the appearance problem and received authorization from the DEO to participate in the matter. Certain specific impartiality concerns are addressed in Attachment A to this memorandum.

EXTRAORDINARY PAYMENT

Additionally, as required by 5 C.F.R. § 2635.503, for a period of two years from the date on which I received payments from the Arctic Slope Regional Corporation Employee Incentive Program and the Arctic Slope Regional Corporation Long-Term Incentive Plan, unless I first receive a written waiver pursuant to 5 C.F.R. § 2635.503(c), I will not participate personally and substantially in any particular matter involving specific parties in which I know the Arctic Slope Regional Corporation is a party or represents a party.

OBLIGATIONS UNDER THE ETHICS PLEDGE

As a Trump Administration political appointee, I have signed the Ethics Pledge (Executive Order 13770) and I understand that I will be bound by the requirements and restrictions therein in addition to the commitments that I have made in this and any other ethics agreement. Accordingly, I will not participate personally and substantially, for two years after appointment, in any particular matter involving specific parties in which any former employer or former client of mine, as defined under the Ethics Pledge, is or represents a party, if I served that employer or client during the two years prior to my appointment, unless first authorized to participate in the matter. I understand that, for purposes of the Ethics Pledge, the term "particular matter involving specific parties" includes any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability or a broad policy option directed to the interests of a large and diverse group of persons and participation in the meeting or other event is open to all interested parties. I understand that the term "open to all interested parties" means five or more parties. My former employer and clients are set forth in Attachment A to this memorandum.

DEPARTMENTAL SUPPLEMENTAL REGULATIONS

I am aware that 30 U.S.C. § 1211(f) prohibits me from holding a financial interest in any surface or underground coal mining operation if I perform any function or duty under Chapter 25 of Title 30 of the U.S. Code. Additionally, I am aware that my position is subject to the prohibitions against holding any financial interest in federal lands or resources administered or controlled by the Department of the Interior extended to me by supplemental regulation 5 C.F.R. § 3501.103(b). I am also aware that, absent a waiver under 5 C.F.R. § 3501.103(e), I am prohibited by supplemental regulation 5 C.F.R. § 3501.103(c) from acquiring or retaining any claim, permit, lease, small tract entries, or other rights granted by the Department in Federal lands.

RECUSAL SCREENING ARRANGEMENT

In order to help ensure that I do not participate in matters relating to any of the entities discussed in this memorandum and listed on Attachment A, I have taken or will take the following steps:

1. In coordination with and under the direction of the DEO, a screening process has been established to assist in screening for recusals all Department matters directed to my attention or that require my participation which involve the entities discussed in this memorandum and listed on Attachment A in order to determine whether they involve any of the entities or organizations listed above.
2. All inquiries or comments involving the entities discussed in this memorandum and listed on Attachment A should be directed to a screener (the "Screener") without my knowledge or involvement until after my recusal period ends.
3. The Screener will take action or re-assign inquiries, comments, or matters without my involvement or knowledge of the particulars of the inquiry, comment, or matter.
4. I will continue to personally take my calls and screen my e-mail. If a particular matter involving any of the entities discussed in this memorandum and listed on Attachment A is directed to my attention, I will not take any action, but immediately forward the matter to the Screener for action or assignment, without my further involvement or knowledge of the particulars of the matter.
5. I will provide the Screener with a copy of this memorandum and my most recent OGE Form 278e, so that he/she may fully understand the purpose and scope of my recusal obligations. It is my understanding that the Screener will seek the advice of the DEO if he/she is ever uncertain whether or not I may participate in a particular matter.
6. I will provide my principal subordinates with a copy of this memorandum and will further instruct my principal subordinates that all inquiries and comments involving my recusal obligations should be directed to the Screener without my involvement or knowledge of the particulars of the matter.

Attachment A to Tara Sweeney Ethics Recusals & Screening Arrangement Memorandum

Entity	Within 2 years of appointment (8/1/2020)	At all times	Authorities
Arctic Slope Regional Corporation (ASRC)	- Recuse from all particular matters involving specific parties in which ASRC is or represents a party (includes any official meetings or communications in which ASRC participates)	- Recuse from any particular matter involving specific parties that affects ASRC's financial interests if ASRC is a party to the matter - Consider appearances for all particular matters and seek DAEO authorization, if necessary	Ethics Agreement; 18 U.S.C. § 208; Ethics Pledge, E.O. 13770 (2 years); 5 C.F.R. § 2635.502; 5 C.F.R. 2635.503 (2 years)
Arctic Economic Council (AEC)	- Recuse from all particular matters involving specific parties in which AEC is or represents a party (includes any official meetings or communications in which AEC participates)	- Consider appearances for all particular matters and seek DAEO authorization, if necessary	Ethics Agreement; Ethics Pledge, E.O. 13770 (2 years); 5 C.F.R. § 2635.502
Ted Stevens Foundation (TSF)	- Recuse from all particular matters involving specific parties in which TSF is or represents a party (includes any official meetings or communications in which TSF participates)	- Consider appearances for all particular matters and seek DAEO authorization, if necessary	Ethics Agreement; Ethics Pledge, E.O. 13770 (2 years); 5 C.F.R. § 2635.502
Apple, Inc.		- Recuse from all particular matters affecting Apple, Inc.'s	Ethics Agreement; 18 U.S.C. § 208; 5 C.F.R. § 2635.502

Attachment A to Tara Sweeney Ethics Recusals & Screening Arrangement Memorandum

		<p>financial interests since the value of your stock exceeds \$15,000</p> <p>- Consider appearances for all particular matters and seek DAEO authorization, if necessary</p>	
Michael Kors		<p>- Recuse from all particular matters affecting Michael Kors' financial interests if the value of your stock exceeds \$15,000</p> <p>- Consider appearances for all particular matters and seek DAEO authorization, if necessary</p>	Ethics Agreement; 18 U.S.C. § 208; 5 C.F.R. § 2635.502

7. John Tahsuda, Principal Deputy Assistant Secretary-Indian Affairs, is currently the Screener.

UPDATE AS NECESSARY

In consultation with the DEO, according to applicable rules and regulations, I will revise and update this memorandum whenever warranted by changed circumstances, including changes to my financial interests, changes in my personal or business relationships, or any changes to the nature of my Department duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised memorandum to the Screener, my principal subordinates, and the DEO. Finally, I understand that ethics advice must come from the DEO, as only a designated ethics official can make ethics determinations upon which Department employees may authoritatively rely.

As noted above, in consultation with an agency ethics official, I will revise and update this memorandum whenever that is warranted by changed circumstances. In the event of any changes to this screening arrangement, I will provide you a copy of the revised screening arrangement memorandum.

Attachment

CC: Anita Personius, Executive Assistant to the Assistant Secretary-Indian Affairs
Willow Iron Cloud, Executive Assistant to the Assistant Secretary-Indian Affairs
Armadio Ruiz, Executive Assistant to the Assistant Secretary-Indian Affairs



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

The Honorable John Hoeven
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

OCT - 7 2019

Dear Chairman Hoeven:

Enclosed are responses to the follow-up questions from the May 8, 2019, oversight hearing entitled "The President's FY2020 Budget Request for Indian Programs" before your Committee. These responses were prepared by the Bureau of Indian Affairs.

Thank you for the opportunity to respond to you on this matter.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Tom Udall
Vice Chairman

Questions from Vice-Chairman Udall

Bureau of Land Management Leasing

- 1) Earlier this year, the Bureau of Land Management (BLM) conducted a series of public meetings in Alaska and D.C. related to the environmental impact statement to drill in the Arctic National Wildlife Refuge. Reports from several of the meetings cast doubt on whether BLM had conducted meaningful consultation with Alaska Natives. Many of the hearings, including the one in Fairbanks, were scheduled with just five days advanced notice. Further, the hearing in Fairbanks did not have a translator present for comments in Iñupiaq and Gwich'in, and did not translate the information given by BLM.
- a) **Please describe the involvement of the Office of the Assistant Secretary for Indian Affairs and the Bureau of Indian Affairs in developing, conducting, or participating in the public meetings.**

Response: The Assistant Secretary – Indian Affairs (AS-IA) and her staff were not involved with the BLM consultations. The Bureau of Indian Affairs provided funding to Tribes for the purpose of translating portions of the BLM's Draft Coastal Plain Leasing Environmental Impact Statement into the Gwich'in language to aid Gwich'in communities' participation in public meetings and tribal consultations regarding the development of the Statement.

- b) **Please describe how the public meetings complied with the Department's guidance that requires Interior, through the Assistant Secretary for Indian Affairs, to consult with Alaska Native Corporations on any matter that has a substantial direct effect on them.**

Response: The Department's policy on consultation applies to all bureaus and offices independently; there is no requirement for each to consult through AS-IA. The Assistant Secretary - Land and Minerals, and BLM, consulted with regional ANCSA corporation Arctic Slope Regional Corporation and village ANCSA corporation Kaktovik Inupiat Corporation, as well as several tribes, throughout BLM's development of the environmental impact statement. In addition, while the BLM was the lead agency in the program review, cooperating agencies included the North Slope Borough, the Native Villages of Kaktovik and Venetie Tribal Government, the Venetie Village Council, and the Arctic Village Council.

Budgetary Certainty

- 2) As discussed at the hearing, the recent partial government shutdown had an acutely negative impact on Tribes and Native communities. I understand that you sent out a Dear Tribal Leader letter asking for feedback to document these impacts.
- a) **Please provide a copy of the referenced Dear Tribal Leader letter for the record.**

Response: Attached hereto as Appendix A and Appendix B.

b) Please summarize any and all responses to the letter the Department has received so far.

Response: To date, the Department has received 13 responses to our Tribal Leader letters regarding the lapse in appropriations. The general concerns raised were lack of communication and updates from BIA during the appropriations lapse; the curtailment of services and freezing of available funding streams from BIE; delays in issuing permits, processing 93-638 contracts, and conducting environmental impact studies.

Tribes were also concerned that the appropriations lapse caused grant programs to fall behind in deliverables, hiring freezes, suspension of travel and inability to participate in important planning meetings, financial hardship and disruption of vital health and public safety services, and overall inability to connect and communicate with federal staff due to the furlough.

Climate Change

- 3) The Department has a responsibility to Tribes to protect trust lands, trust resources, and treaty hunting, fishing, and subsistence rights. Protecting and enhancing healthy and resilient ecosystems that are particularly vulnerable to climate change is integral to ensuring the Department is able to fulfill these responsibilities. But for the third year in a row, the President's budget proposes to eliminate funding for the Tribal Climate Resilience program, which provides Tribes with direct funding to develop science-based information and create decision support tools to enable adaptive resource management. The program also bolsters Tribal ability to plan for climate resilience, provides for nationwide training in climate adaptation planning, Tribal capacity building, and regional science outreach.

How would eliminating funding for programs, like the Tribal Climate Resilience program, ensure Tribes have resources to address the impacts of climate change?

Response: Previous funding from the Tribal Climate Resilience Program was used for adaptation planning, training, technical support, and capacity-building. The Department chose to direct funding to improve Tribes' ability to plan for actions, such as housing relocation and improved fisheries and natural resources management, that can mitigate actual impacts to tribal communities.

Irrigation Projects

- 4) BIA administers 17 Indian irrigation projects that provide irrigation water to over 780,000 acres, through over 6,300 miles of canals and more than 52,000 irrigation structures, with receipt fund revenues of over \$35 million. These projects are vital economic contributors for Tribes, collectively producing in excess of \$960 million in gross crop revenues annually. However, most Indian irrigation project facilities are approximately 100 years old and in need of major capital improvements. Several critical structures are in such poor condition that their long-term viability to deliver irrigation water is in question. Nevertheless, the President's Budget Request would cut funding for natural resource management construction, which

includes line items for irrigation projects and dam safety, from \$71.2 million to \$36.1 million (49%). **Please provide a justification for these cuts in light of the estimated need and age of Indian irrigation systems administered by the BIA.**

Response: The Resource Management Construction funds address critical deferred maintenance and construction work on BIA owned and operated irrigation facilities, with an emphasis placed on infrastructure rehabilitation that addresses health and safety concerns for Indian Affairs (IA) employees and the public. The funds also address dam safety on Indian lands by reducing the potential for loss of human life and property damage caused by dam failure by making IA dams as safe as practically possible.

With the proposed funding level, the Irrigation program will continue to prioritize and fund rehabilitation of structures.

The program will also be able to support basic program functions, including expenses related to Central Office, Regional, and Agency staffing, Early Warning System support and maintenance, Emergency Action Plan updating and exercising and scheduled dam inspections and risk analyses.

