

**House Appropriations Committee
Subcommittee on Interior, Environment, and Related Agencies**

**Written Testimony of the Tribal Interior Budget Council for Fiscal Year 2019
April 30, 2018**

On behalf of the Tribal Interior Budget Council (TIBC) Tribal Caucus, thank you for holding this American Indian and Alaska Native Public Witness Hearing. As one of the Tribal co-chairs of the TIBC, I would like to share our views on the Interior Department's fulfillment of the United States' treaty, trust, and other responsibilities to American Indians and Alaska Natives in the fiscal year (FY) 2019 budget.

As background, TIBC's mission is below:

The TIBC provides a forum and process, consistent with the Indian Self-Determination and Education Assistance Act, Section 450 a-1, Executive Order #13175, and Department of the Interior's (DOI) Government-to-Government policy, whereby tribes and the Department work together to develop policy and budgets that provide for 1) the Department to fulfill its trust responsibilities and treaty obligations; and 2) the fulfillment of tribes' inherent sovereign rights of self-determination, self-governance, and self-sufficiency, as well as securing levels of funding necessary to strengthen Tribal governmental capacity to serve their Tribal citizens and communities.

The TIBC provides an appropriate forum for BIA budget "government-to-government" consultation, with statutory authority in the Indian Self-Determination and Education Assistance Act. According to 25 U.S.C. 5325(i), "on an annual basis, the Secretary shall consult with, and solicit the participation of, Indian tribes and tribal organizations in the development of the budget for the Indian Health Service and the Bureau of Indian Affairs (including participation of Indian tribes and tribal organizations in formulating annual budget requests that the Secretary submits to the President for submission to Congress pursuant to section 1105 of title 31)."

Tribal Caucus Views on the President's FY 2019 Budget

The TIBC Tribal Caucus raised concerns at our March 2018 meeting that the proposed reductions in the President's FY 2019 budget request to Congress violate the federal treaty and trust obligations to Indian tribes. Tribal leaders of the TIBC reminded the Department of the Interior and the Administration of its solemn fiduciary obligations to Tribal Nations. Federal spending in fulfillment of these obligations is not responsible for the federal deficit and must be protected. The United States must do its part ensure that this obligation is fulfilled, including through the President's Budget Request and final appropriations from Congress. The Tribal leaders of the TIBC urge Congress to reject the proposed cuts that were proposed to the Bureau of Indian Affairs and Bureau of Indian Education in the FY 2019 President's budget.

The Federal Treaty and Trust Obligations in the FY 2019 Budget

Tribes ceded, often by force or coercion, millions of acres of land and natural resources, which are the foundation of the wealth and power of the United States. In return Tribes have the right of

continued self-government and the right to exist as distinct peoples on their own land; for its part, the United States has assumed a trust responsibility to protect these rights and to fulfill its solemn commitments to Indian Tribes and their citizens. Part of this trust responsibility includes basic governmental services in Indian Country, funding for which is appropriated in the discretionary portion of the federal budget. A nation that bases its greatness on its rule of law must uphold the agreements it signs with other nations. Between 1777 and 1868, the United States signed hundreds of treaties with Tribal Nations. These compacts with the First Americans helped to make possible the America we know today. And the First Americans have paid an incalculable price along the way.

Numerous federal programs designed to meet treaty and trust obligations would be reduced or entirely eliminated in the FY 2019 budget and it has been suggested that some are race-based. Federal Indian programs are not based on race or ethnicity but rather on the centuries-long political relationship between Tribal Nations and the United States.

In response to questions about why the President's budget proposes a 15.6 percent decrease from the FY 2018 CR level, Tribal Nations were told that all American citizens must do their part to reduce the federal deficit. The federal trust obligation and our sacred relationship with the U.S. government sets Tribal Nations and their citizens apart from all other American citizens. Federal Indian programs are not responsible for the federal deficit and subjecting them to deficit reduction is a violation of this obligation.

Meeting DOI Strategic Plan Mission and Goals in the Budget

The DOI Strategic Plan for FY 2018-2022 includes these goals for Indian Country.

