

**Tribal Interior Budget Council  
May 3-4, 2017  
Washington Plaza Hotel  
Draft Minutes**

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**May 3, 2017**

**Invocation: Russell Attebery**

Agenda approved as a guide.

A motion to approve the minutes of March 22 to the 23<sup>rd</sup>, 2017 was made and seconded. Motion carries.

**Opening remarks**

**Mike Black:** Welcome back to Washington DC for round two of TIBC 2017. There’s a lot of things going on out here in DC this week with the Department of Energy Tribal Energy Summit, there’s different hearings going up on the Hill so it’s been a really busy week for us. I am still, as you can see, still the Acting Assistant Secretary. I’m going on about three and a half months right now and we are still waiting for word on who is going to be nominated for the permanent Assistant Secretary but until such time I’m still here. We’re really short staffed up in the Assistant Secretary so I’m filling the seats of the Assistant Secretary, the Deputy Assistant Secretary, the Deputy Assistant Secretary for Economic Development and I’ve got one or two counselors in the hallway. Right now the Secretary is still the only confirmed political in the department but it was announced on Friday that David Bernhardt will be the Deputy Secretary for the Department of Interior. Mr. Bernhardt was formerly the Solicitor for the Department and he’s filled different roles during different administrations through the past and he has been one of the lead people on the transition team for President Trump. Timeframe as far as him getting confirmed and that process I really don’t have a good feel for.

The hiring freeze that was implemented at the beginning of the Administration has been lifted. It’s been somewhat modified for us over in the Department to the effect that they are really looking at all positions in Washington DC and Denver, Colorado still. They’re not frozen but they will take the approval of the Deputy Secretary before we’re allowed to fill any positions in those two locations so we’re going through a process

on that right now, submitting positions of highest priority to the Deputy Secretary for review and approval. Out in the field, any position GS12 and above have to come to Washington DC for approval. Positions GS11 and below can be filled at the discretion of the regional directors and superintendents.

Fee to Trust—many of you have probably seen the memo I signed here about a month or so ago regarding off reservation fee to trust applications. All off reservation fee to trust non-gaming applications will come up to the Assistant Secretary's office for the time being. All off reservation gaming fee to trust applications will go to the Deputy Secretary. The regions will continue to work those applications up to the point of analysis prior to being submitted up to Central Office. That's where the analysis and the decision will be made for those types of applications and decisions. There was most recently a memo from the Secretary regarding grants. Any grant over \$100,000 has to come up and be approved by the Deputy Secretary. We don't do a lot of grant issuance out of the regional offices so those are mostly the Central Office programs and some of the grant opportunities we have. I did want to clarify that that doesn't affect 638 contracts or self-governance compacts. These are the one-time grant opportunities that come out through the various programs that will be affected for those that are over \$100,000.

Records of decision is another one that has to come up for review and approval at the Secretary's office and Deputy Secretary's office. So any record of decision to be issued out at the field or anything that resembles a record of decision needs to be submitted up for review and approval at the Deputy Secretary level.

The infrastructure projects that have been proposed and talked about throughout this process, we still really don't know. We are still collecting data from the regions and the tribes as far as any potential infrastructure projects that may be out there to ensure that we're in a position to be part of that if anything was to roll out from either the Department or through Congress to make sure Indian Country is a player. The Executive Order on reorganization of government and the Secretary's 100 year plan for reorganizing the Department: right now there is no plan. There's nothing off the table. We are asking: 'Do you like the way Indian Affairs is structured? Don't you like the way it's structured? What would you like us to look like in five years, 10 years, 20 years? How can we better serve you?' There should be a 'Dear Tribal Leader' letter coming out in the next week or two that will identify about three or four different locations where we'll come out and do listening sessions. I don't want to come out and say, 'Here's a plan.' Really I want to hear from Indian Country and hear from all of you as far as what you feel would be the best process for moving forward and this is for all of Indian Affairs—Bureau of Indian Education, Bureau of Indian Affairs and the Assistant Secretary's Office and how would be the best way to structure that moving forward.

**Sam Thomas:** Welcome to the TIBC meeting. Mike, we had our Tribal Caucus this morning. I just want to run over some highlighted talking points that were created from the various subcommittees that we have developed within TIBC. There's two subcommittees that didn't report out. One was Education and the other one was Transportation. Transportation's waiting for some clearances from your shop in regards to the survey that they're trying to conduct in regards to road maintenance so we're hoping to have that conducted by the July 25<sup>th</sup> meeting.

*Budget.* We are pleased with the 2017 budget and that it included a lot of increases for tribal programs and services but we are concerned about potential budgetary reductions in the FY18 budget. We understand a lot of other factors will influence the President's proposal for FY18 such as the border wall, defense spending, infrastructure, Obamacare repeal or replace, tax reform but we urge the Administration to uphold the trust and hold the tribal programs and services harmless.

*Infrastructure.* Make sure tribes are included in any infrastructure opportunities.

*Tax Reform.* Tribal priorities should be included in any tax reform proposals going forward. And you alluded to it a little bit earlier in regards to the Energy Summit and we had some comments come through our meetings here this week in that we would like to share our concerns with you. Zinke hasn't had any substantial meetings with tribes. There are concerns about Zinke's comments made at the Energy Summit. The Energy Summit was held for tribes but the group facilitating the conference was the National Council of State Legislators. Why did the Energy Department approach another governmental body to put a conference on for tribes? Some of it was invite only and the only tribes selected to attend were those with traditional energy resources and not any tribes with renewable energy resources. We want to urge them to consider renewable energy as well.

*Secretary Zinke and Cason.* We need Secretary Zinke and Jim Cason to visit Indian Country to see the opportunities that tribes have grabbed onto and how when tribes receive the resources and technical assistance to build capacity they can take an opportunity, run with it and be successful.