Arctic National Wildlife Refuge

- 5) During your confirmation process, I voiced concerns relating to your potential involvement in decisions that would benefit the Arctic Slope Regional Corporation (Corporation), of which you are a former executive and ongoing birthright shareholder. You committed to recuse yourself from participating in particular matters at the Department of the Interior, to which the Corporation is a specific party, including Interior's work to open the Coastal Plain of Arctic National Wildlife Refuge to oil and gas drilling.
- a) **Since being confirmed, have you participated in any meetings with the Corporation? If yes, please provide a list of meeting dates, attendees, and topics, along with the written waiver authorizing your participation. If no, please identify the individual delegated the responsibility to oversee the consultation and provide a brief description of their involvement.**

Response: Since confirmation, I have not participated in any meetings related to the Arctic National Wildlife Refuge (ANWR) or the Corporation's interest in ANWR. During my time as Assistant Secretary, when accepting meetings with Alaska tribes and organizations with which I am affiliated, I have always ensured that such meetings are not in violation of and are consistent with my ethics agreement. *See attached as Appendix C.*

- b) **Since being confirmed, have you participated in any meetings or decision making related to either seismic permitting in the Arctic Refuge or the leasing program in the Coastal Plain? Again, if yes, please provide a list of meeting dates, attendees, and topics.**

Response: No. During my time as the Assistant Secretary, I have not participated in any

meetings or decision making regarding these issues.

Bears Ears National Monument Advisory Committee

- 6) Secretary Bernhardt recently appointed members to the Bears Ears National Monument Advisory Committee. The proclamation and the Federal Advisory Committee Act requires the committee to be composed of a "fair and balanced representation of interested stakeholders." Yet, the appointments appear to reflect an effort to select individuals opposed to the very existence of the monument about which they are charged with advising. The committee ignores the official position of San Juan County by including the only county commissioner who opposed the original monument designation. It also ignores the unanimous position of the five sovereign tribal nations of the Bears Ears Inter-Tribal Coalition and instead selected two monument opponents to represent "Tribal concerns."
- a) **Were you consulted in appointing the committee or play a role in advising Secretary Bernhardt, or others involved in the appointments? If yes, how did you advise the Secretary or others on this decision?**

Response: The Department engaged in meaningful dialogue regarding the Bears Ears National Monument Advisory Committee. These efforts were coordinated by the Secretary.

- b) **As Assistant Secretary, do you believe a committee stacked with anti-monument voices that ignores the unanimous position of five sovereign tribal nations is "fair and balanced?" Did you advocate against placing representatives opposed to the position of the Bears Ears Inter-Tribal Coalition on the committee?**

Response: In recognition of the importance of tribal participation in the management of the monument and to ensure tribal expertise and traditional and historical knowledge are taken into account, Proclamation 9558, as modified by Proclamation 9681, provides American Indian Tribes specific opportunities to provide input on the management of Bears Ears National Monument, including participating in the Shash Jáa Commission. Additionally, the proposed Monument Management Plans have been developed with Tribal input through government-to-government consultation. These plans include a specific American Indian Tribal Collaboration Framework to ensure that interested American Indian Tribes and the Shash Jáa commission continue to have opportunities to make contributions to inform decisions regarding the management of the monument in the future.

Questions from Sen. Cortez Masto

1. In your testimony, you highlighted the importance of the Bureau of Indian Affairs (BIA) law enforcement programs that directly serve American Indians and Alaska Natives, particularly when it comes to addressing the crisis of missing and murdered American Indians and Alaska Natives. You also highlighted the White House proclamation, “Missing and Murdered American Indians and Alaska Natives Awareness Day, 2019,” as an indication of the administration’s focus on the issue of violent crime in Indian Country. In the proclamation, President Trump states, “we are improving public safety, we are expanding funding and training opportunities for law enforcement in Indian country, and we are better equipping them with tools like access to criminal databases.”¹ However, the Department of the Interior’s BIA law enforcement funding requests have remained roughly the same in recent years.² Additionally, in response to Senator Tester’s questions during the hearing as to whether the President’s budget provides adequate funding levels to hire the law enforcement that’s needed in Indian country, you responded that due to budget constraints BIA would only be maintaining current operations.

- a) **Do you believe that law enforcement priorities, specifically the crisis of missing and murdered American Indians and Alaska Natives, can be properly addressed by maintaining current funding levels at BIA?**

Response: Current funding levels do support all law enforcement priorities, including the on-going missing and murdered investigations. The Administration’s fiscal year 2020 budget proposal includes \$409.2 million for Public Safety and Justice Activities, of which \$376.7 million directly supports 191 law enforcement programs and 96 corrections programs run both by tribes and as direct services. The 2020 budget includes an increase of \$2.5 million to address the opioid crisis, an Administration priority, in Indian Country. This initiative will expand BIA’s capacity to address the increase in drug-related activities through interdiction programs to reduce drug use, distribution, and drug-related crime and supports OJS participation in intra- and inter-agency initiatives targeting opioid and substance abuse prevention efforts. The budget request also includes \$22.3 million for Tribal Justice Support Programs, which include VAWA training and implementation strategies critical to the protection of women in Indian communities.

- b) **To what “expanded funding” does the White House proclamation refer?**

Response: As noted in the previous response, the Administration’s fiscal year 2020 budget proposal includes \$409.2 million for Public Safety and Justice Activities, of which \$376.7 million directly supports 191 law enforcement programs and 96 corrections programs run both by tribes and as direct services. The budget request

¹ <https://www.whitehouse.gov/presidential-actions/missing-murdered-american-indians-alaska-natives-awareness-day-2019/>

² https://www.doi.gov/sites/doi.gov/files/uploads/2020_highlights_book.pdf

May 8, 2019

also includes an increase of \$2.5 million to expand capacity and address the opioid crisis, an Administration priority, in Indian Country.

c) To what "expanded training opportunities" does the White House proclamation refer?

Response: Through BIA OJS, in January 2018, the BIA Indian Police Academy (BIA-IPA) began discussions with the National Criminal Justice Training Center (NCJTC) on collaborating to create joint training programs for cold case investigations, long-term missing investigations, and child abduction investigations for use throughout Indian Country. BIA OJS continues to assess the need for greater training opportunities in the northern tier states to better support Indian Country Officers and Agents.

BIA-IPA also launched human trafficking courses in the Indian Country Police Officer Training Program; the Basic Police Officer Bridge Training Program; and the Indian Country Criminal Investigator Training Program (a joint FBI, BIA, and Tribal attended program). The NCJTC and BIA-IPA conducted three pilot training programs on Advanced Cold Case Long Term Missing Investigations in Montana and North Dakota, which trained a total of 117 personnel. The joint training effort has also provided additional missing persons training to tribes in Montana (Fort Peck), North Dakota (United Tribes Technical College), Arizona (Fort McDowell), and Michigan (Lac View Desert).

d) Please detail any plans or requests the White House has made to expand funding and training opportunities for law enforcement in Indian country.

Response: In addition to the expanded training opportunities listed above in c), the increase in funding to expand capacity and address the opioid crisis in Indian Country has allowed over 40 Opioid Community Awareness events and trained over 700 tribal community and service providers throughout Indian Country. OJS also trained over 600 Indian Country law enforcement officers in Opioid identification and enforcement.

e) How will you ensure that law enforcement efforts to aid the American Indian and Alaska Native community are not impeded by a lack of funding and resources?

Response: The Department always works hard to provide public safety in Indian Country. The Department will continue to use current and future funding to provide the best public safety services possible. Appropriated amounts do not change the goals and mission of the Department. Programs will continue to find ways to collaborate with other agencies and partners to maximize our efforts.

2. The White House proclamation states that federal agencies have established "improved protocols based on our government-to-government relations with the tribes, and have become more transparent and accountable in our efforts."

- a) Please provide these improved protocols and documentation of all of the federal agencies that were involved in their creation.**

Response: The Department cannot speak to the protocols of the other federal agencies, but the Department has improved protocols on responding to missing person cases after receiving feedback from tribal leaders and community members. These efforts are demonstrated by the installation of Tribal Access Program for National Crime Information kiosks and better communication with DOJ and U.S. Attorneys regarding prosecutions.

- b) Please describe the steps that were taken to coordinate with and receive input directly from the American Indian and Alaska Native community on the creation of these improved protocols. Please provide documentation of the tribal consultation process.**

Response: Indian Affairs has held listening sessions at major tribal events to hear from Tribal leaders on public safety issues, the most recent of which was in Farmington, NM. BIA OJS held the inaugural Indian Country Public Safety Summit where the Administration brought together federal resource partners and Tribal leaders from around the country to discuss Indian Country public safety. On the first day, federal partners discussed resources available to Tribes, and how to access them. On the second day, Tribal leaders, Tribal Chiefs of Police, and Tribal judicial staff discussed their public safety needs and ideas on moving forward.

- c) Please describe the steps that were taken to "become more transparent and accountable" in these efforts.**

Response: The Department consistently works to improve our level of communication with Tribes. The Department conducts face-to-face meetings with Tribes to discuss actions and programs, which allows the Department to receive relevant information and feedback from Tribal Leaders. This process promotes greater programmatic transparency and allows Tribal Leaders to hold programs more accountable for services.

3. The White House proclamation states that the Attorney General has "developed a working group dedicated to addressing violent crime in Indian country." Does the Department of Interior have any involvement in this working group?

Response: At the White House's direction, the Departments of Justice (DOJ), the Department of the Interior, including the BIA, and the Department of Health and Human Services are all collaborating on a cross-agency effort to address this important problem. Moreover, at DOJ, the U.S. Attorney community has initiated work through the Attorney

General’s Native American Issues Subcommittee to identify priorities related to reducing violent crime in Indian Country, including missing and murdered Indigenous women.

a) If so, please provide a list of members of the working group.

Response: Because the Attorney General’s Native American Issues Subcommittee is housed within DOJ, the Department defers to DOJ for additional details about the Subcommittee.

b) If so, please detail the mission, duties, and responsibilities of the working group.

Response: Because the Attorney General’s Native American Issues Subcommittee is housed within DOJ, the Department defers to DOJ for additional details about the Subcommittee.

c) If so, please provide an accounting of all prior meetings of the working group.

Response: Because the Attorney General’s Native American Issues Subcommittee is housed within DOJ, the Department defers to DOJ for additional details about the Subcommittee.

4. The Department of Interior (DOI) Budget in Brief for FY 2020 details a new initiative to focus on violence in Indian Country.³

a) Has the initiative held any meetings? Please provide an accounting of all prior meetings held through the initiative.

Response: The “initiative” is an internal operations effort and is still in development stages. However, in addition to the focused efforts of BIA OJS, the Assistant Secretary’s office has been directly engaged in three listening sessions within Indian Country and Alaska since June 2019. In June, an inaugural roundtable was hosted by the Gila River Indian Community in Sacaton, Arizona. With the leadership of Governor Stephen Lewis, we convened tribal leadership, the Administration, and other stakeholders to engage in a discussion on, “Reclaiming Our Native Communities.” In August, the “Reclaiming Our Native Communities” roundtable also occurred in Bethel and Nome, Alaska with several Alaska Native Communities in attendance.

b) Please provide information on any planned future meetings and whether those will be open to the public.

Response: All meetings are internal and discuss law enforcement operations, thus are not open to the public.

³ https://www.doi.gov/sites/doi.gov/files/uploads/2020_highlights_book.pdf

May 8, 2019

- c) **Please provide a list of key stakeholders the initiative is working with, including from Tribes, all levels of law enforcement, court systems, hospitals, and schools.**

Response: The Department is currently working with Tribal Leaders, stakeholders and advocates.

- d) **Please provide a breakout of the initiative’s separate teams and their team members.**

Response: The “initiative” is an internal effort and is still in development stages. Thus, we do not have a breakout of separate teams and team members at this time.

- e) **Please provide a list of the federal agencies that are participating in the initiative and detail each agency’s level of participation.**

Response: To date, Department leadership, the Domestic Policy Council, the Office of Intergovernmental Affairs, the Department of Health and Human Services, the Administration for Native Americans, and the Department of Justice have participated in one or more “Reclaiming Our Native Communities” listening sessions.

- f) **Does the initiative plan to make any of its recommendations available to Congress or the public? Please detail those plans.**

Response: If fully implemented, the Department will produce an annual report outlining the successes, lessons learned, and recommendations for each task force discipline. A version of the report without sensitive information or investigative techniques could be released to the public or Congress.

Appendix A



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

APR 12 2019

Dear Tribal Leader:

The partial shutdown of the Federal Government impacted the nation in many ways and most importantly, Indian Country. Since we resumed full operations on January 25, many of you shared, through various forums, the level of hardships the partial shutdown placed on your Tribal communities and members. Furthermore, I monitored the series of natural disasters that took place across Indian Country whether they were earthquakes, snowstorms, fires, or flooding.

While this lapse of appropriations constrained Indian Affairs' activities, our skeleton crew worked hard within those parameters to continue delivering services to you, and Indian Affairs emergency management crews worked diligently to coordinate activities across the country and around the clock.