MISSION AREA #4: Fulfilling Our Trust and Insular Responsibilities

Goal 1: Support tribal self-determination, self-governance, and sovereignty

- Support self-governance and self-determination

Goal 2: Fulfill fiduciary trust

- Ensure accurate and timely management of fiduciary trust assets
- Strengthen Indian Education

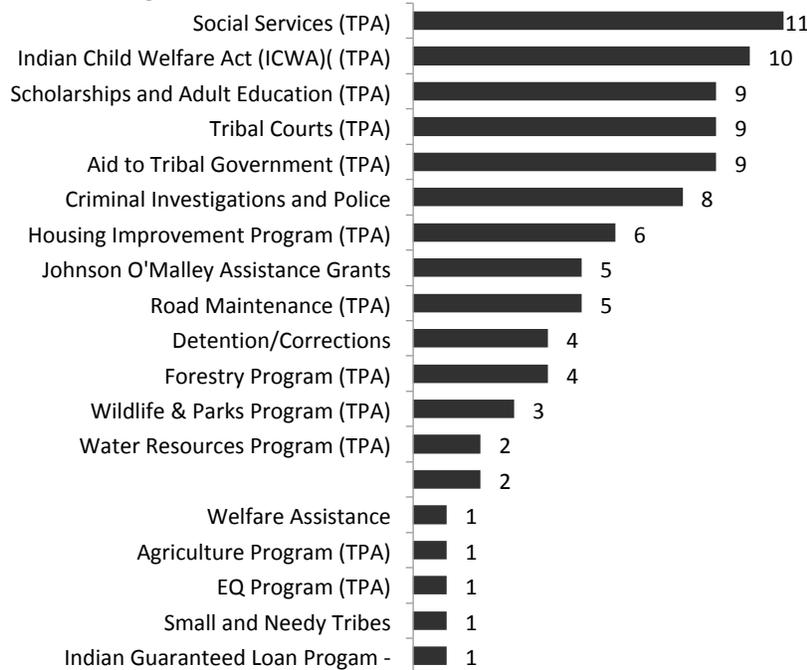
The mission and goals are guideposts and should be reflected in the Department's budget priorities and decisions. However, the 2019 President's budget for Indian Affairs is \$2.4 billion in current appropriations, a 15.6 percent decrease from the FY 2018 CR level. Most programs in the BIA budget would see reductions in the FY 2019 budget request.

BIA Budget Consultation

As reviewed above, "the Secretary shall consult with, and solicit the participation of, Indian tribes and tribal organizations in the development of the budget for the [...] the Bureau of Indian Affairs." However, in spite of the budget consultation on the FY 2019 BIA budget through TIBC, the proposed FY 2019 budget reduces funding for the programs identified by tribes as most urgently in need of increases.

The budget formulation and consultation process is critical to identifying potential efficiencies while at the same time ensuring the federal government upholds its solemn treaty and trust obligations to Indian Country.

Figure 1: 2019 PRIORITY RANKING RESULTS



As part of the FY 2019 budget consultation process, tribes from each BIA region completed a survey to outline which 10 budget lines they would prefer to provide increased funding to and why.

Figure 1 shows the results of this process: BIA Social Services, Indian Child Welfare Act (ICWA), Scholarships and Adult Education, Tribal Courts, an Aid to Tribal Government made up the top five.

