

**STATEMENT  
OF  
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UNITED STATES DEPARTMENT OF THE INTERIOR  
BEFORE THE  
HOUSE COMMITTEE ON NATURAL RESOURCES  
SUBCOMMITTEE FOR INDIGENOUS PEOPLES OF THE UNITED STATES**

**November 19, 2019**

Good afternoon Chairman Gallego, Ranking Member Cook, and Members of the Subcommittee. My name is Jason Freihage and I am the Deputy Assistant Secretary for Management (DAS-M) in the Office of the Assistant Secretary for Indian Affairs (AS-IA) at the Department of the Interior (Department). Thank you for the opportunity to present testimony regarding the U.S. Commission on Civil Rights 2018 report entitled, *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*, which updates its 2003 report, *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country*.

Since Assistant Secretary Sweeney was confirmed, her goal has been to develop strong relationships with Tribes to work on innovative solutions for lifting up Tribal communities. The Department is committed to working with Indian Country to make Indian Affairs an efficient enterprise that improves service delivery to Tribes, continues to improve the administration of operations within the Bureau of Indian Affairs (BIA) and the Bureau of Indian Education (BIE), strengthens law enforcement operations and opportunities, increases economic growth and broadband deployment opportunities, and focuses on a more effective voice for Tribes throughout the Federal Government. It is also important to note that during the 2019 appropriation process, the Department requested and Congress approved the transfer of the Office of the Special Trustee for American Indians from the Office of the Secretary to the Office of the Assistant Secretary – Indian Affairs. This re-alignment within the Department will enhance planning and coordination of policies and services related to Indian Country.

The *Broken Promises* report documents the challenges facing Indian Country. Poverty and violence rates in many Native American communities are higher than the national average. Other indicators of well being such as infant mortality and substance abuse are also higher than the rest of America. Addressing these challenges requires strategies which demonstrate a respect for Tribal sovereignty and employ a collaborative approach to providing services and funding to Indian Country. As the *Broken Promises* report indicates, it has been difficult for Federal funding to keep up with these challenges, much less track with growth in annual inflation.

While these challenges are significant, Indian Affairs is employing multiple strategies to advance progress wherever possible. Within budget resources available, Indian Affairs is targeting funding to meet the highest priority needs and coordinating with Federal partners to maximize

our investments. In recognizing that relying on additional appropriated funding is not the only solution, we have initiated several management initiatives to address challenges identified in the report.

## **INDIAN AFFAIRS BUDGET**

***Tribal Interior Budget Council and Setting Priorities.*** Indian Affairs engages regularly with Tribes in the development of the budget through the Tribal Interior Budget Council (TIBC). TIBC provides a forum and process for Tribes and Federal officials to work together in developing annual budget requests for Indian programs in the Department of the Interior. This engagement is focused on setting priorities to inform decision making throughout the Federal budget process. Additionally, TIBC meetings allow for discussion on policy issues and management trends which impact the Indian Affairs budget and other programs that provide funding to Native Americans across the Federal government. For example, at TIBC meetings, Tribal leaders have repeatedly recommended advance appropriations for Indian Affairs programs to ensure continued delivery of programs. Similarly, 105(l) lease authority is another emerging issue we are actively engaged with Tribes on. We welcome the opportunity to work with Congress to explore solutions.

The President's 2020 budget for Indian Affairs is \$2.8 billion – this total includes funding for BIA, BIE and the AS-IA Office.

***Bureau of Indian Education.*** The FY 2020 budget request for BIE programs within the Department totals \$936.3 million. BIE leadership works tirelessly to provide quality education to all native youth. The BIE manages a school system which includes 169 elementary and secondary schools and 14 dormitories. Our Indian education program delivers education services to approximately 47,000 students across 23 States. Additionally, the BIE also operates two post-secondary schools and administers grants for 31 post-secondary institutions. Our BIE Director, and supporting staff, are all committed public servants dedicated to delivering the best education possible, in a culturally relevant manner, to our Tribal students.