In my role as the Assistant Secretary – Indian Affairs, it is important to me that we continue to fulfill our responsibilities to Indian Country. Therefore, I am interested in learning about how the partial shutdown and the subsequent emergency situations affected your Tribe. In particular, I would like to know about the ways you were or were not able to operate Indian Affairs and all other Federally-funded programs in your service area(s). In order to make Indian Affairs proactive, prepared, and responsive, I am requesting the following information from you:

- Situations, programs or projects affected by the lack of Indian Affairs funding;
- Situations affected by the lack of funding from other Federal agencies you work with that were also shut down;
- Emergency situations your Tribe faced that needed, but did not receive, emergency funding;
- Emergency situations your Tribe faced that would be covered by Federal funds other than those of the Federal Emergency Management Agency (FEMA); and
- Emergency situations your Tribe faced that are not covered by any Federal programs.

Please send a detailed response to consultation@bia.gov by June 30, 2019. You may also mail your response to Ms. Elizabeth Appel, Director, Regulatory Affairs and Collaborative Action, 1849 C Street, NW, MS-4660-MIB, Washington, DC, 20240. If you have any questions or need assistance on this request, please contact Ms. Carol J. Brown, Senior Counselor, at (202) 208-6120, or by email at: carol.brown@bia.gov.

As we identify important lessons to guide us in the future, your response will assist Indian Affairs with understanding your Tribe's needs and minimizing the financial impact that these types of events have in Indian Country. I look forward to hearing from you on this important matter.

Sincerely,

Tara Sweeney
Assistant Secretary – Indian Affairs

Appendix B



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

JUN 06 2019

Dear Tribal Leader:

I encourage you to share, by June 30, 2019, how the partial shutdown of the Federal Government earlier this year affected your Tribe. As I stated in my April 12, 2019, letter, I am interested in ways you were or were not able to operate Indian Affairs and all other Federally-funded programs in your service area(s).

Your experience with any of the following impacts from the partial shutdown would be particularly helpful:

- Situations, programs or projects affected by the lack of Indian Affairs funding;
- Situations affected by the lack of funding from other Federal agencies you work with that were also shut down;
- Emergency situations your Tribe faced that needed, but did not receive, emergency funding;
- Emergency situations your Tribe faced that would be covered by Federal funds other than those of the Federal Emergency Management Agency (FEMA); and
- Emergency situations your Tribe faced that are not covered by any Federal programs.

Please provide your input to consultation@bia.gov or by mail to Ms. Elizabeth Appel, Director, Regulatory Affairs and Collaborative Action, 1849 C Street, NW, MS-4660, Washington, DC, 20240. If you have any questions or need assistance on this request, please contact Ms. Carol J. Brown, Senior Counselor, at (202) 208-6120, or by email at: carol.brown@bia.gov.

As we identify important lessons to guide us in the future, your response will assist Indian Affairs with understanding your Tribe's needs and minimizing the financial impact that these types of events have in Indian Country.

I look forward to hearing from you on this important matter and respectfully request a reply by June 30, 2019.

Sincerely,

Tara Sweeney
Assistant Secretary – Indian Affairs

Appendix C



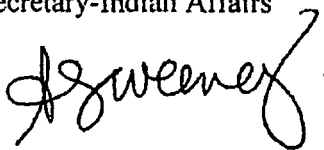
United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

September 26, 2018

MEMORANDUM

To: Secretary
Deputy Secretary
Solicitor
Assistant Secretaries
Bureau Directors
Associate Deputy Secretary
Chief of Staff
Deputy Chief of Staff
Designated Agency Ethics Official (DAEO) and Director, Ethics Office
Principal Deputy Assistant Secretary-Indian Affairs
Deputy Assistant Secretary for Policy and Economic Development-Indian Affairs
Acting Chief of Staff, Assistant Secretary-Indian Affairs

From: Tara Sweeney
Assistant Secretary-Indian Affairs 

Subject: Ethics Recusals & Recusal Screening Arrangement

I have previously consulted with the Departmental Ethics Office (DEO) and have been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Ethics Pledge that I signed.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner, or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have been granted a limited waiver under 18 U.S.C. § 208(b)(1) with respect to my financial interest in the Arctic Slope Regional Corporation. Accordingly, for the duration of my

11
appointment, unless I first obtain an additional written waiver pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption under 18 U.S.C. § 208(b)(2) or a statutory exemption under 18 U.S.C. § 208(b)(4), I am recused from particular matters affecting the Arctic Slope Regional Corporation in which the Arctic Slope Regional Corporation is a party. I have consulted with the DEO and been advised that I must also remain vigilant regarding my financial interests in Apple, Inc. and Michael Kors. These recusal requirements are set forth in Attachment A to this memorandum.

IMPARTIALITY

Additionally, as required by 5 C.F.R. § 2635.502, if I know that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of my household, or know that a person with whom I have a covered relationship is or represents a party to such matter, and where I determine that the circumstances would cause a reasonable person with knowledge of the relevant facts to question my impartiality in the matter, I will not participate in the matter unless I have informed the DEO of the appearance problem and received authorization from the DEO to participate in the matter. Certain specific impartiality concerns are addressed in Attachment A to this memorandum.

EXTRAORDINARY PAYMENT

Additionally, as required by 5 C.F.R. § 2635.503, for a period of two years from the date on which I received payments from the Arctic Slope Regional Corporation Employee Incentive Program and the Arctic Slope Regional Corporation Long-Term Incentive Plan, unless I first receive a written waiver pursuant to 5 C.F.R. § 2635.503(c), I will not participate personally and substantially in any particular matter involving specific parties in which I know the Arctic Slope Regional Corporation is a party or represents a party.

OBLIGATIONS UNDER THE ETHICS PLEDGE

As a Trump Administration political appointee, I have signed the Ethics Pledge (Executive Order 13770) and I understand that I will be bound by the requirements and restrictions therein in addition to the commitments that I have made in this and any other ethics agreement. Accordingly, I will not participate personally and substantially, for two years after appointment, in any particular matter involving specific parties in which any former employer or former client of mine, as defined under the Ethics Pledge, is or represents a party, if I served that employer or client during the two years prior to my appointment, unless first authorized to participate in the matter. I understand that, for purposes of the Ethics Pledge, the term "particular matter involving specific parties" includes any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability or a broad policy option directed to the interests of a large and diverse group of persons and participation in the meeting or other event is open to all interested parties. I understand that the term "open to all interested parties" means five or more parties. My former employer and clients are set forth in Attachment A to this memorandum.

DEPARTMENTAL SUPPLEMENTAL REGULATIONS

I am aware that 30 U.S.C. § 1211(f) prohibits me from holding a financial interest in any surface or underground coal mining operation if I perform any function or duty under Chapter 25 of Title 30 of the U.S. Code. Additionally, I am aware that my position is subject to the prohibitions against holding any financial interest in federal lands or resources administered or controlled by the Department of the Interior extended to me by supplemental regulation 5 C.F.R. § 3501.103(b). I am also aware that, absent a waiver under 5 C.F.R. § 3501.103(e), I am prohibited by supplemental regulation 5 C.F.R. § 3501.103(c) from acquiring or retaining any claim, permit, lease, small tract entries, or other rights granted by the Department in Federal lands.

RECUSAL SCREENING ARRANGEMENT

In order to help ensure that I do not participate in matters relating to any of the entities discussed in this memorandum and listed on Attachment A, I have taken or will take the following steps:

1. In coordination with and under the direction of the DEO, a screening process has been established to assist in screening for recusals all Department matters directed to my attention or that require my participation which involve the entities discussed in this memorandum and listed on Attachment A in order to determine whether they involve any of the entities or organizations listed above.
2. All inquiries or comments involving the entities discussed in this memorandum and listed on Attachment A should be directed to a screener (the "Screener") without my knowledge or involvement until after my recusal period ends.
3. The Screener will take action or re-assign inquiries, comments, or matters without my involvement or knowledge of the particulars of the inquiry, comment, or matter.
4. I will continue to personally take my calls and screen my e-mail. If a particular matter involving any of the entities discussed in this memorandum and listed on Attachment A is directed to my attention, I will not take any action, but immediately forward the matter to the Screener for action or assignment, without my further involvement or knowledge of the particulars of the matter.
5. I will provide the Screener with a copy of this memorandum and my most recent OGE Form 278e, so that he/she may fully understand the purpose and scope of my recusal obligations. It is my understanding that the Screener will seek the advice of the DEO if he/she is ever uncertain whether or not I may participate in a particular matter.
6. I will provide my principal subordinates with a copy of this memorandum and will further instruct my principal subordinates that all inquiries and comments involving my recusal obligations should be directed to the Screener without my involvement or knowledge of the particulars of the matter.

Attachment A to Tara Sweeney Ethics Recusals & Screening Arrangement Memorandum

Entity	Within 2 years of appointment (8/1/2020)	At all times	Authorities
Arctic Slope Regional Corporation (ASRC)	- Recuse from all particular matters involving specific parties in which ASRC is or represents a party (includes any official meetings or communications in which ASRC participates)	- Recuse from any particular matter involving specific parties that affects ASRC's financial interests if ASRC is a party to the matter - Consider appearances for all particular matters and seek DAEO authorization, if necessary	Ethics Agreement; 18 U.S.C. § 208; Ethics Pledge, E.O. 13770 (2 years); 5 C.F.R. § 2635.502; 5 C.F.R. 2635.503 (2 years)
Arctic Economic Council (AEC)	- Recuse from all particular matters involving specific parties in which AEC is or represents a party (includes any official meetings or communications in which AEC participates)	- Consider appearances for all particular matters and seek DAEO authorization, if necessary	Ethics Agreement; Ethics Pledge, E.O. 13770 (2 years); 5 C.F.R. § 2635.502
Ted Stevens Foundation (TSF)	- Recuse from all particular matters involving specific parties in which TSF is or represents a party (includes any official meetings or communications in which TSF participates)	- Consider appearances for all particular matters and seek DAEO authorization, if necessary	Ethics Agreement; Ethics Pledge, E.O. 13770 (2 years); 5 C.F.R. § 2635.502
Apple, Inc.		- Recuse from all particular matters affecting Apple, Inc.'s	Ethics Agreement; 18 U.S.C. § 208; 5 C.F.R. § 2635.502

Attachment A to Tara Sweeney Ethics Recusals & Screening Arrangement Memorandum

		<p>financial interests since the value of your stock exceeds \$15,000</p> <p>- Consider appearances for all particular matters and seek DAEO authorization, if necessary</p>	
Michael Kors		<p>- Recuse from all particular matters affecting Michael Kors' financial interests if the value of your stock exceeds \$15,000</p> <p>- Consider appearances for all particular matters and seek DAEO authorization, if necessary</p>	Ethics Agreement; 18 U.S.C. § 208; 5 C.F.R. § 2635.502

7. John Tahsuda, Principal Deputy Assistant Secretary-Indian Affairs, is currently the Screener.

UPDATE AS NECESSARY

In consultation with the DEO, according to applicable rules and regulations, I will revise and update this memorandum whenever warranted by changed circumstances, including changes to my financial interests, changes in my personal or business relationships, or any changes to the nature of my Department duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised memorandum to the Screener, my principal subordinates, and the DEO. Finally, I understand that ethics advice must come from the DEO, as only a designated ethics official can make ethics determinations upon which Department employees may authoritatively rely.

As noted above, in consultation with an agency ethics official, I will revise and update this memorandum whenever that is warranted by changed circumstances. In the event of any changes to this screening arrangement, I will provide you a copy of the revised screening arrangement memorandum.

Attachment

CC: Anita Personius, Executive Assistant to the Assistant Secretary-Indian Affairs
Willow Iron Cloud, Executive Assistant to the Assistant Secretary-Indian Affairs
Armadio Ruiz, Executive Assistant to the Assistant Secretary-Indian Affairs



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

AUG 05 2020

The Honorable John Hoeven
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Chairman Hoeven:

Enclosed are responses to the follow-up questions from the March 4, 2020, legislative hearing to receive testimony on S. 2610 & S. 2891 before your Committee. These responses were prepared by the U.S. Fish & Wildlife Service.

Thank you for the opportunity to respond to you on this matter.

Sincerely,

Cole Rojewski
Director
Office of Congressional
and Legislative Affairs

Enclosure

cc: The Honorable Tom Udall
Vice Chairman

Questions from Vice Chairman Udall

Question 1: Please provide a list of Tribes who have received funding for wildlife corridors in the last five years out of U.S. FWS' Tribal wildlife grants program, along with a brief summary of each project.

Response: The requested information is not compiled.

Question 2: Please provide an update on the implementation of Secretarial Order 3362 and discuss efforts to collaborate or work cooperatively with Tribal wildlife agencies as part of that implementation.

Response: Secretarial Order 3362 (Order) was signed in February 2018, and a Coordinator was hired in May 2018. In less than two years, the Department has made considerable progress working cooperatively and collaboratively with eleven State fish and wildlife agencies. In the first year of implementation, the Department developed State Action Plans based on information provided by the eleven respective States. These plans were updated in year two with new information and analysis. The Department has provided funding and technical support to help the States gather data to identify big game migration corridors or winter range areas. The Department has also provided funding, through an internal and external grant process, for habitat projects within the migration corridors or winter range areas.

If Tribal land is identified within one of the State-defined priority migration corridors or winter range areas, those lands are eligible for project support under the Order. Partners, including Tribes, State agencies, non-profit organizations, then develop projects within these priority areas to address the needs identified in the State Action Plans.