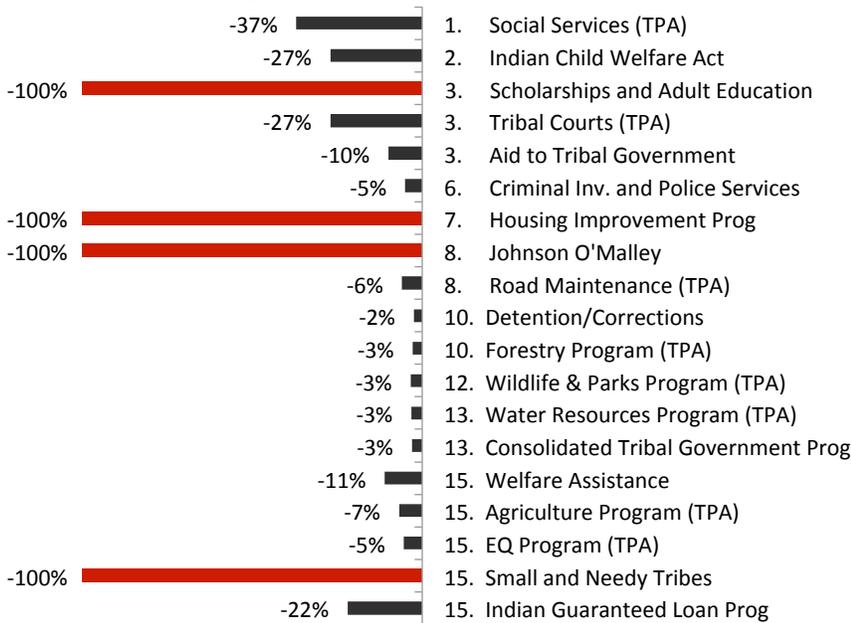
Yet, most of the programs identified by tribes as needing increases in FY 2019 would receive reductions in the

President's Budget Request. Four programs in the preferred programs are actually proposed for elimination in the President's Budget: Scholarships and Adult Education, Housing Improvement Program, Johnson O'Malley Program, and Small and Needy Tribes. Additionally, Social Services and ICWA would be cut 37 percent and 27 percent respectively, both cuts disproportionately larger than the overall reduction for the Department of the Interior, which would see a reduction of 16.8 percent.

The TIBC Tribal Caucus is grateful that the FY 2018 Omnibus provided a more than 7 percent increase for BIA compared to FY 2017, including increases for overall Tribal Priority Allocations and many of these top programs. For instance, the reductions in the FY 2018 President's budget were rejected for BIA Social Services, ICWA, and Public Safety and Justice, and eliminations of HIP and Small and Needy Tribes programs were restored. The need for every program listed in Figure 2 has significant levels of shortfall. TIBC Tribal Leaders urge Congress to invest in these areas as well as providing an overall increase to the BIA's budget to support the base budget for core tribal programs.

For instance, in Human Services, the **Social Services** Program provides the only BIA and tribal-specific funding available for child protective services for both children and adults in Indian Country. A common issue amongst Tribal Social Services Programs is the inability to hire a full staff to take on caseloads including case managers, social workers, and administrative staff. With the limited staff and supportive resources most Social Services Departments only have the capacity to respond to day-to-day emergency needs.

Figure 2: PROPOSED DECREASES IN FY 2019



Similarly, current funding levels for **ICWA** fall far short of the estimated need for Tribal child welfare programs. Due to underfunding, many Tribes are unable to fully exercise their inherent sovereign right to make decision related to their children. **Scholarships and Adult Education** is the third top preferred program. Many students face barriers in attending and finishing college once they start. In addition to lack of knowledge of the college process and homesickness, the cost of college tuition is a major barrier.

Another top preferred program among all tribes was **Tribal Courts**. The BIA estimates that full funding for tribal courts would cost \$1 billion. The FY 17 funding amount for tribal courts was \$30.7 million, or 3 percent of the estimated need. Originally enacted in 1993, the Indian Tribal Justice Act authorized an additional \$50 million per year for each of seven years for tribal court base funding. In 2016 dollars this would be about \$83 million per year, which would be less than 10 percent of the overall need estimated by BIA. Despite numerous congressional reauthorizations of the Act over the past couple of decades – most recently in the Tribal Law and Order Act (TLOA) – funds have never been appropriated to implement the Act. The Act does not differentiate between tribes subject to PL 280 jurisdiction or not. The promise of this much-needed base funding must be fulfilled. We ask Congress to commit to fully funding tribal courts by incrementally increasing funding each year

We are grateful for the increases provided in the FY 2018 Omnibus, and we urge Congress to continue the investments in the preferred programs identified by tribes in FY 2019 budget consultations.

Conclusion

Thank you for this opportunity to share our views from the TIBC Tribal Caucus. We look forward to working with this Subcommittee in the FY 2019 appropriations process.