



# TRIBAL/INTERIOR BUDGET COUNCIL – November 2020 Meeting Minutes

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## Executive Summary

All presentations, handouts, and attachments are posted to the [TIBC Webpage](#) under [Meeting Materials](#).

The Tribal/Interior Budget Council (TIBC) convened virtually from November 2-6, 2020.

- A quorum was present and official business was conducted.
- The November 2020 Agenda was adopted.
  - A motion was approved to adopt the agenda as a guide and an amendment to the agenda was entertained to approve the minutes on November 6, 2020, after having further time to review.
- On November 6, 2020, the [August 2020 TIBC Meeting Minutes](#) were adopted.
- An update and discussion on BIA, BIE, and OST affairs took place during the November 2020 TIBC meeting. The Indian Affairs, Office of Budget and Performance Management (OBPM) provided an FY 2021 budget update, an overview of the update to the Indian Affairs Manual for Distribution of Resources, and the FY 2023 Budget Formulation Ranking Tool and Process. An overview of the PROGRESS Act and its changes to the Indian Self-Determination and Education Assistance Act (ISDEAA) was provided for TIBC members. TIBC Tribal representatives provided a report out of action items from the November 2020 meeting on November 6, 2020. One nomination for Subcommittee representation was put forward during Old Business. Two nominations for subcommittee representation were put forward during New Business. TIBC members noted the need to update voting member information for TIBC.
- TIBC Tribal Representatives voted that each Subcommittee should pick one program within its subject matter to build a framework for a holistic data profile for the operation of that program.

## Opening Remarks

### TIBC Tribal Co-Chairs Opening Remarks

*Thanks to Indian Affairs Staff* – TIBC Tribal Co-Chairs expressed their appreciation for all the hard work that Indian Affairs personnel has done during the pandemic. Tribal leaders expressed their thanks for expediting as best as possible the CARES Act emergency funding that came through Indian Affairs to help Tribes deal with this crisis. Times have been tough on us all, whether you're in the Central Office or the Regional offices dealing with the same kinds of



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challenges as Tribes to try to keep governance in order. Tribal leaders specifically thanked Indian Affairs for its hard work getting money out to Tribes and hopes for everyone's safety.

*AS-IA Attendance* – TIBC Tribal Co-Chairs expressed deep disappointment that the Assistant Secretary for Indian Affairs (AS-IA) continues to miss TIBC meetings, identifying that each of the BIA regions are represented as part of TIBC meetings and each region convenes to address many issues that are faced in each respective Tribe and each respective BIA region associated with the budget.

### **Bureau of Indian Affairs Director Opening Remarks**

*COVID Response:* The Bureau of Indian Affairs (BIA) Director expressed his sincere gratitude and called to echo the TIBC Co-Chairs remarks on the pandemic. We are all feeling it. We all have loved ones, family, and friends who have been impacted. We have hundreds of Indian Affairs employees that have come in contact with it and some too have succumbed. BIA Director LaCounte expressed his deepest sympathies for those who have lost during the pandemic.

### **Bureau of Indian Affairs Update and Discussion**

*BIA Celebrates the 60th HEARTH Act Agreement Approval* – BIA representatives stated that the 60<sup>th</sup> HEARTH Act agreement is expected to be approved, shortly, as of November 5, 2020.

*First ITARA Act Management Plan Approved* – BIA representatives stated that the very first management plan has been approved under the ITARA Act and that was the Coquille Indian Tribe. The management plan empowers the Coquille Indian Tribe to manage its forests to be sustainable and profit producing. ITARA essentially mimics the HEARTH Act in that it allows Tribes to do their own approvals on their own agreements for timber management and timber sales without any approval from the Department.

*COVID Relief Distributions* – BIA and Indian Affairs (IA) representatives stated that they would like to start gathering data following consultations to avoid delay associated with distributing funds and ensure all stakeholders are comfortable with the data. Further, they expressed the possibility of hiring an individual to manage Tribal data, and requested preliminary feedback from Tribes.

IA representatives expressed the possibility of a new COVID relief package and the need to have accurate data moving forward. In that regard, IA representatives asked Tribes, 'what is the best way to gather data from Tribes?' Accordingly, IA representatives asked Tribal leaders to communicate with regional offices on what their preferences on this data effort may be.

*Data Concerns and Capacity Building for Tribes* – Tribal leaders expressed concern about the difficulty of communicating with the U.S. Department of the Treasury about CARES Act distributions and the burden placed on Tribes when federal agencies use inadequate data. Tribal leaders noted that Census data compared to their individual Citizenship enrollment always shows a census undercount. Further, Tribal leaders explained a historical reluctance to provide personally identifiable information about individual Tribal members to federal agencies and the need to create a reliable reporting mechanism that satisfies both Tribal and federal concerns.