Question 3: Has climate change played any role in reducing the quantity or quality of big-game winter range and migration corridor habitat on federal lands under the management jurisdiction of the Department of the Interior? If so, how can wildlife corridor protection help to address the effects of climate change on wildlife?

Response: Of the States that have completed the process for identifying their priority big game migration corridors and winter range areas pursuant to Secretarial Order 3362 none have noted climate change as a direct risk factor.

Question 4: Has the U.S. Fish and Wildlife Service observed any benefits of wildlife corridors in the protection of endangered or threatened wildlife?

Response: Yes, since habitat loss is one of the key factors affecting a majority of endangered or threatened species, connecting areas of suitable habitat is beneficial to many listed species. For example, the Recovery Plan for the Eastern Indigo Snake (2019), a federally threatened species, lists protection of habitat as the number one recovery action for the species, particularly where it provides connectivity between populations. Utilizing authority under the Cooperative Endangered Species Conservation Program, the Service recently approved a Recovery Land Acquisition grant to help connect tracts of suitable habitat for the eastern indigo snake, gopher tortoise (a candidate species), and other species along the Canoochee River in Bryan County, GA. The parcel provides a connected, protected corridor of habitat suitable for eastern indigo snakes, gopher tortoises, and other high-priority species associated with this ecosystem.

Question 5: How would the *Tribal Wildlife Corridor Act* support current and future efforts to protect wildlife corridors on state and federal lands?

Response: S. 2891, the Tribal Wildlife Corridors Act, would allow Tribes to nominate a habitat corridor for fish, wildlife, or plants on Indian land to be designated as a “Tribal Wildlife Corridor.” This designation would further enable Tribes to consult with the Department and coordinate with the U.S. Forest Service to improve habitat connectivity between the Tribal Wildlife Corridor and federal public lands. The legislation would complement existing efforts of the Department and the U.S. Fish and Wildlife Service to protect wildlife corridors, including Secretarial Order 3362, to improve habitat quality in western big game winter range and migration corridors for pronghorn, elk, and mule deer; the North American Waterfowl Management Plan and migratory bird joint ventures, which are partnerships to conserve birds and habitats within certain geographic areas; Neotropical Migratory Bird Conservation Act grants, which conserve migratory bird habitat on a continental scale; and the National Fish Passage Program, which works with partners to improve fish habitat, remove barriers to fish movement, and reconnect aquatic habitats.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

FEB 11 2020

The Honorable John Hoeven
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Chairman Hoeven:

Enclosed are responses to the follow-up questions from the October 16, 2019, oversight hearing entitled "Lending Opportunities: Opening the Door to Homeownership in Indian Country" before your Committee. These responses were prepared by the Bureau of Indian Affairs.

Thank you for the opportunity to respond to you on this matter.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Tom Udall
Vice Chairman

Questions for the Record

Senate Committee on Indian Affairs

Oversight Hearing on “Lending Opportunities: Opening the Door to Homeownership in Indian Country”

October 16, 2019

Questions from Vice Chairman Tom Udall

Approval of Tribal Leasing Regulations

Question 1: Congress passed the Helping Expedite and Advance Tribal Homeownership (HEARTH) Act of 2012 to enhance Tribes’ self-governance over Tribal lands and promote the efficient leasing of those lands for housing and business purposes. To exercise the enhanced authority provided by the HEARTH Act, Tribes must first adopt leasing regulations and submit them for approval to the BIA. According to the BIA’s website, 45 Tribal leasing regulations have been approved by the BIA’s Office of Trust Services since 2013. We understand that only three of the 45 regulations were approved in 2019, and that 26 applications are still awaiting action. What steps are the BIA taking to address this backlog?

Response: BIA is directing additional resources to the program and working to centralize the leasing regulation review process. First, the BIA is working to fill the HEARTH Act coordinator position vacancy. Once the vacancy is filled, the leasing regulation review process will be streamlined from BIA field offices to the central office responsibility to address pending reviews and move them forward for a decision.

Expediting Title Status Reports

Question 2: You indicated in your hearing testimony that the BIA is currently developing the Enterprise Land and Resource Data Warehouse to integrate its various business subsystems, including the Trust Asset and Account Management System (TAAMS), into one platform.

How do you expect this change to streamline the BIA’s process of issuing Title Status Reports (TSR)? Will it address the reported delays in issuance?

Response: The BIA Enterprise Land and Resource Data Warehouse will allow lenders to check on the status of their mortgage applications and to contact the BIA, improving communication. The TSRs are one of the items required in the mortgage application process. The portal will provide transparency in the issuance process by showing when a TSR request is made and when the certified TSR is received from Land Titles and Records Office.

Questions for the Record

Senate Committee on Indian Affairs

Oversight Hearing on “Lending Opportunities: Opening the Door to Homeownership in Indian Country”

October 16, 2019

Questions from Senator Maria Cantwell

Community Development Financial Institutions

Question 1: When the Community Development Financial Institutions (CDFI) Fund was created, CDFIs had limited access to private capital. Over the past two decades, the CDFI industry has matured and extends credit and provide financial services to underserved communities. Despite this record of success, the President’s Budget proposes to eliminate funding for Community Development Financial Institutions (CDFI) Fund discretionary grant and direct loan programs.

Nearly \$8.7 million has been awarded to Washington state Native awardees. CDFI investments have also generated \$12 in private capital for every dollar in CDFI grants. CDFIs are an important resource to provide economic development in underserved communities and provides assistance that is leveraged 12 times over.

What programs does HUD or the Bureau of Indian Affairs have that provide the same or greater level of support for economic development in these communities?

Response: In 2018, Assistant Secretary – Indian Affairs Tara Sweeney hosted the first ever Indian Affairs-Native CDFI Network roundtable at the Department of the Interior. The Department continues to collaborate with the Native CDFI Network on innovative ways to provide capital access for Native CDFIs and to attract the right types of investments into Indian Country.

Additionally, the Office of the Assistant Secretary – Indian Affairs provides technical assistance and funding that supports economic development for American Indian tribes, communities, and individuals. The Office of Indian Energy and Economic Development (IEED) provides funding opportunities including:

- The Native American Business Development Institute (NABDI) grant program, within the IEED Division of Economic Development - NABDI is designed to help Tribes retain qualified, impartial, third party consultants to conduct feasibility studies on economic development proposals, ideas, and technologies.

Questions for the Record

Senate Committee on Indian Affairs

Oversight Hearing on “Lending Opportunities: Opening the Door to Homeownership in Indian Country”

October 16, 2019

- The Tribal Energy Development Capacity (TEDC) grant program, within the IEED Division of Energy and Mineral Development (DEMD)- TEDC helps Tribes assess, develop, and secure the organizational and technical capacity needed to manage energy resources on Indian land and properly account for resulting energy production and revenues.
- The Energy and Mineral Development Program (EMDP) within the IEED DEMD - The EMDP provides funding for the assessment and marketing of tribal energy and mineral resources.

Questions for the Record

Senate Committee on Indian Affairs

Oversight Hearing on “Lending Opportunities: Opening the Door to Homeownership in Indian Country”

October 16, 2019

Questions from Senator Catherine Cortez Masto

Question 1: Does the BIA get involved in financing manufactured housing? How do homeowners finance their manufactured home purchase?

Response: The BIA reviews all mortgage applications for compliance with statutes, policies, and regulations.

Question 2: What policy recommendations for the manufactured housing market should we consider to lower the cost of mortgage for home buyers, especially Native Americans?

Response: Whether the cost of a mortgage may be lowered is within the lender’s discretion.

Question 3: The Federal Home Loan Bank also has an affordable housing mission. What investments in Native American homeownership has the Federal Home Loan Banks made? Is there a regional Bank that is a leader in serving Native American homebuyers and reservation communities?

Response: We are not aware of a regional bank that is considered a leader in serving Native American homebuyers. However, nationwide lenders most utilized for Native American homebuyers include 1st Tribal Lending and Bank2, particularly for HUD Section 184 home loans.



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

FEB 11 2020

The Honorable John Hoeven
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Chairman Hoeven:

Enclosed are responses to the follow-up questions from the November 6, 2019, oversight hearing entitled "Examining the 477 Program: Reducing Red Tape While Promoting Employment and Training Opportunities in Indian Country" before your Committee. These responses were prepared by the Bureau of Indian Affairs.

Thank you for the opportunity to respond to you on this matter.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Tom Udall
Vice Chairman

Questions for the Record
Senate Committee on Indian Affairs
Oversight Hearing “Examining the 477 Program: Reducing Red Tape While
Promoting Employment and Training Opportunities in Indian Country”
November 6, 2019

Questions from Chairman John Hoeven

The Senate Committee on Indian Affairs worked to amend Public Law 102-477-“the 477 program” to increase employment opportunities in tribal communities through enabling greater tribal self-determination and decreasing unnecessary federal bureaucracy. In 2017, based on the success of the 477 program and with tribal support, the amendments were passed by Congress and signed into law. These 2017 amendments expand the 477 program to 12 federal departments, clarified program and funding eligibility, reaffirmed BIA as the lead agency in operating the 477 program, and charged the Secretary of the Interior in conjunction with the heads of the other participating federal departments to enter into a memorandum of agreement (MOA) providing for the implementation of the law. At the hearing, the Committee heard from tribal leaders and the chairwoman of the P.L. 477 workgroup regarding Indian Country’s concern over the MOA and its misapplication of the law.

Question 1: Will the Department of the Interior commit to re-working the inter-departmental MOA so that it accurately reflects the law?

Response: The Department believes that the MOA complies with the law. As with any program, we continually evaluate whether we can make improvements, and the 477 program is no exception. The Department and the other Federal partners are still in the process of implementing the 477 program, consistent with the statute and the MOA. Accordingly, when appropriate, part of the Department’s evaluation efforts will include initiating tribal consultation to solicit input from Indian Country regarding implementation of the 477 program, including input concerning the language intent of the law.

Question 2: What actions has the Department of the Interior taken to ensure the MOA will be re-worked?

Response: The Department and the other Federal partners are still in the process of implementing the 477 program, consistent with the statute and the MOA. As noted above, when appropriate, the Department will initiate tribal consultation to solicit input from Indian Country regarding implementation of the 477 program.

Questions from Vice-Chairman Tom Udall

Identifying 477-Eligible Grant Programs

Question 1: The departments that participate in 477 do not proactively determine which of their grants will qualify for inclusion, placing the burden of identifying potentially 477-eligible grants on Tribes. In a recent briefing, Department of the Interior (DOI) staff informed Committee staff that they once attempted to compile a list of 477-eligible programs, only to have to idea rejected by the other departments.

- a. **Please describe any attempts by the Department to compile a list of 477-eligible programs and, if the Department ultimately set aside such an effort, the events that led to the Department halting its efforts.**

Response: To clarify the process and discussion surrounding the 477-eligible programs, the Department did not represent that its ideas were rejected by other departments. During the 477 MOA development process, federal partners, including DOI, discussed developing a list of programs that may be eligible for integration into tribal 477 plans. However, at that time, the federal partners agreed that compiling such a list may be perceived by federal agencies and Tribes as all-inclusive, thereby restricting the inclusion of additional programs at points in the future. Yet, as a way to help Tribes identify potential 477 eligible programs, on September 19, 2019, BIA sent a spreadsheet of programs that had been identified by tribes for potential inclusion in a 477 plan to all of the 477 tribal partners.

- b. **What other actions has DOI taken to reduce the burden of identifying 477-eligible grants on Tribes?**

Response: The Act does not require that DOI carry the administrative burden of identifying 477-eligible grants for Tribes across the federal government. Instead, our efforts have focused on administering the 477 program on behalf of the federal partners. DOI and its federal partners have been, and continue to be, open to hearing tribal views about additional programs that may be eligible for inclusion in the 477 program.

Questions for the Record
Senate Committee on Indian Affairs
Oversight Hearing “Examining the 477 Program: Reducing Red Tape While
Promoting Employment and Training Opportunities in Indian Country”
November 6, 2019

Question from Senator Catherine Cortez Masto

Duckwater Shoshone Issue

In accordance with the Nevada Native Nations Land Act the BLM Nevada state office is currently developing a survey to define new boundaries for the Duckwater Shoshone Tribe in Nevada. Pursuant to this law, the survey was to be completed within 6 months of enactment (April 2017). However, the BLM has missed this federal statutory deadline by more than 2.5 years. The BLM has also not responded to the tribe’s meeting requests to begin negotiations on a self-governance compact.

Question 1: Can the BIA please work with the tribe and their agency counterparts at BLM to ensure this issue is resolved in a timely manner, and provide an update to my office?

Response: The Department is committed to working with the Duckwater Shoshone Tribe on completing the boundary survey as required by the Nevada Native Nations Land Act (P.L. 114-232). While the land was conveyed immediately by the law, the BLM continues to work with BIA on finishing the boundary survey. The BLM is in the final stages of completing the required survey. Additionally, the BLM has been working with the tribe on a self-governance compact for grazing. The BLM last held a meeting with the tribe in April, 2019, and continues to work with the tribe going forward on grazing and range management issues.