One significant highlight of our 2020 budget is separate budget submissions for BIA and BIE, as part of an effort to improve overall transparency, accountability, and autonomy of the BIE. The goal is to strengthen the BIE as an independent bureau with a separate budget structure to advance ongoing BIE reforms and improve student outcomes at BIE-funded schools. A key aspect of this effort is decoupling overlapping functions of the BIA and BIE to better deliver services to schools, maximize efficiency, and build capacity within BIE. The BIE will retain existing programs and gradually assume direct responsibility for acquisition, safety, and facilities management. This budget separation will empower both the BIE and the BIA to more directly, and independently, focus on their respective core missions while avoiding redundancy and duplication.

***Bureau of Indian Affairs.*** The request for BIA and the AS-IA Office is \$1.9 billion in current appropriations. Within this total, the budget prioritizes base funding for Tribes and provides full funding for estimated Contract Support Costs, a total of \$285.9 million; an additional \$2.5 million for law enforcement priorities such as combating opioids; and \$45.6 million for water settlements to enable the Department to meet Federal responsibilities outlined in enacted settlement with Indian Tribes.

The 2020 budget provides \$326.0 million for programs that support Tribal government activities. Within this, the budget includes \$178.9 million for self-governance compact activities for self-governance Tribes and \$75.3 million to support Consolidated Tribal Government Programs.

*Public Safety Programs* - The 2020 budget 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 direct services. The budget includes \$30.9 million for Tribal Courts and \$22.3 million for Tribal Justice Support programs, which include Violence Against Women Act training and implementation strategies critical to the protection of women in Indian communities. Specifically with regard to the opioid epidemic plaguing our communities, the President has made it a focal point of his Administration to address and combat this crisis. This request also includes a \$2.5 million increase to address the opioid crisis, which has been particularly devastating in Indian Country.

*Support Economic Opportunities* – In support of efforts on domestic energy growth and economic development, the 2020 budget funds the Community and Economic Development activity at \$44.4 million and features investments in Indian energy activities, including development on Tribal lands. Income from energy and minerals production is the largest source of revenue generated from natural resources on trust lands, with energy and mineral revenue of over \$1 billion paid to Tribal governments and individual mineral rights owners in 2019.

*Human Services Programs* – Sustaining families is critical to fostering thriving Indian communities. The Human Services activity includes \$143.0 million for programs providing social services which includes \$74.7 million for Welfare Assistance, and \$64.9 million for Social Services and Indian Child Welfare Act protections.

*Natural Resource Programs* – The 2020 budget proposes \$184.1 million for natural resource management programs which include agriculture, forestry, water resources, and fish, wildlife and parks activities. The total funding includes \$54.8 million for BIA Forestry programs supporting the Administration’s active forest management reforms through management of Indian forest lands by 300 Tribes across 18.7 million acres.

*Real Estate Services Programs* – To meet our fiduciary trust responsibilities, the 2020 budget proposes \$122.0 million for real estate services programs. This funding supports the processing of Indian trust-related documents such as land title and records and geospatial data to support land and water resource use, energy development, and protection and restoration of ecosystems and important lands.

***Office of the Special Trustee (OST)***. The 2020 budget includes \$105.1 million in current appropriations. OST has operational responsibility for financial trust fund management, including receipt, investment, disbursement, and reporting of Indian trust funds on behalf of individuals and Tribes. OST manages more than \$5 billion held in nearly 3,500 trust accounts for more than 250 Indian Tribes and nearly 406,000 open IIM accounts. In addition, OST provides litigation and document production support for lawsuits related to those accounts.

The 2020 budget proposed to realign the Land Buy Back Program (LBBP) from the Office of the Secretary to OST. The LBBP is responsible for the expenditure of the \$1.9 billion Trust Land Consolidation Fund authorized by the settlement agreement in *Cobell v. Salazar*, confirmed by the Claims Resolution Act of 2010. OST provides significant support to the LBBP. The budget also reflects the approved transfer of the Office of Appraisal Services to the Office of the Secretary's Appraisal and Valuation Services Office (AVSO) in 2018. Under AVSO, all appraisal and valuations are conducted by a single entity within the Department as required by the Indian Trust Asset Reform Act.