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Tribal leaders opposed a system that would require actual names to verify citizenship enrollment, and propose that Tribal governments should be able to certify their own numbers to provide to the federal government. While some Tribes conduct their own census-type activities, Tribal leaders support building capacity at each Tribe to do its own data collection based on mutually agreed-to parameters.

Office of Trust Services Strategic Workforce Plan – BIA representatives reported interagency work between the Office of Trust Services and the Office of Human Capital Management and OPM to develop a strategic workforce plan that would engage Tribal stakeholders and Tribal leadership down to the agency level as the Office of Trust Services (OTS) execute activities in identifying mission critical occupations that support Tribal goals and objectives at the local agency office. OTS has coordinated with OPM on the workforce development and the workload analysis of specific mission critical occupations that are needed for Tribes to succeed in any of their natural resource development, technical support and assistance in their program plans. OTS representatives advised that they will be working with regional directors and agency superintendents to take a look at those staffing plans and what the local level need is to structure the workforce that will help Tribes succeed as they build capacity and work across federal trust programs.

### Bureau of Indian Education Update and Discussion

GAO Recommendations and the Office of Inspector General recommendations - BIE representatives explained that they have addressed and fully closed 19 GAO recommendations and closed 12 OIG recommendations.

BIE Standards, Assessment, and Accountability – BIE completed the negotiated rulemaking and now have a single Standards, Assessments, and Accountability system in the BIE. This year will be the first year that BIE will have its own uniform state assessment which will allow BIE to make data driven informed decisions on professional development and how to improve student outcomes across its system.

BIE Agency Plan – BIE has completed consultation on its BIE Agency Plan and continues to move forward in working with the Department of Education in making the final edits to that plan. As of November 5, 2020, BIE expects that the plan will be approved in the near future by the Department of Education.

JOM Regulations – BIE has finalized the revisions of the BIE JOM Regulations and will be hosting webinars on the updates in early 2021.

105(l) Lease Agreements – BIE has its first ever 105(l) lease agreement, with Gila River, and expects additional leases to be submitted or approved by additional Tribes, following this BIE-first.

Wi-Fi on BIE Bus Routes – BIE representatives stated that it has installed Wi-Fi on the 25 longest bus routes identified throughout their transportation reports. The project is completed and



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operational as of September 21, 2020. Some schools are looking at expanding that pilot and inquiring about the contacts for the contracts.

*Strategic Direction* – BIE representatives stated that BIE has completed year two of its strategic direction plan. As promised to Tribal leaders and stakeholders, in the upcoming summer, BIE will present the successes and the obstacles it encountered through its strategic direction and will readjust based on the feedback that it receives from Tribal leaders and stakeholders. To address turnover that in school leadership and leadership in general, BIE felt it important and critical that it develop a BIE Playbook. The BIE Playbook is going to identify all the different offices and resources throughout BIE, and reporting deadlines. The BIE Playbook will be a valuable tool for all leadership across the BIE system and it will be something that BIE operated and tribally controlled schools will be able to utilize.

*Corrective Action Plan* – BIE representatives stated that it made significant progress in working with the Department of Education. BIE has been on a Corrective Action Plan for several years and is working diligently to eliminate outstanding corrective actions, especially in the area of Special Education. BIE will continue chipping away at that Corrective Action Plan and looks forward to completion of the plan as it continues to build capacity.

*CARES Act Funds Distribution* – BIE received two appropriations from the CARES Act. \$69 million was provided to BIE, and those funds have been distributed. BIE also received a little over \$153 million has a transfer from the Department of Education (Ed). The Department of Education allowed BIE to reserve 10 percent, which was a little over \$15 million. BIE utilized \$8 million to support Behavioral Health across the BIE school system, including Tribal colleges and universities, all of the tribally controlled schools and BIE operated schools and employees. BIE used \$5 million for five schools that were had insufficient IT. The remainder of the retained \$15 million was reserved for emergencies.

BIE set aside \$8 million of CARES Act funding to solicit a Behavioral Health contract that would support TCUs, BIE Tribally-controlled schools, and BIE operated schools. Currently, the contract has been awarded and BIE is waiting on background checks to be cleared. Soon, BIE will be implementing the contract across all of its institutions, schools, and TCUs.

*BIE Construction Update* – BIE has been working with the BIA Division of Facilities Management and Construction (DFMC) on a construction pilot project that is going to identify schools based on their Facility Condition Index, FCI, and identify the schools in most need. DFMC's has been consulting with Tribal leaders and preparing to do either renovation or school replacement depending on what is needed at the sites.

*BIE IT Assessments* – BIE has a contract in place to assess Information Technology (IT) access and capability for all of its schools and communities, including the homes of students, to determine what IT is needed to support BIE schools. BIE ordered IT equipment and its goal is to have BIE students going home with a laptop or iPad and a remote Wi-Fi access device. Barriers to implementation exists, as BIE has identified a lot of homes that do not have electricity. In some instances BIE has provided portable charging units and ensured schools have the ability to



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purchase charging units by credit card and send the portable charging units home with students that do not have electricity.