*Budget Subcommittee report.* There were three budgetary goals that drove the process. One, hold Indian Country programs and services harmless by protecting base budgets for core tribal programs accomplished through the application of a 2.7 percent inflationary rate to current services. Two, provide increases to FY19 TIBC priority ranking process, 65 percent of the increase, \$133.5 million for the eight percent scenario and \$185.3 million for the 10 percent scenario was applied to the TIBC priority rankings. Provide programmatic increases to recurring programs and other tribal priorities. A total programmatic increase of 35 percent for the eight percent scenario and 29 percent for the 10 percent scenario was added to the tribal priorities. Therefore the subcommittee applied two different proposed budget scenarios to that data. Eight percent above the FY17 enacted budget of \$2.79 billion and 10 percent above the 2017 enacted budget. Top 11 2019 priority results were provided at 26 percent increase under the eight percent scenario, an additional 10 percent was added under the 10 percent scenario. The total increase was \$133.5 million for the eight percent scenario and 71 percent of the \$185.3 million for the 10 percent scenario.

Social services, ICWA, scholarships and education, tribal courts, TPA, Aid to Tribal Government, criminal investigation and police services, HIP, Johnson O'Malley, road maintenance, detention corrections and forest programs. TPA programs and recurring programs that act like TPA were provided an eight percent increase. We also provide a five percent funding increase to other programs that didn't rise to the top of the priority list in order to project those base budgets.

*Budget process.* Tribes raised numerous concerns about the current process and needed clear direction on the process.

*TIBC meetings.* Tribes will work to identify agenda items at the end of each meeting to allow for earlier rollout of meeting agendas. Tribes want more engagement by the Feds at these meetings and subcommittees. It hinders our productivity when we need answers so we can come forward with legitimate recommendations.

*Executive Order and Reorganization of BIA.* What will tribal consultation look like through that process? One of the things was quoted that wasn't in there was during Zinke's presentation over at the Energy Summit was tribal trust versus turning over into corporations; that was a point of discussion this morning and we would like to know what the intent of those remarks were going forward because we didn't feel it was a fair comment when he wasn't meeting with really elected tribal leaders. And we'd just like to from the Alaska Region commend you guys still for pushing our applications forward. We saw the last year tribal leader letter that came out in regards to everything is going to be funneled through Mr. Cason so hopefully we could go through the vetting process a little quicker and everything 'cause he's only one person and he can't be looking at every little piece of paper. Those are our comments.

**Mike Black:** For FY 2017, we fared pretty well in Indian Country. It looked pretty positive for Indian Country and I'm hoping that that bodes well for us going into '18 but there's a lot of unknowns out there still. But then talking about the comments made yesterday at the Indian Energy Summit, I've heard from many people regarding that. I really haven't had a chance to visit with the Secretary or any of his staff to find out exactly what he meant by that, what his thought pattern is there so I will take the message back, Indian Country is really asking, what did you mean by that and what is your thought pattern and ideas behind that? I'll also pass on the message as far as the Secretary getting out into Indian Country.

I have heard from this body as well as many others the inability or inaccessibility to the Secretary at this time. I did send an email up to the Chief of Staff just yesterday expressing that I had been hearing that as I've been traveling around and just to make sure that they're aware up there that Indian Country's got some issues and concerns that they'd like to present to the Secretary. I mentioned the town hall idea that was proposed here last time at the last meeting so I'm hopeful on that. I haven't heard back yet but I'm hoping to have a conversation with Secretary's office and see if we can't make some of those things a reality.

**Question:** is the Secretary planning on being at NCAI in Connecticut in June?

**Mike Black:** That I don't know. That was one of the requests I sent up yesterday with an email to the Chief of Staff.

**Cheryl Andrews-Maltais:** Would it be helpful from all of the organizational bodies and whatnot including this one to get a letter to the Secretary strongly encouraging him to attend something like an NCAI and at least the regional meetings if he's not going to be holding the one on ones or regional meetings or town meetings? This inaccessibility really is troubling, especially to come out of the chute and shoot from the hip determining our future without even asking us question one. So it's really important that we do that.

**Mike Black:** Most certainly. I think one of the best I've had is let your voices be heard, let the Secretary know your concerns and get those letters in there and let him know. And there again, feel free to include me and I'll keep forwarding stuff up from my office as well.

### **Indian Affairs Restructuring**

**Mike Black:** The President signed an Executive Order in March, just right before the last TIBC meeting, which basically called for within 180 days the head of the agency is to provide a report: 'Shall publish a notice in Federal Register inviting public to suggest improvements in organization and functioning of the Executive Branch.' We haven't gotten a lot of guidance as exactly what they're looking for or how this is going to be structured as far as high level ideas for looking at restructuring of government. It didn't speak to any one agency. It was really high level talking about government as a whole and at the same time even prior to that and subsequent to that Executive Order, Secretary Zinke has talked about his 100 year plan. What is the Department going to look like in 100 years? How is it going to be? It hasn't been restructured for over 100 years. Is it still serving the public, in Indian Country, in our case, the way it should be? Are there changes and things that need to be made? He's made a lot of reference to the front lines and talking about how we need to bolster the front lines and where the decision making should be and making sure that we're out there where the people are, where the work is, where the issues are, out there serving the public and in our case there again serving Indian Country.

The Secretary himself is trying to get a handle on what's going on, what's coming out of the Department, looking at all of the grants. And I forget the number, it's a pretty large number dollar wise of grants that come out of the Department, not just for Indian Affairs but for all bureaus and agencies in the Department. So the

effort was for him to get a handle on what all of those are, making sure they meet his priorities, that they're in line with his goals, the Administration's goals and his priorities.

That's similar with records of decisions. I've not asked any of my staff to start coming up with reorganization plans or to look at how we can restructure or do any of that until we hear from you. That's why I want to get out and do the listening sessions. I want to do this in a very phased approach doing the listening sessions, which will help us to guide the consultations. I have run it by the Department to let them know what my plan is and we've gotten the go ahead to do this so I do look forward to getting out into Indian Country and hearing from everybody.