***Government-wide Native American Crosscut.*** While I have provided an overview of Indian Affairs related elements of the Interior budget, it is important to note that our funding is just one element of a broader set of federal investments in Indian Country. Each year the Office of Management and Budget develops a Native American crosscut which tallies up funding across the following agencies: Agriculture, Education, EPA, Health and Human Services, Housing and Urban Development, Interior, Justice, Small Business Administration, Transportation, and others. The 2020 President's budget request for programs covered by the Native American crosscut included \$21.6 billion across the agencies.

## **MANAGEMENT AND POLICY INITIATIVES**

Indian Affairs is also focusing on management initiatives to improve delivery of services to Tribes, and advance other goals such as modernizing regulations, expanding critical infrastructure like broadband and building the necessary connections to increase the flow of investments into Indian Country.

***BIE School Facilities.*** The Education Construction program supports education goals by rehabilitating schools and dormitories to provide an environment conducive to quality educational achievement and improved opportunities for Indian students.

As of the end of FY 2019 the total identified deferred maintenance for education facilities was \$727 million. The overall condition of education facilities (based on the Facilities Condition Index (FCI)) was .1198, which is considered poor condition. An FCI rating for Poor condition begins at .1000. As of the end of FY 2019 total identified deferred maintenance for education quarters was \$98 million. The overall condition of education quarters based on FCI was .1730.

In addition to standing up school safety, facilities and acquisitions capabilities within BIE, we have continued to make progress advancing critical school replacement and facility improvement projects. A key factor in our ability to build schools faster and less expensively was a shift to a Design-Build approach. This approach has reduced costs of school construction by roughly 40 percent and time to replace a school has dropped by 50 percent post-planning phase.

We are always looking for new approaches to improve construction implementation. Our Office of Facilities, Property, and Safety Management (OFPSM) has initiated a pilot program to comprehensively assess schools with the highest (worst) Facilities Condition Index. The assessments will result in a site project plan for each school. The site project plans will be reviewed by the Indian Affairs Facilities Investment Review Board for approval to proceed. Each school campus will have one of four recommended options: 1) Replace the school; 2)

Replace/consolidate a limited number of buildings; 3) Initiate a major renovation and/or focused facilities improvement & repair (FI&R); or 4) Execute some combination of 2 & 3. The site project plans for the first five schools are to be completed by the end of Calendar Year 2019. This process is transparent and data driven, and ensures timely information is available to keep construction planning moving as quickly as possible. Initial feedback collected from Tribes on the pilot process has been positive.

***Public Safety and Justice.*** The Office of Justice Services (OJS) seeks to uphold Tribal sovereignty and customs while providing for the safety of Indian communities by ensuring the protection of life and property, enforcing laws, maintaining justice and order.

*Addressing Opioid Crisis and other Drugs* - In 2018, the Department launched the first-ever Joint Law Enforcement Task Force on opioids, focusing on Indian Country. Led by OJS, the task force partners with Federal, State, Tribal and local law enforcement to conduct multi-month undercover operations and stings to get drugs and dealers off the streets. By the end of 2018, there were 15 Opioid Task Force operations conducted throughout Indian Country resulting in: 372 arrests, 3,287 pounds of illegal narcotics seized, and \$9.8 million estimated street value. At this point in 2019 there have been an additional 14 Opioid Task Force operations conducted throughout Indian Country, resulting in: 283 arrests, 1,073.6 pounds of illegal narcotics seized, and \$4.1 million estimated street value.

*Tribal Access Program for National Crime Information (TAP) Kiosks* - In September 2018, Assistant Secretary Sweeney directed the deployment of additional kiosks under the TAP to address the backlog in Indian Country for background checks which are necessary for “covered individuals” in a household when placing Native children in foster care. These kiosks allow Tribes to more effectively serve and protect their communities by fostering the exchange of critical data through several national databases through the FBI’s Criminal Justice Information Systems (CJIS) network. The TAP enhances Tribal efforts to register sex offenders pursuant to the Sex Offender Registration and Notification Act (SORNA), have orders of protection enforced nationwide, protect children, keep firearms away from persons who are disqualified from receiving them, improve the safety of public housing, and allow Tribes to enter their arrests and convictions into national databases. In partnership with the Department of Justice, the first kiosk to “go live” was on September 18, 2019, at BIA’s Anadarko Agency in Oklahoma. The next two deployments will be at the Northern Cheyenne Agency in Montana in December 2019, and more deployments are planned during calendar year 2020.