*BIE School Reopening* – BIE opened up BIE operated schools September 16, 2020. Many tribally controlled schools, 130, moved forward with the August reopening date, but some delayed school reopening. As of November 5, 2020, there are seven tribally controlled schools that are back in the classroom, one BIE school that is a hybrid where they are bringing some of the classes in, 14 tribally controlled schools that are utilizing the hybrid model, and 161 that are remote and distance learning. As conditions change, BIE will continue to support and work with Tribes and local health authorities. The reopening plan and guidance are on the BIE website.

*BIE Standards, Assessment and Accountability System* – As of November 5, 2020, BIE is going through the final phases with its agency plan with the Department of Education. As opposed to 23 distinct state assessments, BIE is going to put in place one unified assessment. School boards and the Tribes have the opportunity to waive the assessments in part or the entire assessment.

*BIE Staffing* – BIE is staffed at 66 percent. BIE has compared its requirements and credentials to qualify to work at BIE schools to those of the states that BIE schools are located in to make it competitive and has broadened advertisements out throughout the nation and not just on USAJobs.gov. BIE is also contacting the universities that have teacher education programs.

*Student Safety at Home during COVID-19* – Tribal leaders expressed concerns about the long-term safety of students at home during the pandemic as domestic violence rates have increased. BIE representatives stated that it works with school leaders to address these issues as situations come up and the longer that the pandemic lasts, the more there is a need to make sure that BIE has the Behavioral Health support for students and staff.

*FY 2023 Budget Formulation* – For the second year, BIE will partner with the BIA Regional Offices as they conduct their Tribal budget formulation with Tribes across the country for FY 2023 budget formulation. BIE is focusing on all of its 183 school locations. In addition, this year BIE is adding the 33 TCUs to the survey. So all school locations will now have an opportunity to weigh in on the education program lines. BIE has 23 education program lines and four education construction lines. All schools will be given the opportunity to weigh those program lines as well as prioritize those program funding areas and submit them just as each BIA region does for their program areas.

### Office of the Special Trustee for American Indians (Bureau of Trust Funds Administration) Update and Discussion

*Establishment of BTFA* – OST representatives stated that the Bureau of Trust Funds Administration (BTFA) was officially created on October 1, 2020. Everything that was in OST, was moved over to BTFA (the Consolidated Appropriations Act 2021 refused the creation of BTFA without waiting for the resolution of the proposal through the FY 2021 appropriations process). OST has about 403 employees. OST's total budget is \$11.4 million this year, with a proposed \$108 million next year pending congressional action (as of November 5, 2020). The website is not active on the new bfta.gov domain yet. All OST executives have been transferred



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by the Department from the old organization into the new organization (this action may have been affected by Congress' refusal of the creation of the BTFA). OST is working to change the departmental manual and produce a directory to reflect to BTFA change (as of November 5, 2020).

Trust Accounts – OST manages over 400,000 accounts and despite the Land Buyback program, that number continues to increase. OST has \$4.2 billion in Tribal trust funds, a little over \$1 billion in IIM account funds, makes over 11 million financial transactions annually, and the OST annual flow through is about \$1.4 billion a year.

Trust Beneficiary Call Center – Trust representatives responded that the Trust Beneficiary Call Center is based in Albuquerque. Now called Regional Trust Directors, they supervise the field operations and their Fiduciary Trust Officers (FTOs). Beneficiaries can get in touch with the FTOs in the field. OST field staff is in 47 locations. The Office of Management and Budget did designate OST as a high impact service provider because of the Call Center. Calls are tracked and recorded. The Call Center is adjusting in response to the pandemic and data may be off (as of November 5, 2020). The new system will convert incoming calls into transcribed emails.

Rates of Return – OST is restricted to investing in government backed securities, which provides some limitations on rates of return, but does pretty well, overall. Certainly more than in a savings account, but not what one might get in the stock market. OST is not allowed to invest its funds in the stock market. OST is modernizing and now has investment analysis software. OST used to just “buy and hold,” but now it has the ability to better analyze actions to assess returns over a longer term. So, OST has been able to do some buying and selling that have made big, much higher returns for the beneficiaries. OST bought \$35 million in collateralized mortgage obligations and Public and Indian Housing comprises 24 percent of the total pooled mortgages in that bond (As of November 5, 2020). So this is the first time OST has ever bought Indian housing bonds with Tribal money.

Eligible Investments – Tribal leaders asked what it would take to increase OST bond investments in Tribal projects and initiatives. How do you essentially take OST investment capability and invest in Indian Country? OST representatives stated the investment would have to be considered as a government backed security because by statute that's all that it can invest in. If it is some instrument that included investments in Indian Country that was considered a government backed security, we would be very interested in knowing about that. Tribal leaders asked is there some space to work with CDFI programs? OST representatives stated it depends on whether the investment can be considered a government backed security. Tribal leaders asked who would be the authority that Tribes should work with to identify which are investment eligible projects or potentially bonds that need to be created that would be investment eligible? Who's the federal entity to talk to for that? Trust representatives stated in OST, Pam Jurgenson is the Chief Investment Officer and spearheads all that. OST also works with the Solicitor's Office to get that information. So, Karen Lindquist in the Solicitor's Office Indian Affairs Division.