**Cheryl Andrews-Maltais:** We're currently in a situation that we know that the system isn't working as well as it should be and we all have to be realistic about it and it does need some changing and some modifications. But as we have now the structure, we have the self-governance tribes of which our community is one and that operates at a whole different level and to be able to be supportive of that type of initiative in tribes that have reached that mature status that are able to redesign their programs. Then we have our regular contracting tribes and providing more guidance than oversight I think is where the direction that we need to go because it's not really affirming or reaffirming or supporting the notion of sovereignty when it's more overlordship where that it's been. And the other level is once...eventually everybody gets to a really good functioning level is having Bureau and all the agencies within provide more technical support—how to get there and how to really get to your end place or your highest capacity that you can with using the expertise that the government could and should provide as our federal partner versus being this antiquated system of Bureau that is telling us what to do, how to do it, how it fits in and that really is supportive of the full fledged sovereignty and support of sovereignty and making sure that it also provides the protections of the obligation of the government to government relationship. What is troubling is that it seems to be leaning towards an Alaskan corporation model and that's not a really good model for the Lower 48 and so we want to make sure that we're able to recognize the nuances and the distinct differences in the tribes' abilities to be able to govern themselves as need be but also have the federal subject matter experts and the support and technical support that the tribes would need in order to really fulfill our destiny, whether it's our physical health, our emotional, traditional, cultural as well as economic self-sufficiency as was intended by all of the agreements that we made.

**Mike Black:** I appreciate that. One of the things I wanted to comment on there too with that was when we're going through this process...there's been a lot of talk about regulations and I think this is also an opportunity for the tribes to identify regulations that really keep you from being able to move forward and being able to do what you need to do, expeditiously or exercising your sovereignty or self-determination. Are there regulations through this process that we need to look at revamping, eliminating, changing or something to that effect. So I think this is a good opportunity for us to get those on the table as well.

**Kee Allen:** Looking at the handout, why isn't Public Safety at least one or two; if we talk about it all the time and every time we talk say public safety is important. But yet, looking at this particular priority ranking for 2019 it's listed at seventh or sixth. I did send out information to our BIA and Department of Justice tribal programs but there was none available yesterday. As the subcommittee chair for Public Safety/Justice, we want to move forward in what's the best way that we can address this particular issue. How can we move this particular issue as the top priority or it shouldn't even be part of the priority or it should be just an automatic priority for the Bureau to make direct allocation to the tribes regarding Public Safety.

**Mike Black:** I think you're speaking to the priorities and I think the body here would be better to speak to that. That was a result of the regional priorities that came from all of the tribes here at the last meeting. So that was really a compilation of the tribes priorities that came out of the last meeting so I don't know if the rest of the body would like to speak to that at all.

**Harold Frazier:** On restructuring, our region always advocated that everything should be put back under the Bureau of Indian Affairs. You go back to Office of Special Trustee way back then. When there's a problem in Indian Country the government creates another agency but the problems are still there. Right now we go everywhere in the United States to get an answer, whether it's Education we've either got to go to Albuquerque or Minneapolis, if it's law enforcement we have to come out here whereas everything used to be back there. Our treaty, the 1868 Fort Laramie Treaty Article V said there'll be an agent on our reservation and he'll handle everything. Can't resolve it, it comes up to the Commission of Indian Affairs up in Washington. Our region will probably be pushing that if we're going to restructure – to put everything back under the Bureau of Indian Affairs because right now it's so spread out.

**Kitcki Carroll:** On the restructuring, I think it's going to be critical for consistency and coordination between words and actions. I'm hearing what you're saying but a couple of thoughts to reflect what I'm talking about here. We are coming from a period of talking about evolving from meaningful consultation to what tribes would prefer as actually consent and the challenges that we had of even having meaningful consultation. The comments that were made by the Secretary yesterday are definitely getting out in front of the very process that you're talking to. There are some conclusions already being drawn in those statements and so from our region we want to go on record and let it be known as it relates to the off ramp, there is no off ramp to this nation to nation relationship. There is no expiration date on treaties. So the suggestion that 100 years from now, 200 years from now, 1,000 years from now that there's some sort of off ramp that would take a step back in terms of execution of those obligations is not something we would ever support. The second point that was made about a corporation model, which is not a government model, as somehow being the answer that tribes would accept, I know of no tribe that has been having this conversation that has said that's what their preference is. In fact, I know of many tribes that have had challenges getting an ear to have the conversation to put our priorities out there and what our preferences are. From our region, we do not suggest that there isn't unnecessary regulation and bureaucracy within the federal family. We believe that there is. We believe that there is an opportunity to streamline and achieve greater efficiencies and put the power back into the hands of tribal nations where it belongs. The question is what the end game motivations are. What also ties into this is the previous conversation that we had on strategic planning. There needs to be clarity given in that space about what the intentions are for the Department of Interior's effort with strategic planning.

If there's an expectation that tribes are going to engage in that space, there needs to be appropriate and due respect given to them so they can properly prepare to engage in those opportunities. And on this restructuring consult, I think that this body could play a particular beneficial role in having those deliberations because I think to the point that there are improvements to be made, efficiencies to be achieved, I think it would be much better for Indian Country to proactively offer up those recommendations from its vantage point—areas to reduce burdensome red tape, etc.—as opposed to have those laid upon us.

I think there needs to be appropriate considerations in time and planning given to these issues of strategic planning, restructuring because they all tie together. They're all within that same umbrella about where the Department is going to be 100 years from now because we, many of us including NCAI, our organization, Navajo Nation, other intertribal organizations around the country, we have actually been doing some work in this space already. It's the Trust Modernization effort where we're trying to address the very systemic challenges that plague this trust relationship and moving away from some of those outdated, antiquated, paternalistic things that are still in place today and resolving those to get to that next 100 years. That is an endeavor about empowerment. The message that I'm asking that you convey back to the new Secretary and folks that as they come onboard with the new Administration is to give Indian Country the opportunity to voice its concerns and to give it the appropriate space that it deserves within a diplomatic space between

two nations and two sovereigns and to not be getting out in front of these processes and making some assumptions about where our desires lay or don't lay.

**Mike Black:** I have no intention of how things should be structured or what they should be structured. The only instruction I've given to staff to date is to compile the organizational charts and the structures that are in place now so that we can present those to you all so that you guys can have an idea how we're structured out there, what things look like now and then we can hear from you exactly to what you said. What do you think we should look like? And we do have to be a more agile organization and we have a number of constituents and different areas we have to be able to address. We have to be able to address self-governance, we have to be able to address 638 tribes, we have to be able to address direct service. Those are all components that we deal with and they're all different in their own way on how you deal with them. We need to really hear from all of you.