Questions from Senator Tina Smith

The Senate Committee on Indian Affairs worked to amend the Public Law 102-477- the “477” program- to strengthen tribal self-determination and support economic development on tribal lands. Those amendments, which were signed into law in 2017, intend to give tribal governments better control of how funding is used. I’m concerned by reports that federal agencies, particularly the U.S. Department of Health and Human Services (HHS), are not carrying out these amendments as intended.

Question 1: If an Indian tribe proposes in its 477 plan to spend some of its workforce development program funding on a jobs-related native language and cultural component, do you agree that the statute, as amended, requires the federal government to approve the tribe’s plan?

Response: The intent of the 477 program is for DOI to administer it on behalf of federal partners. Pursuant to that purpose, the MOA prescribes the process for evaluating and acting upon Tribes’ proposed 477 plans.

Question 2: Do you agree that the mandatory waiver authority in 25 USC 3406 means HHS must identify and grant any requested waiver that is “necessary to enable the Indian tribe to efficiently implement the [tribe’s 477] plan” so long as the waiver is not inconsistent either with (a) the purposes of 477 or (b) a statute that is specifically applicable to Indians and not a statute of general applicability?

Response: 25 U.S.C. § 3406(d)(2) provides that a waiver request may only be denied if it is (a) inconsistent with the purposes of the Act, or (b) the provisions of law from which the program included in the plan derives its authority that is specifically applicable to Indians.

Question 3: What is your view of the purpose of 477?

[25 USC 3401: “The purpose of this chapter is to facilitate the ability of Indian tribes ... to integrate the employment, training and related services they provide from diverse Federal sources in order to improve the effectiveness of those services, reduce joblessness in Indian communities, and serve tribally determined goals consistent with the policy of self-determination, while reducing administrative, reporting, and accounting costs.”]

Response: The purpose of Public Law 102-477 is to facilitate the ability of Indian tribes and tribal organizations to integrate the employment, training and related services they provide from diverse Federal sources in order to improve the effectiveness of those services, reduce joblessness in Indian communities, and serve

tribally determined goals consistent with the policy of self-determination, while reducing administrative, reporting, and accounting costs.

Question 4: Do you agree that native language training and cultural education activities are services related to job training within the purposes of 477?

[25 USC 3404(a)(1)(A)(x): “The programs that may be integrated pursuant to a plan ... shall be only programs implemented for the purpose of ... any services related to the[se] activities [job training, welfare to work and tribal work experience, creating or enhancing employment opportunities, skill development, assisting Indian youth and adults to succeed in the workforce, facilitating the creation of job opportunities].”

Response: Pursuant to the statute, each tribal plan is reviewed by the Department and affected agencies. If a Tribe submits a plan that includes Native language training and cultural education activities, the plan will be reviewed to determine whether such training and activities may be included in a 477 plan.

Question 5: In your review, does native language skill and cultural knowledge enhance employability in Indian Country?

Response: Depending on labor market opportunities and other factors, language skills and cultural knowledge may enhance employability in any community.

Question 6: The Mille Lacs Band of Ojibwe in my state has a long and productive history of making maximum use of its 477 authority. The Band is using its TANF funds to help integrate its language and culture into its job training efforts. Do you agree that this approach is precisely what the Band is authorized to do under 25 USC Section 3404(b)?

Response: The Band, like other eligible Tribes and tribal organizations, may seek approval of a 477 plan that incorporates programs that are eligible for inclusion in its 477 program for the purposes stated in 25 U.S.C. § 3404. The Department has worked with HHS and the Band so that the Band’s 477 Master Plan for October 1, 2019, to September 30, 2022, could be approved.

**House Committee on Education and the Workforce
"Examining the Government's Management of Native American Schools"
Wednesday February 14, 2018**

Questions from Chairman Rokita

- 1. Throughout your testimony, you expressed support and enthusiasm for proposed appropriations for the Bureau of Indian Education (BIE) in the Presidents Fiscal Year (FY) 2019 Budget Request. However, the President's budget proposes to cut nearly \$150 million from the BIE's operating budget from the funding enacted in Fiscal Year 2017 and over \$60 million from the BIE's school construction funds as enacted in FY 17.**

- What would the cut in the construction line mean to the schools already on the list? Which schools on the list would not get built?**

Response: As proposed in the FY 2019 President's Budget Request, the Department's focus is on maintenance and repair rather than replacement. However, the Budget Request would still ensure the construction of the three remaining 2004 replacement schools (Beatrice Rafferty, Cove Day School, and Little Singer Community School) and the first three 2016 replacement list schools (Laguna, Quileute, and Blackwater), which are already in design or construction utilizing prior-year appropriated funds. The Bug-O-Nay-Ge-Shig High School facility replacement will also complete construction as the funding line has already been obligated from prior-year funding, separately from the other ten schools on the replacement index.

The President's budget also includes a legislative proposal to create a Public Lands Infrastructure Fund, which would provide up to \$18 billion to address needed repairs and improvements in the BIE schools, as well as the national parks and national wildlife refuges. As the Department works to expand its energy program on federal lands and waters, this initiative has the potential to generate much-needed infrastructure and maintenance funding for BIE schools.

- How could BIE implement the strategic plan with these cuts?**

Response: Implementation of the Strategic Plan is not contingent on funding. The work in regards to strategic performance management and increasing accountability to more effectively serve BIE schools will continue, regardless of the amount of funding available. BIE is focused on utilizing annual appropriations, as effectively and efficiently as possible.

- You have stated that the BIE is only 50 percent staffed. How would these cuts effect staffing in the schools?**

Response: The number of BIE administrative staff positions filled does not reflect local school staff positions. Providing for the direct operation of schools and supporting classroom instruction for Indian students in BIE-funded schools is the primary mission of BIE. Savings proposed for BIE core mission programs are identified from duplicative and/or restricted supplemental programs, and those that divert funds from BIE-funded schools to outside institutions.

- 2. During your testimony, you stated that the BIE has begun consideration of naming**

House Committee on Education and the Workforce
"Examining the Government's Management of Native American Schools"
Wednesday February 14, 2018

representatives for the negotiated rulemaking committee that will provide guidance on the BIE's Standards, Assessments, and Accountability System under the Every Student Succeeds Act (ESSA). However, the BIE has provided limited information regarding the selection process and timeline over the past 18 months. What is your selection process for representatives that will serve on the negotiated rulemaking committee? How will you ensure that the representatives reflect the students they are selected to represent? What is the current timeline for the selection of the representatives and when can Bureau-funded schools expect a final state plan to be submitted under ESSA?

Response: To meet its obligations under the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESSA), the BIE will amend its existing standards, assessments, and accountability regulations through Negotiated Rulemaking (NRM); and solicit stakeholder and tribal input through consultation regarding the BIE State Plan. At a December 8, 2016 meeting between BIE and ED, Education officials expressed a view that the State Plan under ESEA was optional for the BIE. BIE Director Dearman announced that the BIE would move forward with developing a State Plan, , that includes the content for Title I, part A developed through the NRM, as a means to facilitate a transition to the ESSA amendment and ensure the development of a coherent federal education system across the 23 states in which BIE facilities operate. The BIE notified ED via email on January 7, 2017 that it would submit a State Plan.

To meet its ESEA obligations the BIE will amend its existing standards, assessments, and accountability regulations through NRM. , On November 9, 2015, the BIE published a notice of intent (80 FR 69161) requesting comments and nominations for tribal representatives for the NRM to recommend revisions to the existing regulations for BIE's accountability system. Upon transition between Administrations, the initial formulation of the NRM was postponed in order to provide incoming Department staff adequate time to review prior work. As of August 2017, the BIE was provided clearance to move forward with re-initiating the Committee and working and consulting with stakeholders to determine membership and subsequent steps.

The negotiated rulemaking committee was re-advertised in a Federal Register notice (82 FR 43199) soliciting nominations on September 14, 2017, with a deadline for submission of nominations by October 16, 2017. The nominations received were reviewed by Department and BIE officials and a Notice of Proposed membership of Committee was published in the Federal Register (83 FR 16806) on April 17, 2018. A subsequent Federal Register Notice will announce the final NRM members and initial meeting dates.

Ultimately, the NRM will recommend revisions to existing regulations (25 CFR Part 30), replace the No Child Left Behind Act (NCLB) Adequate Yearly Progress regulatory language, and implement the Secretary's statutory responsibility to define the standards, assessments, and accountability system, consistent with the ESEA. The BIE and ED consult and work together on a range of Indian education- related issues, through the departments' interagency work group that meets bi-weekly and through direct communication.

House Committee on Education and the Workforce
"Examining the Government's Management of Native American Schools"
Wednesday February 14, 2018

- 3. Data on student progress, school improvement, and accountability for schools in the BIE system remains scarce and outdated. In your testimony, you stated that the BIE does not provide internal guidance to schools on data collection and reporting practices and discussed efforts to improve data collection and analysis across schools. As the BIE updates reporting practices and analysis, how will you work to improve transparency and accountability regarding data to Tribes, parents, and community members?**

Response: During the hearing, the intent of the statement was to communicate BIE's historic lack of formal training and guidance to schools regarding data collection and reporting. However, that is not to say that the BIE does not provide such technical assistance. Because such assistance has been inadequate for years, the Bureau is actively working to update data collection and reporting practices.

Under this Administration, BIE leadership has refocused attention to increasing data-driven decisions across the Bureau through improved data collection, management, and reporting.

Available data has been reported to ED's EDFacts data collection system. The Bureau is working to update and post additional, required public reporting on school accountability. However, most information has not yet been aggregated and remains partially incomplete. Recently, leadership has refocused attention on increasing data-driven decision-making across the Bureau through improved data collection.

In addition, as of 2018, the Bureau has hired an Accountability and Assessment Supervisor as well as several Education Research Analysts and has filled six Native American School Information Specialists (NASIS) positions. These personnel are specifically focused on data by expanding technical assistance to schools as well as improving the Bureau's collection and use of key data metrics critical to supporting the needs of students attending BIE-funded schools.

The BIE has also formed a bureau-wide working group to improve its data collection, management, and reporting. The working group was formed in early 2017 and was initially tasked with bringing outdated EdFacts data up-to-date. The working group is performing a bureau-wide data audit and is in the early stages of creating policies and procedures to improve the Bureau's collection, management, and reporting of data.

House Committee on Education and the Workforce
"Examining the Government's Management of Native American Schools"
Wednesday February 14, 2018

Questions from Rep. Scott

- 1. Are students with disabilities typically served by teachers with credentials to teach special education? If not, what challenges has BIE faced in recruiting and retaining high quality special education teachers? What can Congress do to ensure BIE is able to recruit and retain teachers that can meet the needs of students with disabilities?**

Response: Yes. The BIE operates schools in 23 states and in each school the BIE ensures that students with disabilities are served by teachers who are credentialed in special education. With regard to recruitment of highly effective special education teachers, while the BIE faces a number of unique challenges, identifying adequate housing for highly-effective educators is a particular challenge to recruitment. Many of the BIE's schools are located in rural, geographically isolated Indian reservations with a limited number of educator quarters that are in a state of good repair.

The BIE is committed to recruiting, developing, retaining, and empowering a highly effective workforce in order to provide BIE-funded schools with the opportunity for high achievement. To that end, the BIE Strategic Direction identifies specific strategies, milestones, and actions designed to address its unique educator recruitment challenges.

- 2. Do students with disabilities attending BIE schools have access to related services providers such as occupational therapists, physical therapists, counselors, and speech language pathologists? If not, what can Congress do to support BIE in recruiting and retaining high-quality related services providers? How has the procurement and contracting process for related services impeded the delivery of these services?**

Response: While many of the BIE's schools face challenges associated with being located in rural, geographically isolated areas, BIE staff consistently work to ensure that all identified services in a student's Individualized Education Program (IEP) are provided for in accordance with the IEP. BIE is improving oversight and utilizes incentives as practical to ensure services and specialized supports, such as access to the necessary faculty and mental and behavioral health support staff, are available to each student. However, similar to rural schools in general, recruitment and retention of such staff is a common issue in the most isolated schools.

Additionally, the federal procurement process and its impact on the timely delivery of special education and related services to students with disabilities can create challenges. It is slower than processes utilized by state public schools, which can result in service providers opting to work for public schools rather than BIE-funded schools. However, as part of the BIE reorganization, the bureau for the first time will have direct control over its own contracting personnel. This resource will provide the BIE the ability to provide necessary and related services more quickly to the field...

House Committee on Education and the Workforce
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- 3. How is BIE meeting its obligations under IDEA to identify students with disabilities known as Child Find? What is BIE doing to ensure all students with disabilities are identified, properly evaluated, and provided a meaningful educational benefit? Is BIE evaluating policies related to special education to meet the new standard of meaningful educational benefit identified in the recent Supreme Court case?**

Response: The BIE actively monitors Child Find activities through its fiscal and programmatic monitoring program. The BIE also reviews all narrative justifications in a school's line accounting for Part B Application Spending Plans, ensuring that such activities are appropriate.