Land Buyback Program, Fractionated Ownership – With regard to unresolved fractionated ownership, what is the deadline for purchasing back on the fractionated ownership? OST





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representatives stated the program ends and the money expires November 24, 2022. Tribal leaders asked if OST has certain constraints in terms of what it can offer to some of those fractionated owners and whether it will accomplish all of its objectives by November 24, 2022. OST representatives answered that there is ongoing conversations, but right now OST only buys things that are 25 percent or less and will not have accomplished all the objectives. Tribal leaders asked if OST has a report or if it is required to provide an updated report to Congress with regard to the goal versus what it was able to accomplish and what progress it has made overall and in each Region. OST representatives answered that it had previously released annual reports and a cumulative report would be produced at the end of the program.

### PROGRESS ACT Overview and Discussion

*Overview* – An overview of the PROGRESS Act, P.L. 116-180 was provided by Geoffrey D. Strommer from Hobbs Straus Dean & Walker, LLP.

- For a copy of the PROGRESS Act, click [here](#).
- For a copy of the overview presentation provided during TIBC, click [here](#).

### FY 2021 Budget Update

*Continuing Resolution* – A Continuing Resolution for FY 2021 funding was enacted, covering October 1st through December 11th. This CR funds most programs and activities at the FY 2020 levels with several exceptions that provide funding flexibility and additional appropriations to various programs.

*Exception Apportionment* – Indian Affairs is approved for Exception Apportionment to provide 100 percent of FY 2020 enacted amounts for Tribal Priority Allocation (TPA) programs for Tribes that operate on the federal fiscal year (beginning October 1). If another CR is enacted to extend through January 1, Indian Affairs will request another exception apportionment for Tribes that operate on the calendar year (beginning January 1). Additionally, Indian Affairs has requested Contract Support funding to cover the exception apportionment under the indefinite account and is awaiting approval on that.

### 26 IAM 3 - Distribution of Resources

*Indian Affairs Manual* – For a link to the Official Indian Affairs Manual (IAM), click [here](#).

*26 IAM 3* – For a link to IAM Part 26 for “Budget,” Chapter 3 on “Distribution of Resources,” click [here](#).

- There are many templates and attachments associated with Chapter 3 on “Distribution of Resources.” Each of those templates and attachments is laid out with hyperlinks on the [TIBC Meeting Materials Webpage](#) for the November 2020 meeting.

*Structure of Document* – The IAM provides guidance to all Indian Affairs staff on fund distribution processes, including standard timelines for fund processing for direct appropriations to Indian Affairs for Bureau of Indian Affairs (BIA), Bureau of Indian Education (BIE), and Assistant Secretary – Indian Affairs (AS-IA) programs. The Manual establishes a consistent



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process throughout Indian Affairs for distributing funds to Tribal nations. There is a link within the IAM that takes you to several attachments that show examples of various forms used in the distribution processes, flow charts of the overall processes, and templates for individual programs that describe the methodology and calculations used for all funding that is distributed to Tribal nations. This effort was completed to ensure standard approaches at all levels within Indian Affairs that will lead to improved efficiency and timeliness in the distribution of funds to Tribal nations. All offices and programs are expected to use the processes outlined and to strive towards meeting the timelines outlined within the IAM and templates.

Pay Cost – The Pay Cost process has been revamped to be more user friendly and trainings are forthcoming. Representatives explained that they can only provide pay cost on federal dollars. So it cannot provide pay cost for any tribally funded positions with an exception for self-governance Tribes. The policy establishes a four year cap on reporting salary data. Tribes will have three notices. If they do not submit data before the end of that period, Indian Affairs is no longer able to provide the pay cost. Tribal leaders expressed concern about the potential for Tribes in need of support being cutoff for failure to report data. Indian Affairs stated it would do outreach and their due diligence. Additionally, once the data collection for budget formulation begins, BIA Regional offices typically hold meetings with the Tribes in their region where this information should be solicited and technical assistance can be provided on the tools being used.

Tribal leaders expressed concern that if Tribes will have a resource manual on how to do this and it does not say that BIA is supposed to reach out and help them, not just ask for the information, eventually Tribes may not submit data. Indian Affairs stated that an official change in the IAM would require another update.

### 2023 Budget Formulation Ranking Tool/Process

Tribal Preferred Program Ranking Tool- The ranking tool has step by step instructions on the form, links to the Indian Affairs Greenbook, and other guidance.

- For a link to the FY 2023 Budget Formulation Guidance, click [here](#).
- For a link to the FY 2023 Preferred Program Ranking Tool, click [here](#).