**Buster Attebery,** Karuk Tribe located in northern California. There's probably going to be a lot of suggestions. One of them might be outreach to the regions and consulting with the regions and the tribes in those regions. I've been coming back since 2011 and we have some serious issues out in northern California. First of all, trying to preserve the ecosystem in the Klamath River has been an ongoing battle for quite some time. This year is going to be the worst fish count in history and for the three largest tribes in California the fish are the lifeblood of those tribes and we've all gotten together and said we're going to maybe enforce some sort of moratorium on fishing this year. The tribes have agreed we'll only take enough for ceremonies. The dams in that area at last count the toxic material that was being released in that dam is 4,000 times the estimated EPA allowed and the fires in that area, they threaten the communities. We talked about the TREKs program. The Karuk Tribe, we have a lot of good ideas and what I would like to see is a site visit, somebody to come out and take a look at the situation and take a look at our ideas of reforestation and how we salvage log the fires that happen. The consultation process has been a great idea and it's worked somewhat but when it gets down to the local level, I know the Karuk Tribe often doesn't get called to the table. We have a notice out right now that just happened today about sustainable groundwater meetings for tributaries to the Klamath River because a lot of the water in the summertime's been canaled off and wells dug. It's becoming a serious problem with the aquifer system. In March 3<sup>rd</sup> we sent a notice to the local groups that were having these meetings and we haven't heard back. So consultation is great but if you don't get us to the table at the local level that's a real issue. Economic development. We have some ideas and we think they're very good ideas to bring reforestation projects back in that will help the community that aren't privately based companies that are after profit that are really community based projects.

**Cheryl Andrews-Maltais:** I think that one of the things that we have to remember is that the programs and the services or the programs that Bureau offers have to remain open and flexible as more and more tribes come on and/or they change their status. Take for instance Johnson O'Malley. It's the number one priority or at the top of the list on the spreadsheet that we have and yet the last time it was opened for tribes to join was 25, 30 years ago. So all of the tribes that could be benefiting from Johnson O'Malley dollars that were not either aware of it or eligible in the past have been precluded from being able to access that and because 90 percent of the DOE or BIE budget goes into tribal schools and only 10 percent of our tribal children are in tribal schools where 90 percent of our tribal children are in public schools and 90 percent of the budget is not coming to us, there's a problem there and we're not able to access anything to supplement. So when would that be opened up? But that's just one of the things that we're seeing constantly as programs that are opened, a few get in, short window of open and then it's closed so we have to address those types of issues as well.

**Nancy Greene-Robertson:** We wanted to suggest that Criminal Investigation and Police Services be separate because Police Services is 638 and the other one is contracted. And the other thing that you're inviting everybody to the listening sessions. We were invited at this body for Tiwahe to attend their conference but

then some of our tribal members did go to Tiwahe and they were kind of shunned and said they weren't invited. So when you have your listening session, make sure everybody's invited.

**Mike Black:** Everybody will be invited. I promise you that on these. Are you coming to Rapid City?

**Rick Harrison:** Regarding handouts, this first compilation, the green and white one here with all the regions on it, these are a tally of all the priorities that were voted for in each region. As you can see, this is some of our issues in the process that we have to deal with and we're working on and have identified. Some regions picked 10, one region picked three, four only picked five and so I'm not sure why that happened but it's something that we have to fix in the process because it's not weighted evenly. The second page with the bar graph, that's a compilation of the total at the end of this first one.

Social Services was the number one priority, ICWA was number two, Scholarship and Adult Education number three, Tribal Courts was number four, Aid to Tribal Government was five and then Criminal Investigation and Police Services, HIP, Johnson O'Malley, Road Maintenance, Detention and Corrections and we also included Forestry Program because it was tied with Detention and Corrections. We went down to the top 11. And there are 19 total.

One of the other flaws we found was if you go down a couple further it says Consolidated Tribal Government Program. That's really not a program that gets funded, it's a mechanism for a funding stream but because tribes voted on it, we still treated it the same as everything else. So one of the other documents, this is the report that we're submitting to the Acting Secretary and through the Tribal Caucus they asked us to create an executive summary, a one pager.

The other one is the actual budget that we came up with and you can see there's a column for the eight percent increase and then the dollar amount for that and then a column for the 10 percent increase and dollar total for that.

If you look at your priorities list, those top 11 priorities, under the eight percent increase scenario they got a 26 percent increase to each of them. The rest of the TPA and other funding streams that acted like TPA or recurring program monies received an eight percent increase and the remaining programs got a five percent increase to try to keep them at a base budget level. Under the 10 percent increase scenario, the top 11 priorities got an additional 10 percent increase for a total of a 36 percent increase. And then we went down past the top 11 priorities to the others on the list and they got an additional five percent increase. And so that's how we addressed all the priorities that were selected and the remaining line items that weren't selected to try to keep them at a base budget level.

Overall, 64 percent of the increase was allocated to the top 11 priorities under the eight percent increase scenario. Under the 10 percent increase scenario, the percent of that increase allocated to top 11 programs is 70.88 percent. So in the report you can see the three budgetary goals that we identified and under the percentage scenarios, the 65 percent, \$133.5 million was under the eight percent scenario and under the 10 percent scenario was 71 percent, \$185.3 million. For the rest of the recurring programs and other tribal priorities, the remaining percentages were applied, 35 percent to the eight percent scenario and 29 percent to the 10 percent scenario. And this is all based on the FY2017 enacted budget of \$2.79 billion.

**Question:** How is self-governance treated in the prioritization process?

**Response:** That line shouldn't be given an increase by itself because it is just a funding mechanism. Self-governance tribes should be getting their money off of the regular program lines of Social Services, of Forestry, etc. They play in the same increase money that a 638 or direct service tribe would. The funding gets



distributed to all types of tribes and then they would transfer the money to the self-governance line. So that's why we said we didn't put self-governance as an option within the surveys because it is really a funding mechanism, it's not a program.

**Question:** if a self-governance tribe, and it's the same as Consolidated Tribal Government Programs, has taken their contracted Social Services program and wrapped it into that line for self-governance, unless there is an increase, the question is, can they go back and get more Social Services money. Is that fair?

**Response:** No, they've already rolled that up into the self-governance compact line. Unless there's an increase, nobody's going to get more money.