Additionally, the BIE's Division of Performance and Accountability (DPA) conducts comprehensive annual audits and evaluations of all initial IEPs, as well as randomized annual audits of secondary transition IEPs. In the previous year, DPA has also executed 16 school on-site monitoring visits and 20 IEP school reviews.

Finally, DPA is actively reviewing recent judicial decisions, including [*Endrew F. v. Douglas County School District*](#), and conducting an analysis of existing policy in order to identify any necessary policy changes or additions.

- 4. How is BIE supporting teachers in addressing and meeting the behavioral needs of students with disabilities? Are policies related to suspension, expulsion, seclusion, and restraint being evaluated and updated to ensure students with disabilities are served in the least restrictive environment and not exposed to aversive and exclusionary behavioral interventions at higher rates than students without disabilities?**

Response: The BIE is committed to providing its teachers and staff with high-quality training and technical assistance in implementing successful Positive Behavioral Intervention and Supports (PBIS) frameworks in their schools. It is critical that teachers are equipped with the necessary tools to support students in meeting their academic and behavioral goals. BIE actively and regularly monitors the suspension and/or expulsion of students with disabilities, ensuring that such students are not subject to adverse or exclusionary interventions and are being served in the least restrictive environment. BIE also reports special education suspension and expulsion data through EdFacts as part of its data submission under section 618 of the IDEA, as well as under indicator 4a of its IDEA Part B State Performance Plan/Annual Performance Report (SPP/APR).

- 5. How is BIE supporting parent participation in the education of students with disabilities? Is BIE meeting the OSEP indicators for parent participation? What steps are being taken to support parents of students with disabilities in understanding their rights under IDEA? Are parents satisfied with the support provided?**

Response: The BIE actively monitors school-level parental engagement activities through its

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United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

OCT 22 2018

The Honorable John Hoeven
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Enclosed are responses to the questions received by the Bureau of Indian Education following the May 16, 2018, hearing before your Committee on "Protecting the Next Generation: Safety and Security at Bureau of Indian Education Schools". We apologize for the delay in our response.

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional
and Legislative Affairs

Enclosure

cc: The Honorable Tom Udall
Vice Chairman

Senate Committee on Indian Affairs

Hearing on “Protecting the Next Generation: Safety and Security at Bureau of Indian Education Schools”

May 16, 2018

Questions for Mr. Dearman

From Senator Daines

1. Mr. Dearman, would you agree that the abysmal physical surroundings at BIE schools hurt, not help, students who are already struggling with depression and suicidal thoughts?

BIE Response: A healthy and safe classroom environment is critical to supporting the holistic needs of BIE students. In the FY 2018 Omnibus spending package, Congress funded the BIA and BIE at \$3.1 billion – an increase of \$204 million above the FY 2017 enacted level. This included \$129 million in infrastructure increases for schools and law enforcement. Through this funding, Indian Affairs is working to address the current backlog in school construction and maintenance as well as provide local technical assistance to increase school safety.

At the end of the second quarter of FY 2018, total deferred maintenance for education facilities was \$547 million, including \$380 million for buildings and \$167 million for grounds. Deferred maintenance for education quarters was roughly \$75 million. In total, there are 72 replacement eligible schools – 54 eligible due to poor condition and 18 eligible due to school age and proportion of students in portable units. This is in addition to the ten schools on the 2016 No Child Left Behind (NCLB) Replacement Schools list and the three previously funded schools from the 2004 NCLB replacement schools list.

The President’s FY 2019 Budget request includes a legislative proposal to create a Public Lands Infrastructure Fund, which would help pay for repairs and improvements in national parks, national wildlife refuges, and BIE-funded schools. As the U.S. Department of the Interior works to expand its energy program on federal lands and waters, this initiative has the potential to generate much-needed infrastructure and maintenance funding that can better support the varying needs of BIE students.

From Senator Heitkamp

Law Enforcement

1. Does BIE require all BIE schools to have emergency response plans in place, including for active shooter situations? If not, why? Does BIE require that each BIE schools have a certain base level of physical safety mechanisms in place (i.e. automatic door locks, security cameras, etc.)? If not, why?

BIE Response: To ensure the welfare and safety of students and staff at BIE-funded schools, BIE utilizes safety personnel to provide national protocols and guidance throughout the BIE school system uniformly in reference to issues that are national in scope. BIE most recently updated its All Academic Staff Training and Preparedness guidance on January 12, 2018 and provided it to schools through BIE Education Program Administrators who work directly with school leaders. The form lists mandatory and recommended trainings and provides checklists for school leaders to plan and complete such trainings, including Emergency Management Plan and Procedures.

BIE safety personnel provide information in a similar manner to both tribally controlled and Bureau-operated schools. However, levels of autonomy differ among tribally controlled and Bureau-operated schools. Bureau-operated schools are required to follow all national BIE policy memoranda, whereas tribally controlled schools have the authority to create their own school policies and procedures, pursuant to any applicable law(s). Since the majority of BIE-funded schools are directly managed by tribes or locally controlled school boards, the BIE’s ability to oversee the implementation of safety policies is

limited by their autonomy. However, the BIE does review grant assurances to ensure tribally controlled schools follow statutory and regulatory defined minimum requirements regarding necessary procedures for background checks as well as other safety measures.

2. Does BIE provide technical and direct assistance to BIE schools in developing and implementing schools safety plans?

BIE Response: As BIE works to improve security at its schools, the agency is focusing much-needed support on improving threat assessments, protocols and procedures as well as increasing access to guidance information for preventing and responding to instances of school violence. The BIE utilizes its School Safety Specialist to collaborate with key BIE staff in providing safety supports directly to BIE-funded schools. The BIE is working to improve its safety procedures by providing schools and staff guidance on pertinent mandatory and recommended trainings to ensure safety is the highest priority at BIE-funded schools and school safety plans are in place. The BIE is also refocusing efforts to provide support and technical assistance to improve safety procedures via six regional BIE summer trainings for all employees, including school-level personnel.

3. Does BIE collaborate with BIA, other relevant federal agencies, and state and local law enforcement on emergency response planning for BIE schools (including for active shooter situations)? If not, why? If so, please explain what those efforts look like and whether or not best practices are being developed and disseminated amongst BIE schools?

BIE Response: The BIE actively collaborates with the BIA's Office of Justice Services (OJS) as well as local and tribal law enforcement to improve safety in BIE-funded schools. Schools also contract with local private security firms and establish memoranda of understanding with local law enforcement agencies in order to take the burden off school staff in conducting detailed surveys, identifying safety and security deficiencies, and implementing corrective action plans and emergency response plans. During the 2017–2018 School Year, approximately \$1.8 million in Safe and Secure Schools funding assisted in school safety audits and provided onsite School Resource Officers (SROs) that are hired and supervised by BIA OJS. BIE is working with OJS to determine how it can optimize the number of available SROs in BIE-funded schools to increase support in high-need areas.

In addition to OJS providing SROs, OJS provides training and other direct law enforcement safety services to BIE-funded schools, including:

- Gang Resistance Education and Training (GREAT);
- Drug Abuse Resistance Education (DARE); and
- Alert Lockdown Inform Counter Evacuate (ALICE) active shooter response.

Deferred Maintenance

1. Given the current backlog in school construction and maintenance, how does BIE prioritize the allocation of funds and the replacement of school facilities? Within the \$18 billion under the proposed Public Lands Infrastructure Fund in the president's, how much would be allocated to repair or replace BIE schools?

BIE Response: Indian Affairs is currently working to construct those schools from the 2004 NCLB replacement schools index, including Beatrice Rafferty, Cove Day, and Little Singer Day School. Additionally, in September 2018, Indian Affairs announced \$74.2 million in funding for design-build contracts would be directed to two schools on the 2016 NCLB Replacement Schools list -- Blackwater Community School and the Quileute Tribal School. Eight schools remain on the 2016 NCLB Replacement Schools list and will be constructed pending availability of appropriations. As schools complete their planning phase requirements, they establish their position on the replacement priority list. Additionally, as the U.S. Department of the Interior works with Congress to expand its energy program on federal lands

and waters, this initiative has the potential to generate much-needed infrastructure and maintenance funding.

2. I'd like to bring your attention to the condition of the Tate Topa Schools on the Spirit Lake Reservation. The School site is shared by BIE and the public school and the BIE has a mix of ownership over the school facilities. My understanding is that because of this mixed ownership, BIE has been unhelpful with basic maintenance and addressing other issues with the building, and the school district purchase equipment like metal detectors and cameras themselves since the BIE will not cover it. Will you look at the issues the schools is having in working with BIE and work to improve that relationship so the school building is adequately maintained?

BIE Response: In 1982, the Department constructed a new school to replace a formerly BIA-operated K-6 school. Indian Affairs continued to provide an academic program for K-6 only. The Fort Totten Public School District #30 provided the academic program for grades 7-12, under a cooperative school agreement. Subsequently, the Spirit Lake Tribe contracted the BIA funded school, under Congressional authority to convert to a PL 100-297 tribal grant school to provide academic programs to grades 7 and 8. During this time, the Tate Topa (Four Winds) School Board allowed the public school to occupy a portion of the school facilities via a written agreement. Indian Affairs was not a signatory party to the shared facility use agreements after the Tribe began to administer the education program in 1989. The Spirit Lake Tribe financed with tribal economic development funds a \$2.5 million, 22,000 square foot addition to house grades 6-8 that was completed on March 18, 2002.

Currently, the BIE-funded school is the principal entity housed in the current school facilities. The Fort Totten Public School District #30 high school program utilizes the school's federal facilities without a lease or payment in support of using or maintaining the facilities and programs/services. Per this request, the BIE will follow-up on developments to-date and work with the BIA to analyze the possibility of an established written Memorandum of Agreement that ensures that federal funding is used to the extent possible for the repairs and maintenance while collaborating with the public school to address a proportionate share of costs for facilities and services. Following the determination, BIE will contact the appropriate local-level personnel to discuss paths forward for properly maintaining the school's facilities.

Safety Monitoring and Reporting

1. BIE schools document incidents of school violence and threats by entering data into the Native American Student Information System (NASIS). Does BIE have any way to ensure that school employees always enter this information when there is an incident?

BIE Response: BIE recently increased its focus on professional development to ensure BIE employees and school personnel have the training necessary to address the various safety needs of students and personnel in BIE-funded schools. This includes an emphasis on supporting schools as they enter their data into NASIS. As such, BIE hired critical NASIS personnel in the last year to ensure school employees understand the systems that support their students' safety. These positions include a NASIS supervisor and seven supporting NASIS staff members tasked with supporting schools from specific regions. The BIE also held regional trainings this summer to assist school-level employees with utilizing the NASIS system. While BIE is working to improve technical assistance to schools to ensure information is entered into the system correctly and in a timely manner, internal controls have been absent in the past. BIE staff now hold regularly scheduled calls and trainings with schools to ensure school staff understand how to input information into the system. Furthermore, under Goal 6 of the agency's five-year Strategic Direction – formally published in August 2018, BIE created its first-ever data-governance board to analyze organization-wide data weaknesses and recommend control measures where needed, such as those regarding incidents of school violence.

2. You said in your testimony that schools are directed to complete Critical Incident Reports, contact the BIE Central Office, their Associate Deputy Director, and a few other people in addition to entering data in NASIS. Are you assured that this process happens every time, or is training lacking in this area, leaving some incidents unreported?

BIE Response: BIE utilizes this protocol to ensure uniformity, so BIE tracks incidents accurately and decreases response times. However, it is plausible that some incidents remain unreported due to human error. As such, BIE is working to address recommendations from GAO and the OIG to improve protocols and procedures as well as increase access to guidance information for utilizing data tracking systems. BIE is also providing schools and staff guidance on pertinent mandatory and recommended trainings to ensure that safety is the highest priority at BIE-funded schools.

Questions from Rep. Sablan

1. The severely reduced 2019 President's budget for Indian Affairs programs includes \$742 million for the Bureau of Indian Education - a reduction of nearly \$150 million from FY 2017. This decrease in funding for BIE schools is unacceptable especially considering that BIE schools continue to face many unmet needs. Many schools in Indian Country face extreme difficulty with teacher recruitment and retention, lack basic materials, and suffer from crumbling infrastructure. School buildings are in poor condition, many over four decades old, and are in desperate need of repairs. These substandard conditions are not conducive to educational achievement and impact learning opportunities for students.

How does the Department of Interior justify these drastic budget cuts with the much-needed support for BIE schools?

Response: The FY 2019 budget request is designed to focus on core mission service delivery. Providing for the direct operation of schools and supporting classroom instruction for Indian students in BIE-funded schools is the primary mission of BIE. Savings proposed for BIE core mission programs are identified from duplicative and/or restricted supplemental programs, and those that divert funds from BIE-funded schools to outside institutions.

How does the Department plan to bring modern schools that maximize learning opportunities to the BIE?