FY 2023 Budget Formulation Began October 15, 2020 – Indian Affairs stated that it has already kicked off the 2023 budget formulation process. The meeting with the regional budget officers was on October 15th. At the time, Indian Affairs released the timeline, the guidance and the FY 2023 Tribal Preferred Program Ranking Tool.

Need for Workshops and Training Material – Tribal leaders expressed a desire for advancing workshops so that people understand how the process and ranking tool works and to increase input from all Tribes.

BIE Participation – BIE participated with the Northwest Region on October 20th and with the Western Region on October 27th. BIE also has a call scheduled with the Navajo Region. As of



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November 5, 2020, BIE has not heard from the other regions. BIE also has a call scheduled for the TCUs. BIA information about regional formulation meetings is available on the BIA website.

### Subcommittee Report Out

#### Budget Subcommittee

##### Citizenship Enrollment Numbers

Tribal leaders state that Indian Affairs should update its records of enrolled citizens in collaboration with Tribes as quickly as possible.

- Tribal enrolled citizenship data should be refreshed each year.
- It should carry the weight of certification by the BIA that the data is accurate.
- Tribal leaders propose to work with Indian Affairs to identify a date that updated enrollment data needs to be complete.
- Urgency due to COVID-19 and the likelihood that enrolled citizen data may be relied on for distribution of future relief funds.

##### COVID Funding and Distribution

Tribal leaders seek to discuss how COVID funding is distributed to citizens for on reservation vs off reservation services.

For new COVID relief funding, Tribal leaders support a floor on funding distribution that supports all Tribal governments receiving adequate COVID-19 relief resources.

New funding should take a distribution methodology into account that recognizes situations like no access to water, or other lack of infrastructure like facilities for quarantining.

- No money was put into the Housing Improvement Program to address some of the underlying infrastructure issues that contribute to the spread of COVID-19.
- Funding flexibility may be the best solution to use issues to address the diversity of needs in COVID-19 response.

##### Preferred Program Ranking Tool

Tribal leaders state that there is a need for clear guidance and additional training on the use and purpose of the Tribal Preferred Program Ranking Tool.

#### Data Management Subcommittee

##### Labor Force Report

Tribal leaders request an update on collaboration between Interior and Department of Labor on the Labor Force Report.

25 U.S.C. §3416. Labor market information on Indian work force

##### (a) Report

The Secretary of Labor, in consultation with the Secretary[ of the Interior], Indian Tribes, and the Director of the Bureau of the Census, shall develop, maintain and publish, not less than biennially, a report on the population eligible for the services which the Secretary provides to Indian people. The report shall include, but is not limited to,



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information at the national level by State, Bureau of Indian Affairs Service area, and Tribal level for the-

- (1) total service population;
- (2) the service population under age 16 and over 64;
- (3) the population available for work, including those not considered to be actively seeking work;
- (4) the employed population, including those employed with annual earnings below the poverty line; and
- (5) the numbers employed in private sector positions and in public sector positions.

Advisory Committee to DOL for the Labor Force Report. – Tribal leaders would like to further discuss how to engage with DOL and whether an advisory committee can be established for the Labor Force report.

- Who would be the lead at the federal government?
- Who amongst Tribes?
- What would be the draft charge of this proposed workgroup?
- Indian Affairs and TIBC will form a small workgroup to determine how to ramp the labor force report effort up.
- Tribal leaders would like representation from every region.
- The workgroup will coordinate with RD's to identify a Tribal representative from each region.
- Indian Affairs will reach out to see if OMB is interested in joining.

### Holistic Program Data Profiles

Each TIBC Subcommittee should create a holistic data profile of a single BIA program–

- Federal Subcommittee co-chairs should provide technical support on the types of available data that could inform the selected program. For example: facilities, condition of facilities, equipment, condition of equipment, program mission costs, contract support or administrative costs.
- The Subcommittee recognizes that program mission costs is a term that needs defined for each program and that the costs of executing certain program functions varies based on what the program is. As such, the necessary data to create a profile of that program will vary on certain data types. For example: ICWA vs Forestry.
- Certain data collection efforts have already been taken, and this effort should build off those lessons learned. The effort should seek to apply best practices of identifying necessary data sets from the TLOA Report and of the TIBC Transportation Subcommittee in collection of its BIA Roads Maintenance survey data.
- TIBC Subcommittees should work to share new methods and best practices so that consistent, high-quality TIBC products are produced.
- Subcommittees should meet between TIBC meetings to continue their work on a data profile of the selected program.
- Programs selected should include some from the TIBC top ranked programs, some that are always proposed for elimination, and some that have the most urgent COVID response needs.



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- Tribal leaders suggest that further discussion with Indian Affairs on the data elements it collects and relies on is necessary.
- Tribal leaders propose that each Subcommittee work on one program at a time until a model is developed that can be deployed by Indian Affairs.