Unless there's an increase in that line, then they would get their share of the increase to Social Services within their self-governance compact line.

**Comment:** There are a little over 220 self-governance tribes over here. Based upon the guidance of self-governance and the Bureau back in the 90s when we went self-governance, we were encouraged to roll all of these individual line items up into one line item which was Aid to Tribal Government and we can in fact or should be eligible to go back in for any monies of increases that come back into the Bureau if any tribe is eligible for an increase so are the self-governance tribes. The only difference that should be is that the tribes don't line item out everything and provide that kind of detail and the tribes have the ability to recreate and redesign programs based upon their funding that best meets the needs of the tribe versus going underneath the other structured of the contracts and the direct services.

**Cheryl Andrews-Maltais:** That's part of the problem with this formula the way that it was put out because it's predicated on the majority of the tribes that are still direct service or contract tribes and it really doesn't take into account the nearly 50 percent of the tribes or at least 40 percent of the tribes that are self-governance. It skews the figures and the priorities because even when you look down the priority list that we have here, Eastern Region opted to only put out five priorities because the rest of the things didn't matter and that's for the region and now there are only two self-governance tribes in our Eastern Region, Mohegan and ourselves. So by putting only five up there, each one of our priorities should have counted for two points versus one because we decided to put all of our eggs in the baskets that are priorities to us versus identifying 10. If I don't need 10, I'm not going to take 10. So we were talking about that yesterday the way that the questionnaire needed to be revamped that would be more reflective of what the tribes and regions are actually prioritizing, whether they have 10 or whether they have two and then to drill even deeper, how that affects the self-governance tribes that do not have all these individual items if you rolled it all up into an Aid to Tribal Government or just a simple two to three line items in your budget or your annual funding agreement.

**Rick Harrison:** That is something that we discussed during the process that we didn't know how to handle at the time so we just went forward with what we had. Another one of the issues that's upcoming for the next year's process is the survey and there was a lot of problems with it and some of your staff is working on that and have ideas how to fix it but we're getting push back from IT and so that's something that needs to be addressed because that deadline's coming up quickly.

**Tribal Co-Chair:** There was a question from Chairman Frazier regarding the line self-governance and whether or not a tribe that has funding or programs within the self-governance line is eligible to go down and grab funding out of Social Services or other lines. I know they're eligible for the increases just like everybody else but can they go back and grab program dollars out of there?

**Sharee Freeman:** The self-governance line is actually a line that's allotted to our office to pay our tribes quickly. It's the base and the way it becomes the self-governance line is every year a tribe that joins self-governance puts in there the programs that they want and that becomes the number called the self-governance line. It is a compilation of grabbing the tribe's dollars in other programs and putting it in one place. If there are decreases in those lines, it hits the self-governance lines. If there are increases in those lines, those lines then come into our line. It's not a "program" per se. It's base dollars tribe by tribe as to what they elected that comes into our allotted line. So likewise, if there's an increase in ICWA, that comes into our line when they roll that money over to it. If there's a decrease in Social Services, our tribes take the decrease. Currently there are 277 self-governance tribes. That number changes year by year based on those villages that are in the consortium. Sometimes they're in, sometimes they're out. We just took on additional six tribes this year and there are 118 agreements that we manage which is more than any other Bureau Regional Office.

### **TIBC Assessment and Improvement**

Kepner and Tregoe, Leo Jolly and David Sandahl

**Leo Jolly:** I'm with Kepner-Tregoe. I'm a practice leader with the company and it's our privilege to have spent some time with you all over the last month or so as part of a request to take a look at how the budget process worked and areas of opportunity for improvement. David Sandahl and I will give you a quick update of what we have found to date, a little bit around what our original charter was as we entered this engagement and then some recommendations that we would propose to you to start thinking about as we move forward to try to improve the way you're doing your budget process now. The preliminary focus was for us to take a look at understanding the full knowledge process that you go through as you formulate this budget, understand how each of the regions and sub-regions have direct input and stakeholders into this process, recommend any approaches on how you get to continuous improvement with your entire budgeting process to TIBC and that's looking at suggested measures that will impact how you do this more effectively, how you adequately represent each of the tribal communities and regions, suggest a high level process flow with step by step responsibilities, and then come back to you at the end of July with a formal recommendation in moving forward.

This is a preliminary midpoint review with you all to give you an understanding of what we have found to date. This was our original schedule to get started. The goal is that come July 24<sup>th</sup> that you've got recommendations that have already started to be put in place to improve your budget process for 2020. The interview process started in April, we sat through the TIBC budget review and a few others were there to get a feel to understand how things were being communicated, how decisions were being made, how actions were being taken at the budget process so we got a lot of insight from there. Coming out of that we spent the weeks of April 17 through the 28<sup>th</sup> interviewing about a third of the community and thank you to all of those that took the time to participate with David and I. The goal was to get as many of the TIBC leadership, regional budget staff, BIA budget staff, tribal representatives and the BIA Central Office through this interview process. Part of the interview process was first to understand as an individual their background with the process, how long they've been involved, what their role was and any insights from them. Additional to that we wanted to hear from them what elements did they feel were really working well in the process and what made that work well. On top of that was what elements did they think really needed to be improved and to give us some insight around their thinking why that would be, what the impacts of not having that improved was to the way the process worked and any other key issues that came through it. So that was the intent of each of our interviews and I want to again thank you. I think we had 39 that were identified on a list. We were able to get at least 13 in through that two week period and if there are additional we'll talk about that, if there's a need to interview more coming out of this preliminary recommendation we'll be ready to do some of that as well. I'm going to let David take it from here with some of the initial findings.

**David Sandahl:** I started working the federal budget process in 1974, the year that the Senate Budget Committee started up. I've been involved in the budget process one way or another for a long time. In order to put together the RFP that we responded to, I spent a lot of time actually looking into the background of TIBC and the way this process works. So that was foundational for us as well. So we looked at the documents and the way the process worked and fortunately we got the assignment so we could learn a little bit more about the people involved in the process. For those of you who were able to give us time to work on the interviews, you know that it was very much open ended. It wasn't as if there was a fixed set of responses we were looking for. We really were looking for how well do people know this, how are they involved in it, how is it working, what works well, what needs to be improved and then is there anything else we should be aware of as we go forward. So that's really the foundation. And then to summarize that just taking a look at what's up here.