Response: In addition to refocusing funds to BIE core mission programs that support the direct operation of schools and classroom instruction, the FY 2019 budget request also includes a legislative proposal to create a Public Lands Infrastructure Fund which would provide up to \$18 billion to address needed repairs and improvements in the BIE schools, as well as the national parks and national wildlife refuges. BIE is also actively partnering with Federal and non-Federal partners to improve and expand learning environments and opportunities for Indian students.



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

JUN 27 2018

The Honorable Todd Rokita
Chairman
House Education and the Workforce
Subcommittee on Early Childhood, Elementary,
And Secondary Education
Washington, DC 20515

Dear Mr. Chairman:

Enclosed are responses to the questions received by Mr. Tony Dearman, Director, Bureau of Indian Education, following his February 14, 2018, appearance before your Subcommittee at the hearing titled "Examining the Government's Management of Native American Schools."

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional
and Legislative Affairs

Enclosure

cc: The Honorable Jared Polis
Ranking Member

**House Committee on Education and the Workforce
"Examining the Government's Management of Native American Schools"
Wednesday February 14, 2018**

Questions from Chairman Rokita

- 1. Throughout your testimony, you expressed support and enthusiasm for proposed appropriations for the Bureau of Indian Education (BIE) in the Presidents Fiscal Year (FY) 2019 Budget Request. However, the President's budget proposes to cut nearly \$150 million from the BIE's operating budget from the funding enacted in Fiscal Year 2017 and over \$60 million from the BIE's school construction funds as enacted in FY 17.**

- What would the cut in the construction line mean to the schools already on the list? Which schools on the list would not get built?**

Response: As proposed in the FY 2019 President's Budget Request, the Department's focus is on maintenance and repair rather than replacement. However, the Budget Request would still ensure the construction of the three remaining 2004 replacement schools (Beatrice Rafferty, Cove Day School, and Little Singer Community School) and the first three 2016 replacement list schools (Laguna, Quileute, and Blackwater), which are already in design or construction utilizing prior-year appropriated funds. The Bug-O-Nay-Ge-Shig High School facility replacement will also complete construction as the funding line has already been obligated from prior-year funding, separately from the other ten schools on the replacement index.

The President's budget also includes a legislative proposal to create a Public Lands Infrastructure Fund, which would provide up to \$18 billion to address needed repairs and improvements in the BIE schools, as well as the national parks and national wildlife refuges. As the Department works to expand its energy program on federal lands and waters, this initiative has the potential to generate much-needed infrastructure and maintenance funding for BIE schools.

- How could BIE implement the strategic plan with these cuts?**

Response: Implementation of the Strategic Plan is not contingent on funding. The work in regards to strategic performance management and increasing accountability to more effectively serve BIE schools will continue, regardless of the amount of funding available. BIE is focused on utilizing annual appropriations, as effectively and efficiently as possible.

- You have stated that the BIE is only 50 percent staffed. How would these cuts effect staffing in the schools?**

Response: The number of BIE administrative staff positions filled does not reflect local school staff positions. Providing for the direct operation of schools and supporting classroom instruction for Indian students in BIE-funded schools is the primary mission of BIE. Savings proposed for BIE core mission programs are identified from duplicative and/or restricted supplemental programs, and those that divert funds from BIE-funded schools to outside institutions.

- 2. During your testimony, you stated that the BIE has begun consideration of naming**

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representatives for the negotiated rulemaking committee that will provide guidance on the BIE's Standards, Assessments, and Accountability System under the Every Student Succeeds Act (ESSA). However, the BIE has provided limited information regarding the selection process and timeline over the past 18 months. What is your selection process for representatives that will serve on the negotiated rulemaking committee? How will you ensure that the representatives reflect the students they are selected to represent? What is the current timeline for the selection of the representatives and when can Bureau-funded schools expect a final state plan to be submitted under ESSA?

Response: To meet its obligations under the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESSA), the BIE will amend its existing standards, assessments, and accountability regulations through Negotiated Rulemaking (NRM); and solicit stakeholder and tribal input through consultation regarding the BIE State Plan. At a December 8, 2016 meeting between BIE and ED, Education officials expressed a view that the State Plan under ESEA was optional for the BIE. BIE Director Dearman announced that the BIE would move forward with developing a State Plan, , that includes the content for Title I, part A developed through the NRM, as a means to facilitate a transition to the ESSA amendment and ensure the development of a coherent federal education system across the 23 states in which BIE facilities operate. The BIE notified ED via email on January 7, 2017 that it would submit a State Plan.

To meet its ESEA obligations the BIE will amend its existing standards, assessments, and accountability regulations through NRM. , On November 9, 2015, the BIE published a notice of intent (80 FR 69161) requesting comments and nominations for tribal representatives for the NRM to recommend revisions to the existing regulations for BIE's accountability system. Upon transition between Administrations, the initial formulation of the NRM was postponed in order to provide incoming Department staff adequate time to review prior work. As of August 2017, the BIE was provided clearance to move forward with re-initiating the Committee and working and consulting with stakeholders to determine membership and subsequent steps.

The negotiated rulemaking committee was re-advertised in a Federal Register notice (82 FR 43199) soliciting nominations on September 14, 2017, with a deadline for submission of nominations by October 16, 2017. The nominations received were reviewed by Department and BIE officials and a Notice of Proposed membership of Committee was published in the Federal Register (83 FR 16806) on April 17, 2018. A subsequent Federal Register Notice will announce the final NRM members and initial meeting dates.

Ultimately, the NRM will recommend revisions to existing regulations (25 CFR Part 30), replace the No Child Left Behind Act (NCLB) Adequate Yearly Progress regulatory language, and implement the Secretary's statutory responsibility to define the standards, assessments, and accountability system, consistent with the ESEA. The BIE and ED consult and work together on a range of Indian education- related issues, through the departments' interagency work group that meets bi-weekly and through direct communication.

House Committee on Education and the Workforce
"Examining the Government's Management of Native American Schools"
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- 3. Data on student progress, school improvement, and accountability for schools in the BIE system remains scarce and outdated. In your testimony, you stated that the BIE does not provide internal guidance to schools on data collection and reporting practices and discussed efforts to improve data collection and analysis across schools. As the BIE updates reporting practices and analysis, how will you work to improve transparency and accountability regarding data to Tribes, parents, and community members?**

Response: During the hearing, the intent of the statement was to communicate BIE's historic lack of formal training and guidance to schools regarding data collection and reporting. However, that is not to say that the BIE does not provide such technical assistance. Because such assistance has been inadequate for years, the Bureau is actively working to update data collection and reporting practices.

Under this Administration, BIE leadership has refocused attention to increasing data-driven decisions across the Bureau through improved data collection, management, and reporting.

Available data has been reported to ED's EDFacts data collection system. The Bureau is working to update and post additional, required public reporting on school accountability. However, most information has not yet been aggregated and remains partially incomplete. Recently, leadership has refocused attention on increasing data-driven decision-making across the Bureau through improved data collection.

In addition, as of 2018, the Bureau has hired an Accountability and Assessment Supervisor as well as several Education Research Analysts and has filled six Native American School Information Specialists (NASIS) positions. These personnel are specifically focused on data by expanding technical assistance to schools as well as improving the Bureau's collection and use of key data metrics critical to supporting the needs of students attending BIE-funded schools.

The BIE has also formed a bureau-wide working group to improve its data collection, management, and reporting. The working group was formed in early 2017 and was initially tasked with bringing outdated EdFacts data up-to-date. The working group is performing a bureau-wide data audit and is in the early stages of creating policies and procedures to improve the Bureau's collection, management, and reporting of data.

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Questions from Rep. Scott

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Response: Yes. The BIE operates schools in 23 states and in each school the BIE ensures that students with disabilities are served by teachers who are credentialed in special education. With regard to recruitment of highly effective special education teachers, while the BIE faces a number of unique challenges, identifying adequate housing for highly-effective educators is a particular challenge to recruitment. Many of the BIE's schools are located in rural, geographically isolated Indian reservations with a limited number of educator quarters that are in a state of good repair.

The BIE is committed to recruiting, developing, retaining, and empowering a highly effective workforce in order to provide BIE-funded schools with the opportunity for high achievement. To that end, the BIE Strategic Direction identifies specific strategies, milestones, and actions designed to address its unique educator recruitment challenges.

- 2. Do students with disabilities attending BIE schools have access to related services providers such as occupational therapists, physical therapists, counselors, and speech language pathologists? If not, what can Congress do to support BIE in recruiting and retaining high-quality related services providers? How has the procurement and contracting process for related services impeded the delivery of these services?**

Response: While many of the BIE's schools face challenges associated with being located in rural, geographically isolated areas, BIE staff consistently work to ensure that all identified services in a student's Individualized Education Program (IEP) are provided for in accordance with the IEP. BIE is improving oversight and utilizes incentives as practical to ensure services and specialized supports, such as access to the necessary faculty and mental and behavioral health support staff, are available to each student. However, similar to rural schools in general, recruitment and retention of such staff is a common issue in the most isolated schools.

Additionally, the federal procurement process and its impact on the timely delivery of special education and related services to students with disabilities can create challenges. It is slower than processes utilized by state public schools, which can result in service providers opting to work for public schools rather than BIE-funded schools. However, as part of the BIE reorganization, the bureau for the first time will have direct control over its own contracting personnel. This resource will provide the BIE the ability to provide necessary and related services more quickly to the field...

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Response: The BIE actively monitors Child Find activities through its fiscal and programmatic monitoring program. The BIE also reviews all narrative justifications in a school's line accounting for Part B Application Spending Plans, ensuring that such activities are appropriate.

Additionally, the BIE's Division of Performance and Accountability (DPA) conducts comprehensive annual audits and evaluations of all initial IEPs, as well as randomized annual audits of secondary transition IEPs. In the previous year, DPA has also executed 16 school on-site monitoring visits and 20 IEP school reviews.

Finally, DPA is actively reviewing recent judicial decisions, including *Endrew F. v. Douglas County School District*, and conducting an analysis of existing policy in order to identify any necessary policy changes or additions.

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Response: The BIE is committed to providing its teachers and staff with high-quality training and technical assistance in implementing successful Positive Behavioral Intervention and Supports (PBIS) frameworks in their schools. It is critical that teachers are equipped with the necessary tools to support students in meeting their academic and behavioral goals. BIE actively and regularly monitors the suspension and/or expulsion of students with disabilities, ensuring that such students are not subject to adverse or exclusionary interventions and are being served in the least restrictive environment. BIE also reports special education suspension and expulsion data through EdFacts as part of its data submission under section 618 of the IDEA, as well as under indicator 4a of its IDEA Part B State Performance Plan/Annual Performance Report (SPP/APR).

- 5. How is BIE supporting parent participation in the education of students with disabilities? Is BIE meeting the OSEP indicators for parent participation? What steps are being taken to support parents of students with disabilities in understanding their rights under IDEA? Are parents satisfied with the support provided?**

Response: The BIE actively monitors school-level parental engagement activities through its

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United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

JUN 27 2018

The Honorable Doug LaMalfa
Chairman
House Natural Resources Subcommittee
on Indian, Insular and Alaska Native Affairs
Washington, DC 20515

Dear Mr. Chairman:

Enclosed are responses to the questions received by Mr. John Tahsuda, Principal Deputy Assistant Secretary – Indian Affairs, following his March 20, 2018, appearance before your Subcommittee at the hearing “Policy Priorities for the Administration’s FY 2019 Budget for Indian Affairs and Insular Affairs.”

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional
and Legislative Affairs

Enclosure

cc: The Honorable Ruben Gallego
Ranking Member

House Natural Resources Committee
s/c on Indian, Insular and Alaska Native Affairs
Hearing on FY 2019 Budget for Indian Affairs and Insular Areas
March 20, 2018

Questions from Rep. Sablan

1. The severely reduced 2019 President's budget for Indian Affairs programs includes \$742 million for the Bureau of Indian Education - a reduction of nearly \$150 million from FY 2017. This decrease in funding for BIE schools is unacceptable especially considering that BIE schools continue to face many unmet needs. Many schools in Indian Country face extreme difficulty with teacher recruitment and retention, lack basic materials, and suffer from crumbling infrastructure. School buildings are in poor condition, many over four decades old, and are in desperate need of repairs. These substandard conditions are not conducive to educational achievement and impact learning opportunities for students.

How does the Department of Interior justify these drastic budget cuts with the much-needed support for BIE schools?

Response: The FY 2019 budget request is designed to focus on core mission service delivery. Providing for the direct operation of schools and supporting classroom instruction for Indian students in BIE-funded schools is the primary mission of BIE. Savings proposed for BIE core mission programs are identified from duplicative and/or restricted supplemental programs, and those that divert funds from BIE-funded schools to outside institutions.

How does the Department plan to bring modern schools that maximize learning opportunities to the BIE?

Response: In addition to refocusing funds to BIE core mission programs that support the direct operation of schools and classroom instruction, the FY 2019 budget request also includes a legislative proposal to create a Public Lands Infrastructure Fund which would provide up to \$18 billion to address needed repairs and improvements in the BIE schools, as well as the national parks and national wildlife refuges. BIE is also actively partnering with Federal and non-Federal partners to improve and expand learning environments and opportunities for Indian students.