### Data Collection

Multiple TIBC Subcommittees discussed the lack of response rates on data collection.

- Individualized and personal outreach from Indian Affairs to each Tribe is suggested as a way to break ground and gain preliminary understanding of Tribal funding issues.
- Tribal leaders note that priorities for a particular Tribe generally stay the same within the data collected by TIBC, often based on their economies and resources.
- If the BIA conducted coordinated and individualized outreach with each Tribe on funding issues, it could build a base line of known funding issues at each Tribe. Knowing the specific issues allows you to identify what data needs collected.
- Initial outreach could also allow the BIA to explain electronic data collection efforts and their use so that more Tribes will participate.

Tribal leaders note the recurring misuse of Tribal data by the Federal government. For example: NAHASDA-certified population data for the TLOA reports.

- Certain Tribes do not operate HUD programs and have no reason to challenge the population data. Other Tribes say that the challenge process at HUD is difficult and time consuming (costly). Certain Tribes have a population of zero in that dataset that is clearly incorrect.

Tribal leaders seek a policy document signed at the highest level restricting the use of data collected by the Federal government to specified uses.

- Tribal leaders discussed the need to identify what data Tribes feel comfortable with providing the federal government.

### **Education Subcommittee**

#### Distribution Methodologies

Tribal leaders are concerned about distribution methodologies that are developed without Tribal consultation.

Tribal leaders note that funding distribution formulas are designed to allocate pre-determined resources and do not necessarily capture program need and, by extension, performance.

- Tribal leaders seek an approach to measure the unmet need, not how to disburse fixed dollar values.

#### Public Schools

Tribal leaders seek to discuss how can Tribes, Indian Affairs, and Department of Education work to ensure that funding for Native students in public schools are used for their intended purpose. Is the allocation adequate? Are the funds being used properly on Native students?



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Tribal leaders note the extreme majority of Native students attend non-BIE schools. Tribal leaders would like to further discuss a voucher program for Native students as a potential solution to addressing education needs of all Native students.

### School Data Collection

Tribal leaders would like to further discuss with BIE how lower performance metrics or disciplinary actions could be translated into datasets to support additional funding to address systemic issues that produce these outcomes.

### Funding for the Education of Native Students

Tribal leaders discussed the use of dollar per student ratios for Native vs non-Native students to quantify the federal government's underinvestment in BIE.

Tribal leaders ask how much is BIE central office able to withhold of funding provided for COVID relief?

- Tribal leaders note amounts from the CARES Act that BIE retained for certain projects. BIE discussed identifying how much could be retained of certain CARES Act funding at the Central office.
- Tribal leaders discussed the use of those funds and generally agreed with their intent, but wanted to understand those BIE costs so that Tribes can advocate in Congress for that funding along with funding sent out for schools, students, teachers, and staff.

Tribal leaders support that employee housing is critical to retaining good teachers and increasing student outcomes.

## **Land, Water, & Natural Resources Subcommittee**

### Annual Budget Request

Tribal leaders would like to know if the Annual Budget Request reflects Land, Water, Natural resources issues, including natural disaster issues.

- Does the Annual budget request include the opportunity for Tribes to co-manage with federal, state, and local partners?
  - Tribal leaders seek to further discuss with Indian Affairs what co-management should look like?
  - There is a need to include Tribal ecological knowledge in forest management practices along with water issues.
- How does the Annual Budget Request support stability in natural resource management?

Tribal leaders would like to know how the Annual Budget Request addresses the urgent needs that have been observed due to increased severe weather/natural disaster events.

- Tribal leaders note that the frequency of disasters are increasing but the funding has not grown to respond to these increases.

### BIA Budget for Natural Resources

Tribal leaders would like to discuss how the BIA Budget can support more local food sources for Tribes to protect against supply disruptions.



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Tribal leaders support that budgets should consider resource management activities on more than just trust lands. Tribal leaders support that natural resource management should be considered in terms of ancestral lands.

Tribes should be able to manage wildlife and natural resources for themselves on all Tribal land, regardless of trust status.

Tribal leaders ask whether the Annual Budget Request includes funding for Natural Resource program infrastructure.

- Tribes seek further discussion on Natural Resources facilities and infrastructure.
- Indian Affairs should advocate for Tribal inclusion in all infrastructure packages considered by Congress

Tribal leaders want to know if the Annual Budget Request promotes Tribal ecological knowledge and application of that knowledge along with modern resource management science and techniques.

Tribes seek a solution to pulling Subsistence funding for Alaska Tribes out of Fish and Wildlife Services and over into the Indian Affairs budget.

Tribal leaders pointed out that because Alaska lands are not trust lands, Tribes want to be able to manage the wildlife resources on ANCSA Corporation lands as well as in traditional territories.

Tribes seek to further discuss the subsistence practices of Tribes outside of Alaska and how budgets may be able to support those traditional cultural practices.