Consistency – first of all it's pretty evident in any process for it to work well it needs to be consistent. The information that's going in needs to be consistent, the way it's worked with needs to be consistent and that's the only way to get a good output on the other side. So if for example there's no onboarding process for people who are new to it, they may not have the same understanding or ability to work with it as those who've been working with it for a long time. Similarly, it's clear that there are different approaches used by different people. I wouldn't say one is better than another but they're different. So already you're building into the process sources of variation, sources of difference that may not give you the result that you want.

Anybody who's spent any time with the federal budget process knows that it's long and torturous. The federal budget process is very long so when we think about what has to happen during that process, the ability to compare one thing to another becomes more and more difficult. It's especially difficult in the budget environment that's existed out there for the past decade or more where the idea of actually completing a budget resolution, an appropriations bill and so on and so forth is almost out the window so there are all sorts of different things that affect the way the federal budget itself is proposed and enacted by the Congress. And then add to that the fact that the advice the tribes are giving BIA is a year in advance of that. So that makes the entire budget process very long with very uncertain consequences. You make a decision now, you won't know for a long time what the impact of that decision actually is. So that creates a lot of uncertainties, that long period of time between when priorities are expressed by the tribes and when they show up as actual decisions—first in the President's budget after a long period of embargo and then finally when the Congress takes action in whatever way the Congress takes action.

And then finally the question came up several times, what happens to funds during execution that may be unexpended or to activities that are underfunded that need to be emergency funded, that sort of thing and again, there's a lack of clarity there. Another thing that we heard a lot about is the limited assessment of program need, effectiveness and best practices. So in any process, again you want to say what works, what works well. Can we emulate that as much as possible? Can we do that same thing again and again as many times as we can because that's the best way to do it? But again, there are variations between the regions and the tribes and we heard a lot about some regions have these situations, some tribes have these situations, those are in some cases naturally occurring variations. What's the land like, what are the resources like, what are the cultural traditions like, is it self-governance or not? We found there are some issues with definitions in line items. Is it consistent or not, does it correctly express what's going on or not, does everybody know what's in this line, is this line consistently understood?

There is **inconsistent access to the information**. If you haven't got the same information, you can't really make the best decisions. The lack of clarity in this process naturally advantages people who know a lot about it and have been at it for a long time. You become expert, you become tolerant of the fact that it's not exact—it'll be a little bit different this time but I can handle that—as opposed to somebody new to it who

might say, 'I don't understand. It's supposed to go from here to here but it didn't. What's wrong?' And so people's ability to engage and to grab hold of what's going on becomes limited that way.

Our first recommendation is to develop for this community a **multi-year process flow**. What happens this year going into 2020, what's going on during the current year as the budget's being worked on by the President and the Congress, much of it under embargo and subject to conditions that a lot of us can only speculate about and what's happening during the budget execution year. The funding, has it been approved, the CR for the rest of the year?

The House is voting so maybe by Friday we'll know what the budget is for this year. That will go to OMB which will do its thing, that will come into the Department of Interior, into BIA, into the programs. That's the way that works. That's the budget execution process. But each of those three elements is relevant in different ways and that process should be laid out so that everybody can see it. Shouldn't be hugely complex and there are many versions of this. If you go to the GAO, you can find about a five page introduction to the federal budget process that doesn't mention the tribes because they're worried about the other parts of it. I know there's a timeline for your budget process that puts several things together and probably covers all the ground but our recommendation is to make a process flow that is consistent, clear, easy to understand where we are at any given time.

The **initial metric is how well we involve stakeholders**, the way to measure whether it's doing well or not. Who's included in this discussion? Is it just a few or is it everybody? Has every tribe had an opportunity to offer their voice to this priority setting process? And also does it run on a timely basis? Timeliness is kind of a difficult concept in the budget world because of all these strange forces that go at work but for the part of the process that we control, we should be able to say, 'As of this point, this is what we're doing, three months from now we're doing that, three months from then we'll be doing this.' We should be able to see that, have predictability to it and make it measurable.

In a process it's important to know who's in charge and we refer to it in our business as the **process owner**. Who's making sure that all of the elements that have been agreed to are being carried out the way they're meant to be carried out? Someone should have that responsibility. That should include the specific steps in the context of this budget world that we're in. Where are we? What's going on right now? Every year the CBO publishes a budget and economic outlook. They say, 'Here's what's going on, here's the big picture, the President's budget's about to come out. Here's the world in which that budget takes place.' That should be part of your process, not at the macro level but for the community. What's relevant to us? We should make sure that the way the process works is consistent for everybody so everybody gets to see the same things, everybody gets to participate in a similar way and that there's a managed communication flow. This is not something that happens when somebody gets around to it, it's something where the process owner takes responsibility and makes sure that the specific steps are executed on a specific schedule, where there's a gap or somebody hasn't heard about something, haven't been heard back from that there's a checklist to make sure that people are engaged.

There's a governance process in which decisions are structured in a particular way. For you, you ought to be able to define the way you want to make these decisions. 'This is the way we as a community say we will decide issues like...how do we set priorities across these 10 items? What's the way in which we decide that will happen and then adhere to that, hold to that. Say that's the way we're going to make these decisions every time.'

Who's empowered to make what decisions? As this process flows, first it's tribes, then it's regions, then it comes into the TIBC Budget Committee. Which decisions are being made at what level? And then finally, what's the accountability and timing for follow up actions? Between times we agreed to work on this

particular issue. Who's got the responsibility for that? What's the point at which that issue will be resolved to everybody's satisfaction? Can we make that visible? Can we see it and keep track of it? Along with that is training to that process.

We should say for people who are new to this process there's an **onboarding process**; this is what the process is, this is the way it works, here are the definitions that you need to be familiar with, here's the timing. That that's consistent for everybody, everybody can see it, they can understand it and again, because of the world we're in now, if you do something like that as a web meeting, record it, put it online. If somebody's new and they missed the lesson, they can go back and look at it again or if somebody needs to explain something to someone else, here's the way we all do it.