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

JUL 31 2019

The Honorable John Hoeven
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Chairman Hoeven:

Enclosed is a response to the follow-up question from the May 15, 2019, continuation of the oversight hearing on "The President's FY 2020 Budget Request for Indian Programs" and legislative hearing to receive testimony on S. 1211, the AUTOS Act before your Committee. This response was prepared by the Bureau of Indian Affairs.

Thank you for the opportunity to respond to you on this matter.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Tom Udall
Vice Chairman

Senate Committee on Indian Affairs
Oversight Hearing on “The President’s FY 2020 Budget Request for Indian Programs” and
Legislative Hearing on S. 1211, the AUTOS Act
Questions to Principal Deputy Assistant Interior Secretary for Indian Affairs John Tahsuda III
May 15, 2019

Questions for Principal Deputy Assistant Interior Secretary for Indian Affairs John
Tahsuda III

Question: In 2015, MAP-21 zeroed out the Tribal Roads High Priority Roads program. The program was designed to assist Tribes with funding to repair critically important roads vital not only for access to reservations, but also to attract economic development. By ceasing all funding to the program, Tribes were forced to compete with local governments and municipalities for critical transportation dollars. Many tribes in remote regions of the country depended on the High Priority Roads Program and have been penalized for the last four years. Can you please explain what is being done to address the much needed repairs for high priority roads that serve as lifelines for many Tribes?

Response:

The High Priority Projects (“HPP”) Program was established in 2004 with the publication of 25 C.F.R. Part 170, a negotiated rule governing what was then known as the Indian Reservation Roads (“IRR”) Program.¹ Congress changed the name of the IRR to the “Tribal Transportation Program” (“TTP”) in 2012. The HPP program began in FY 2005 and concluded at the end of FY 2012 with the enactment of MAP-21.²

The HPP program was designated for tribes whose annual allocation was insufficient to complete its highest priority project, or by any tribe for an emergency/disaster project on any tribal transportation facility. It did not provide funding to all tribes, only to those tribes whose funding was generally less than \$1 million annually.

Funds for HPP were derived from 5% of the authorized IRR program amount, less mandated set-asides on the amount up to \$275 million, plus up to 12.5% of the IRR program amount over \$275 million. In FY 2012, the last year of the HPP program, approximately \$33 million was available.

When the HPP program was operating, approximately \$205 million was awarded to 280 Tribes. The table below shows the number of projects and distribution of funds awarded by Region:

¹ 69 Fed. Reg. 43090 (July 19, 2004); the provisions governing HPP program appeared at 25 C.F.R. §§ 170.205 – 214.

² See Section 1119 of MAP-21, creating 23 U.S.C. § 202 (b)(3)(A)(ii) – “Tribal high priority projects. — The High Priority Projects program as included in the Tribal Transportation Allocation Methodology of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21), shall not continue in effect.”

Senate Committee on Indian Affairs

Oversight Hearing on “The President’s FY 2020 Budget Request for Indian Programs” and
Legislative Hearing on S. 1211, the AUTOS Act

Questions to Principal Deputy Assistant Interior Secretary for Indian Affairs John Tahsuda III
May 15, 2019

Region	No. of Projects	Amount Awarded	No. of Emergency /Disaster Projects
A-Great Plains	8	\$3,686,913	2
B-Southern Plains	23	\$21,460,361	2
C-Rocky Mountain	1	\$918,239	1
E-Alaska	126	\$94,712,725	1
F-Midwest	7	\$3,962,000	0
G-Eastern Oklahoma	1	\$1,000,000	0
H-Western	9	\$4,583,648	1
J-Pacific	56	\$38,832,367	2
M-Southwest	7	\$6,464,000	0
N-Navajo	0	\$0	0
P-Northwest	28	\$17,606,175	0
S-Eastern	14	\$12,020,423	0

Not all tribes received HPP program funding. Over the eight years the HPP program existed, 84% of the available funds and 88% of the awarded projects went to four (4) of the 12 BIA Regions.

Under the current authorization, the Fixing America’s Surface Transportation Act (“FAST Act”), P.L. 114-94 (December 4, 2015), the statutory TTP funding formula enacted under MAP-21 continued, including set-asides for projects that are critical to tribes that allows them to receive funding beyond their tribal shares. Examples of these set asides include: 2% of all TTP funds are made available to tribes for transportation planning (\$8.9 million in FY 2019); 3% of all TTP funds are made available to tribes for replacement and/or rehabilitation of deficient or unsafe bridges (\$13.4 million in FY 2019); and 2% of all funds are made available to tribes for priority safety projects (\$8.9 million in FY 2019). Additionally, \$110 million is included in the formula and specifically directed to increase share amounts to tribes who are projected to receive less of a tribal share than the amount they received in FY 2011.

The Emergency Relief for Federally Owned (“ERFO”) roads program is funded separately through the Federal Highway Administration, Office of Federal Lands Highway, and it provides relief funds for emergency/disaster projects that qualify when applied for by tribes. In FY 2018, Tribes received \$15.4 million from the ERFO account.



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SEP 20 2019

The Honorable John Hoeven
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Chairman Hoeven:

Enclosed are responses to the questions received by Mr. Charles Addington, Deputy Director of the Bureau of Indian Affairs, following his June 19, 2019, appearance before your Committee S. 227, Savanna's Act; S. 288, the Justice for Native Survivors of Sexual Violence Act; S. 290, the Native Youth and Tribal Officer Protection Act; S. 982, the Not Invisible Act of 2019; and S. 1853, the Bridging Agency Data Gaps and Ensuring Safety for Native Communities Act.

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional
and Legislative Affairs

Enclosure

cc: The Honorable Tom Udall
Vice Chairman

**Senate Committee on Indian Affairs
Legislative Hearing on S. 227, S. 288, S. 290, S. 1853”
June 19, 2019**

Questions from Vice-Chairman Udall

Unmet Law Enforcement Staffing Needs

1. Section 3 of the *Indian Law Enforcement Reform Act* (25 U.S.C. 2802) requires the Office of Justice Services (OJS) to submit a list of “unmet staffing needs of law enforcement, corrections, and court personnel (including indigent defense and prosecution staff) at tribal and Bureau of Indian Affairs justice agencies” to Congress each year.

- a. **Is the report dated September 12, 2017, the only unmet needs report produced to date by the OJS?**

Response: No. Prior to September 12, 2017, we submitted reports on appropriations for fiscal years 2010 through 2013. The report dated September 12, 2017, detailed the allocation and expenditure of our FY 2014 and 2015 appropriations. A report submitted on June 11, 2018 was for our FY 2016 appropriation. The report detailing our FY 2017 appropriation has been prepared and is under review by the Department and will be provided to Congress in the coming weeks.

- b. **If the Office has not produced an unmet need report each year since enactment of this requirement, what factors contributed to the Office’s challenges in complying with statute and publishing the report annually?**

Response: We are currently delivering a report each year. With regard to timing, a complete and accurate report cannot be produced until the two-year availability of our appropriation has expired and all obligations are recorded. Our latest expired appropriation is FY 2017, and the corresponding report is under review.

- c. **How does the Office calculate or estimate unmet staffing needs for Tribally-operated justice programs?**

Response: Law enforcement programs and Tribal courts are usually sized to meet the needs of a resident service population range. Cost estimates assume that all tribes of similar size have law enforcement agencies or courts with the same composition. The report groups tribes by population size, and then uses scalable cost models to create estimates for operating law enforcement programs and Tribal courts for each group.

Cost estimates for BIA-funded detention/corrections centers differ in that only existing centers are considered. Estimated total costs are based on individual staffing models developed for each BIA-funded facility, which is influenced by National Institute of Corrections standards in connection with building layout, type of prisoners housed, and programs/services offered.

d. How does the Office estimate the unmet staffing needs for tribal and Bureau of Indian Affairs investigators?

Response: Because of their similar structure and function, we utilize the same scalable budget models to estimate costs for both tribal and BIA programs.

2. At the hearing, I asked for information on the current law enforcement vacancy rates and officer attrition causes. You responded, "For direct service programs and Tribal law enforcement programs across the nation, they vary anywhere from 1.8 to 3.2 officers per thousand residents... We do track, if we do have folks that leave... we do track why they left and attrition rate."

a. Can you provide specific information on the current national and regional law enforcement vacancy rates for the BIA?

Response: The current estimated vacancy rates for the Bureau of Indian (BIA), Office of Justice Services (OJS) sworn staff in the field are displayed in the below table.

Organizational Unit	Vacancy Rate
District 1	44%
District 2	21%
District 3	41%
District 4	34%
District 5	45%
District 6	33%
District 7	25%
District 8	67%
District 9	0%
OJS Overall (Field/Sworn)	39%

b. Would the OJS be able to include this information in its annual unmet needs reports if directed to do so by Congress?

Response: Yes.

c. Can you further clarify or provide any statistics on the most frequently cited causes for officer attrition at the Bureau of Indian Affairs?

Response: In FY 2018, BIA-OJS hired 65 new personnel, but lost 96. The respective figures for FY 2017 are 72 and 63. Retirement, misconduct, remote location without adequate services (including housing), competition from higher paying State and Federal law enforcement agencies, and burn out were the most common reasons for attrition.

3. You noted at the hearing, “Under the *Tribal Law and Order Act*, we do have to do Tribal backgrounds for tribal law enforcement if requested by the Tribe.”

a. Approximately how many Tribes ask the OJS to conduct law enforcement background checks?

Response: OJS has conducted background investigations for up to 20 tribes in a single year. However, the number of Tribes served annually varies and is dependent on background cycles. For example, new hires are normally done locally unless there is a mass hiring at a tribal department. Five-year background updates may also be batched, which increases Tribal requests of OJS. For example, the Seminole Tribe requested that OJS conduct five-year background investigation renewals for approximately 100 tribal officers.

b. Would section 201 of the BADGES for Native Communities Act allow OJS to conduct law enforcement personnel background checks for Tribal law enforcement, when requested to do so by Tribes, using the new in-house demonstration authority?

Response: No, the general purpose is for “law enforcement positions in the Bureau of Indian Affairs.” See Section 201(a)(1). However, under the Tribal Law & Order Act, if a tribal law enforcement program operating under a P.L. 93-638 contract or self-governance compact requests that OJS conduct background investigations for a tribal officer, OJS has 60 days to do so after receiving all required information. Funding for this mandate was not included in TLOA.

Committee Rule Compliance

4. According to Committee Rule 4b, witnesses must submit testimony to the Committee 48 hours before the start of a hearing. Your testimony was received after the deadline. **Please provide the date and time you submitted testimony to the Office of Management and Budget for clearance pursuant to Circular A-19.**

Response: Draft testimony was submitted to the Office of Management and Budget on June 14, 2019 at 11:33 am Eastern Time.

Questions from Sen. Schatz

Question 1: A 2017 Senate Committee on Indian Affairs hearing highlighted the prevalence of child sexual exploitation, including the online trading of child pornography, in communities with close proximity to Native lands or within Native communities. **From your work with human trafficking investigations affecting Indian Country, is there a need to support legislation that works to improve state, local, tribal, and military law enforcement training and tools to further investigate and prosecute child pornography? If so, is the Bureau of Indian Affairs--and the Office of Justice Services specifically-- willing to collaborate with Congress in this effort?**

Response: The Bureau of Indian Affairs (BIA), Office of Justice Services (OJS) has not encountered many child sexual abuse material cases in Indian Country. Most sex crimes against children in Indian Country that we are aware of are cases of hands-on-only sexual abuse or molestation. However, we would like to refer you to Homeland Security Investigations and the Federal Bureau of Investigations for more information on child sexual abuse material investigations. With ever changing crime trends, BIA OJS welcomes any collaboration with Congress and additional training that would enhance the skills of our Special Agents in efforts to identify and prosecute child sexual exploitation cases in Indian Country.

Question 2: A 2017 Government Accountability Office report found that while data on child sexual exploitation is collected by Department of Justice grantee programs, and by the Office of Juvenile Justice and Delinquency Prevention for minors, but the only easily accessible data comes from the National Human Trafficking Hotline. **How can we improve both the data collection and reporting on these crimes, to better help policymakers craft effective solutions?**

Response: BIA OJS recommends enhancing Federal statutes to require all Indian Country law enforcement programs receiving any federal funds to use the same reporting format and submit the same statistical reports to the BIA OJS as prescribed by the OJS Director and as are required of all BIA law enforcement programs. This would assist BIA OJS in standardizing and collecting the required crime statistics from Indian Country law enforcement programs and allow public safety programs to collect adequate crime data to be analyzed so they can identify crime trends and apply resources to address the identified trends. BIA OJS's Indian Country crime data is compiled from the monthly crime statistics submitted to BIA OJS by Tribal law enforcement programs. However, Tribal law enforcement programs often submit incomplete data or none at all. 25 CFR Part 12 requires Tribes to submit the monthly crime data but it has little consequences if they do not.