### Data collection and COVID

Tribal leaders would like to know if Indian Affairs is collecting data on the impacts of COVID on Tribal fisheries, including economic impacts.

- Even though certain CARES Act treaty fishery funding was disbursed by NOAA instead of Interior, Interior still has an obligation to Tribes within the scope of programs it provides funding for.
- Tribal leaders state that there is huge unmet need in fisheries and during disbursement of the CARES Act funds, only a fraction went to Tribes. Tribes around the Great Lakes and on the East Coast were left out, and those that received money did not receive enough.
- Tribal leaders also discussed Tribes on the Copper River (Alaska) that have also been affected.
- Tribal leaders support that the data is important because it can be translated into a line item, whether it be at Interior or another funding source.
  - Tribal leaders suggest that Interior must collect this data.
- Tribal leaders express concern that other Natural Resource programs that produce food sources and economies were not considered during COVID relief in the same way that fisheries were.



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Tribes discussed Ceremonial subsistence funding that was provided in the CARES Act and Department of Commerce (Commerce) is disbursing those funds. Tribal leaders ask why Commerce is disbursing Ceremonial subsistence funding and not Interior?

Tribal leaders want to further discussion a subsistence calculator that would address how to quantify the subsistence economy vs the cash economy.

- A calculation would allow Tribes to come to the table with a cash value associated with the game and plants that are gathered, raised, or cultivated.
- It would also quantify the cash value equivalent to the loss of taking that game or plants.

Tribal leaders note that there was a request reported out for presentations on water issues and programs that support indigenous food sources but no presentation was prepared by federal partners. Federal staff available to respond to questions were not prepared to address the questions across programs outside of their division.

- Tribal leaders expressed dissatisfaction because the end result is that a less meaningful conversation took place.

### Climate Change and Wildfires

Tribes seek a measured analysis of the effects of fires on Tribal governments to be completed by the federal government.

- Billions of dollars are spent to fight the fires after they happen. Tribal leaders state that there is a need for infrastructure dollars to have Tribal governments take over forest management or provide for better co-management plans.

Tribes seek to measure the effects of climate change on the cost of operating Natural Resources programs and seek resources to respond to what appear to be increased costs due to more frequent weather events.

### Land into Trust

Does the Annual budget request reflect the need for BIA Realty Services to improve the efficiency of converting land into trust?

- There are generally two processes for land into trust at the Bureau – Gaming and non-gaming.
- Tribal leaders ask whether there an internal staffing design that puts more labor toward certain types of applications compared to others.
- Tribal leaders support that there should be an expedited processes for these non-gaming applications.
- Tribal leaders ask how many applications are approved compared to submitted each year.
- Tribal leaders ask that metrics be provided as a grand total, by region, and by state as an annual report? IA says yes.

Tribes seek further discussion on why they cannot have TAAMS access unless they compact/contract certain realty services.

- Tribal leaders argue that they need the data in TAAMS on a regular basis to operate other programs they compact/contract.





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### **Public Safety & Justice Subcommittee**

#### TLOA report

Tribal leaders request that the TLOA report be expanded to include all unmet programmatic needs and not just staffing needs for Public Safety and Justice programs.

#### NAHASDA-certified Data in the TLOA Report

OJS discussed using NAHASDA-certified population data for its TLOA report. There was discussion on the need for a challenge process to contest some of that population data that Tribes know to be inaccurate.

- Certain Tribes never contested NAHASDA population numbers because they do not operate HUD programs. Changing the context of use for the data without an administrative process to revise those numbers could cause underreporting in TLOA for unmet need.

Tribal leaders request a follow up from OJS on the amount BIA is keeping per program and how much is being disbursed to Tribes for Public Safety and Justice programs.

#### P.L. 280 States

Tribal leaders would like to further discuss how to support better OJS engagement with Tribes in P.L. 280 states and Tribes with no reservation or Trust lands.

- Despite P.L. 280, the United States has trust and treaty obligations to all Tribes.

Tribal leaders indicated that Tribes outside of PL 280 states also lack reservations.

#### Operation Lady Justice

Tribal leaders state that there was never any official consultation regarding the BIA cold case offices. OJS stated it was connected to the Operation Lady Justice consultation sessions. Tribes raised concerns about the funds being diverted from other Tribal programs to fund these offices.

#### McGirt Decision

Tribes would like to further discuss how Indian Affairs is addressing additional expenses associated with the *McGirt* decision.

- Tribal leaders ask if the administration is proposing cuts and Congress is mostly restoring those cuts, how are the additional expenses being taken into account by Interior.

### **Transportation Subcommittee**

#### Roads Database Pilot Program

Tribal leaders request that IA provide funding for the roads database pilot program previously endorsed by official motion from TIBC.

- Tribal leaders ask why this has not taken off, yet.



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### BIA Facilities Inventory

Tribal Leaders discussed bridges in the BIA Facilities inventory and the need for additional funding to address bridges, including bridge design and clearances to get projects shovel ready.