Along with that are defined **DOI best practices**. We learned about a lot of good things that people in the regions do on behalf of DOI, working for DOI. What are the best approaches? Can we take those best approaches and put them forward so that they're used consistently across the regions? Actually one of the suggestions that came from one of your regional budget people was to have a nationwide kickoff for the annual guidance.

Who besides me knows what A11 is? That's real budget insider kind of stuff. Every year OMB puts out a long, 100 pages or more now, guidance on how to do the budget. You don't need 100 pages, 10 is probably okay but also that should be presented to everybody who participates in what's happening this year—step by step by step. And the idea here was that that would be presented all at once to everybody who could participate but again because we live in a world of technology, record the whole thing so if anybody needs to catch up or needs to be reminded or needs to explain to somebody else, just go back to the recording.

We put **survey issues** into three categories of improvement. One is to make sure the content is correct, that it's covering the right things; that everything that needs to be covered is there, the things that don't need to be covered are not included in the survey. I think it was referred to it might be web based going forward. We heard about technical difficulties that people had in filling out the survey, character limitations or timeouts on their servers, that kind of thing. If people can't participate effectively in the priority setting mechanism, they don't have a voice. So that should be something that should be fairly simple to address, make it an item of action—it sounds like it is already but make sure that that's correct and then once it's ready to run that there's easy to access what we refer to as advisory support. It times out when we do this, what do we do? And we talked to somebody who said literally they had to hunt around to find somebody to help them with the survey and they finally figured it out. But that sort of thing shouldn't happen.

**Budget to budget comparisons** have been around for a long time—annual budget to annual budget—but starting about 40 years ago we also got into what happens when you look at other baselines for comparing budgets. One of the things that's a special challenge for this group because of the very long three year cycle, should we measure our success based on comparing ourselves to the President's budget when it's proposed, what are the differences between what we ask for or what we advised versus what was actually proposed by the President? That's one point of comparison. What did the Congress do with that? That's another point of comparison. And also what's happening during budget execution? The priorities we thought we saw, what are we actually seeing in the way the budget's being carried out.

A second category under this area is the concept of **current law or current services**. Current services is the idea of what would it take in Year B to offer the same level of services we offered in Year A, based on things like inflation, changes in population, and so on. The Congressional Budget Office and the White House both do that. There's also a concept called current law. Current law, what does current law require us to do? That came up in the context of programs like Social Security. We have so many people, they're of a certain age,

they've earned so many benefits, what's the amount of funding we have to put out accordingly. So that's another important concept in in-baselines, vetting baselines.

The last of our recommendations requires basically that the first things we talked about be in place first. So this really gets into the heart of what I think is trying to be accomplished. **What is the funding need?** And again, start always with a baseline. Also start with what's the requirement, how is the level of funding set? We have treaties, we have legislation, we have administrative rules, we have budgets. So what are those overall funding levels to start?

Next, **what's the funding that's needed to fulfill the obligation?** You see in the picture there the lower left hand side, the one dollar sign. That's the current level of funding but if we look at this carefully, we would know for any program—we call it Program W here for this particular tribe—the funding needed to meet the obligation would be those two dollar signs. So what is that level of funding, program by program, for each tribe? Step by step—this program, this program, this program, this program—to have the funding needed to fulfill the obligation, what would that be? Do that across for all programs and also do it for all tribes and the way it's shown here is do all tribes in a region but obviously do it for all regions.

A lot of this detail exists already. For example, if you look in the back pages of the Green Book there are dozens of pages of tribe by tribe funding levels. Looked at this way does not include the comparisons of what would the obligation be. So we're suggesting that the obligation, funding the obligation is a very important point of comparison. And then finally looking at the whole picture across all regions, across all programs, just look at the key. If it's in green, if it comes out well, it's meeting the obligation. If it's yellow, we need to take a look. There might be some things on the edge that need to be changed a little bit. If it's red, it's missing by a mile. And of course we have to define the threshold for what being absolutely meeting the obligation means, what being a little bit off means and missing by a mile means.

But our view is, if you could evolve toward this kind of an approach, you could say, 'The overall obligation across all tribes is this, there are specific differences between tribes on particular programs, there are these, our priorities are based on looking at those differences and what we agree as a community are the most important things to do.' So that's pretty much the substance of where we are right now.

What comes next is this. We'll be with you in July and we thought in the first days an important thing to do is to define the multi-year budget process, that there's somebody who owns that, that we agree on what the steps in that process flow are, that we know who does what—what things are BIA, what things are tribes, what things are TIBC—and the timing is important too. When do these things occur? And again, a lot of this exists already but we would say there's not an agreed definition that everybody can see and say, 'Yep, that's the way it works now.' Along with that is budget process training of best practices, consistent for everyone and also effective involvement.

We talked to some folks who said, 'I think we get about 90 percent of our tribes or more who participate,' and others who said, 'Maybe 40 or 45 percent.' So the voices are not necessarily being heard. And then finally, effective involvement to make sure that the best techniques for bringing people onboard and making sure people are heard are used. As a phase two, this question of looking at the budget baselines, what's done now. What's existing practice, what would current services say, what would current law say, are there other approaches that should be considered and setting the budget baseline and then finally something a tough nut to crack for sure, but how to define the needed funding. What's current funding, what's the funding that needs to meet the obligation and what are the gaps or actions that need to be taken? So that's where we are.

**Sharee Freeman:** I have a question. So my question is at the end of all this there are certain agencies that win big congressional dollars over and over and over and there are others it just doesn't seem to make it to

the finish line. Is what you're doing with us going to get us to a place where having studied those other winners we can be at the finish line with them as well?

**David Sandahl:** One difficulty with the President's budget is that it is basically a secret process between the White House and the agencies. So the tribes may advise one thing, that goes into the Department of Interior budget, Interior has to make decisions based on guidance it has received from the White House. There'll be a back and forth process between the White House and the Department of Interior before the budget's finally decided by the President, what the President decides to propose. The winners in your scenario are those agencies that can go to the Congress and say, 'We need this,' and get it because it is, as the Constitution says, power of the purse goes to the Congress. So the winners are those who basically lobby most effectively with the Congress and I think one of the questions that we're thinking about as we think about this situation is, 'What's the best way to present the best case for what's needed?' So if advocates can go in and say, 'We know that the need for this program,' let's say it's ICW, 'is this. We've looked at 567 tribes, we've looked at these issues, here's something we need to do based on the work that we've done.' That's the way to carry that discussion.