### ***Tribal Sovereignty and Self Determination.***

*Self-Governance Tribes and Funding* - The Office of Self-Governance (OSG) provides Tribal governments with greater flexibility and ability to meet the social, economic, and cultural needs of their people. Indian Affairs supports self-governance policies which are key to Tribal sovereignty and Tribal self determination. The number of Self-Governance Tribes continues to grow, we are now up to 287 federally recognized Tribes and obligations in excess of \$515 million in FY 2019. Self-governance Tribes currently represent 50.1 percent of all federally recognized Tribes.

*Contract Support Costs* - Contract support costs are a key component of Tribal self-determination and support the ability of Tribes to assume responsibility for operating Federal programs. Interior continues to request the full need for Contract Support Costs and we have an indefinite appropriation to make up any shortfall from our initial estimate.

*Fee-to-Trust* - In an effort to promote self-determination, economic development, and Indian housing, under Assistant Secretary Sweeney, the BIA has accepted over 29,600 acres of land into trust for Tribes.

***Economic Development.*** Indian Affairs has employed many strategies to advance economic development across Indian Country. For example, in order to better understand the challenges of access to capital for Native financial institutions, Indian Affairs convened the first-ever roundtable between the Department and Native-owned Community Development Financial Institutions (CDFIs). Indian Affairs looks forward to continuing to work with Federal partners and Native CDFIs to help individuals and Tribal communities access loans, increase Tribal entrepreneurs' access to capital funds, and increase financial literacy across Indian Country.

*National Broadband Summit* - In September 2019, the Department hosted the landmark National Tribal Broadband Summit in Washington, D.C., where Tribal leaders connected with private sector and Federal decision makers to explore ways to expand broadband capacity and investment in American Indian and Alaska Native communities, schools, and libraries. At the Summit, Indian Affairs announced a new \$1.2 million grant opportunity for Tribal broadband feasibility studies.

*Modernizing regulations to support economic development* - Indian Affairs also focused on updating regulations that facilitate critical economic activity in Indian Country. Indian Affairs announced proposed changes to the Tribal Energy Resource Agreements (TERAs) regulations which aim to remove hefty regulatory requirements and propose to establish an alternative to TERAs through a certification of Tribal Energy Development Organization. These changes will be finalized by the end of the year.

After reviewing and listening to Tribal leaders' concerns, Indian Affairs worked with the Department of Treasury to update their regulations related to Opportunity Zones to deal with leases as business property on Tribal trust lands. Opportunity Zones are a unique tool that can attract private capital to traditionally under-capitalized areas of the country. Indian Country stands to potentially benefit by attracting investors to invest in capital intensive projects on Tribal lands within Qualified Opportunity Zones.

Over the last year, Assistant Secretary Sweeney approved Helping Expedite and Advance Responsible Tribal Home Ownership (HEARTH) Act regulations for the Mississippi Band of Choctaw, Pueblo of Isleta, Fond du Lac Band of Minnesota Chippewa, Prairie Band Potawatomi, Quinault Indian Nation, and the Jamul Indian Village, bringing the total number of Tribes with HEARTH Act regulations to 48. The BIA is also working with a number of other Tribes on their HEARTH Act regulation approvals.

## **CONCLUSION**

As the *Broken Promises* report demonstrates, much remains to be done to improve the economic and social well being of Native Americans. Indian Affairs is targeting available resources to address this challenge and achieving results which advance sovereignty and self determination, and increase the flow of investments into Indian Country. In the year ahead we'll continue to advance these efforts, and others, in cooperation with Tribes.

Chairman Gallego, Ranking Member Cook, and Members of the Subcommittee, thank you for the opportunity to testify. I would be honored to answer any questions that you may have.