### Federal Highway Administration (FHWA)

Tribal leaders seek further discussion on any data that the Federal Highway Administration (FHWA) works collaboratively with BIA on to identify, including needs for Bridges, in the National Tribal Transportation Facilities Inventory (NTTFI).

### Infrastructure Investment in Congress

Tribal leaders expect that there will be an infrastructure initiative coming out of Congress.

- Tribal leaders state that Indian Affairs and Tribes need to be aware of this potential package. This subcommittee should work with Indian Affairs to make sure that Tribes are prepared and receive a fair share of the funding provided.

### Greater Advocacy for Transportation Funding

Tribal leaders support that Indian Affairs and Tribes should advocate for more funding for transportation programs, including emergency investment to address the deferred maintenance backlog, which exceeds \$390 million on BIA roads and facilities, alone.

### Self-Governance Program at DOT

Tribal leaders would like to discuss how the Self-Governance program at DOT will affect funding sources and distribution processes for Tribal transportation programs?

## Old Business

### AS-IA and DAS-PED Absence

Tribal leaders request an explanation why the AS-IA or DAS-PED did not attend.

Tribal leaders stated it should also be on record by the TIBC that just because people transition out that the AS-IA has an obligation to be here and hear directly from the Tribes. Tribal leaders further state that the job of the AS-IA is to take the messages from Tribes back to Interior and/or work with Tribes to mitigate the issues raised by this advisory council. Tribal leaders support that the AS-IA is supposed to be a Tribal advocate within the administration and work with other agencies to coordinate with Tribes to develop and implement collaborative solutions.

Tribal leaders indicated that Department representatives should be properly prepared to attend TIBC meetings, including scheduling to attend and having research and materials to engage in meaningful discussion.

### DOL Engagement on Labor Force Report

Tribal leaders further discussed how to engage with DOL and whether an advisory committee can be established for the Labor Force report.

- Discussion took place indicating that advisory councils can sometimes be slow to establish, but that a workgroup could be a solution to begin the collaborative effort and to



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further explore the establishment of an advisory committee for the purpose of the Labor Force Report.

### Labor Force Report Workgroup

Indian Affairs and TIBC will form a small workgroup to determine how to ramp up the labor force report collaborative effort.

- Tribal and Federal Partners discussed having a representative from every BIA region.
- Indian Affairs indicated that it would coordinate with BIA Regional Directors to identify a Tribal rep from each region.
- Indian Affairs indicated that it would reach out to see if OMB is interested in joining.

### TIBC Directory Updates

- Tribal elections have changed certain voting members. The authority to certify those changes is with Indian Affairs, through each Regional Office and its procedure.
- During the November 2020 meeting, there was a nomination of Juana Majel-Dixon as Tribal Co-Chair of the Public Safety and Justice Subcommittee (Affirmed with no objections).
- Tribal leaders and Indian Affairs discussed whether there are other Subcommittee Nominations.
- Tribal leaders request to reaffirm Mr. David Kelly as Road Maintenance Subcommittee Co-Chair (Affirmed with no objections).
- Tribal leader Treasurer Depoe expressed interest in assisting Chairman Attebery on the Land, Water, and Natural Resource Subcommittee as a co-chair. (Seconded by Chairman Attebery) (Passed with no objections or abstentions).
- Tribal leader, Karen Linnell, Alaska Region, expressed interest in co-chairing the Land, Water and Natural Resources. (Withdrawn after learning she would lose her subcommittee voting privileges because Subcommittee chairs serve in a non-voting capacity).

## New Business

### Payment in Lieu of Taxes (PILT)

Tribal leaders request for the Administration to advocate for PILT payments—Payment in Lieu Tax payments—as a solution to moving Fee to Trust applications through more quickly. Part of the complication with fee to trust applications is local and state opposition to those applications and one of the arguments that those localities make is the loss of tax revenue from the tax roll base. Tribal leaders would like to discuss why there is a disparity between how other Bureaus within Interior deal with PILT as opposed to the BIA. Indian Affairs stated that it would require is a significant legislative proposal that would have to be included with the Annual Budget Submission.

### Impact Aid for Native Students

Tribal leaders expressed a desire for a commitment from BIE to work with Tribes and the Department of Education regarding Impact Aid calculations and for BIE to be an advocate for the option of direct access and pass through capacity to provide Impact Aid funds directly to



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school systems and not through local towns or municipalities. BIE representative asked that the Tribal leaders reach out to them as follow up.

### *Federal Management Plans for Tribal Engagement*

Tribal leaders expressed frustration with the lack of consistent policy from federal agencies. Tribal leaders request that federal agencies across the entire federal government develop management plans on how they will work with Tribes or how they are working with Tribes to improve Tribal/federal engagement on management and budget issues.

### *White House Council on Native American Affairs*

Tribal leaders expressed the desire under the new Administration to reinstate the White House Council on Native American Affairs.