**Question:** One of the questions that I have in regards to this process, I know this is basically an eight year past process that they've done for the past eight years but I know that yesterday Secretary Zinke made a presentation to the Department of Energy to some of the tribes and what he considers value added of the BIA. I know this is the process in itself, the budget process, but how they're going to be looking at it for the future, meaning the new Secretary of Interior, what his thinking is?

**David Sandahl:** Yeah. That's not part of our remit but what I'll say is this, budgets express priorities so when any President proposes a budget, the President's saying, 'This is what I think is important,' bump, bump, bump, bump, bump. And one question is how the tribes influence what the Secretary says, influence what the President says. So that's one measure of influence. But the other, because budget decisions are actually made...funding levels are made by the Congress, that's the other place where that is held. Now I know almost nothing about the Interior back and forth at the Interior Department. That's not what we were asked to look at but I think it's clear in the area from what you were discussing earlier that this council has got an opportunity to have some influence on it.

**Kitcki Carroll:** From my position in observing kind of what is or isn't going on in the budget space, what we have to determine as a full TIBC body is who is this process for. I would say from our region's perspective, this yearly budget process is the opportunity that we have year to offer up a unified message about what budget priorities are; this year we only dealt with increase scenarios but in years past there's been decrease scenarios. Every region is doing this differently right now. We're not consistent in the way that we're doing it. There's also a different layer to this about adjusting to strategy and administrative priorities and congressional action.

The other part that I want to highlight is this ownership question. It's been recently corrected but in years past there was this question of who owns this process? This ownership issue is a bigger question to TIBC as a body. This is a budget space to talk about budget. But we haven't and we sway away from that because there isn't clearness in what the objectives are. About 10 years or so ago, the budget subcommittee of TIBC was created to handle budget. We around this table are supposed to be the budget experts to engage in these conversations but because we don't, it now gets kicked off to the subcommittee.

The subcommittee has unclear clear guidance or direction about what our expectations are of them. Sometimes our region's priorities are reflected, sometimes they're not. If you have an eight percent increase, the subcommittee applies that eight percent to those five priorities. Is that everybody's expectation in this room? As you received in your report, a portion of it goes to those priorities but other amounts goes to

everything else. There should be clear directive. One of the things that's come up is maybe right out of the gate in an increase scenario the first adjustment that we do across the board to maintain the value of the dollar level is that adjusted current services level. So right out of the gate that's what gets applied to maintain 'cause what we've heard is we don't want to lose funding anywhere so you maintain with that current services adjustment. Then what's left either gets 100 percent applied to what those priorities were as identified through the rollup or some portion of that.

So just by example, if you decide that 60 percent of the available increase goes to those five priorities, then the remaining 40 percent is open for discussion and negotiation across regions. This year do we want to apply it to Public Justice or Law Enforcement, do we want to give more to Education, Economic Development, whatever and that's where it becomes this cross region negotiation. But if we keep putting it to the Budget Subcommittee to do complete the exercise every year, we won't get there. It needs to be this full body engaged in that exercise.

Maybe you weight it based upon rankings, convert the eight percent to a dollar value and you apply it to the top five, a simple process. It's been a four day exercise because there's some ambiguity and that's what drives the prolonged exercise. We should see every single year what was our process, what did we propose, did the President accept those suggestions or not and what did Congress ultimately enact. Then we can answer the question that many of you around this table have been asking over the years, is this exercise effective? Does it impact the level of appropriations for Department of Interior funding?

This time right now with everything that's going on with the Administration, it is important that we figure this out right now to make sure that our work is having benefit done.

The federal part of the equation is to answer some of these questions about a lot of what I said is based upon assumptions that everything is right. We do recognize that our federal partners took the effort to improve the process. So then they made adjustments for consistency. Then a year ago we started testing this survey option to drive some more of that information that we needed. So they are making progress but we still have a ways to go.

This is that opportunity for us to shape something that makes sense to us because it's very easy to criticize and critique it and point out all the flaws, but it's another thing to roll up your sleeves and do the work to resolve it and that's what we're trying to do in this space right now is to resolve this once and for all.

Lastly, on unmet obligations, tribal funds should not be counted as fulfillment of the fiduciary trust obligation. If it costs \$100 to render a program and they're giving you a nickel, they owe you \$99.95 and if you're providing that. DOI has an obligation regardless of whether or not you have the economic and financial means to subsidize that or not.

**Question:** The last couple years we sent letters to the Administration identifying that we would like to go mandatory funding versus discretionary funding. Having your work on both sides of the aisle and within the budgetary process, do you ever think that would be a reality?

**David Sandahl:** Ever is a long time. From what I know so far, which is maybe five or six months of study in what's going on here, many of the programs that are in play here could be defined as mandatory funding programs 'cause they're designed to support human beings and many of the programs that are typically mandatory programs are those and usually have what's called a permanent appropriation. They'll say, 'There are so many people, the benefit level for these conditions are so and so, here's the funding level, that's it.' So for programs...and that's why we're encouraging looking at the particular programs what the need is, how that need is defined now. It would take a change in law but it seems to me that there would be a firm



foundation for asking for a change in the law for those programs that are specifically designed to help human beings in a way that other mandatory programs are.

**Rick Harrison:** Will your July final report articulate what you could do after that. You gave us two different bids with two different scopes of work and we chose the smaller one just to dive into this and look at it. And so I was wondering if after that final review if you'll identify how else you could help in these areas and what else that second scope of work would look like.

**Leo Jolly:** Our scope of work for this phase was to identify areas of opportunity for improvement and what we've done initially is to get you that. And what David and I will do is put a little more clarity around each of these recommendations but it wasn't necessarily to actually formulate your full future. That is your future state defined process with clear roles and responsibilities. So Our recommendation is that we actually develop that. That isn't part of this scope and in that process flow it would identify every functional responsibility and handoffs in between so there's some work that would need to be done with a smaller group here, why you need a process owner who's going to help drive that and we would help facilitate, guide and pull that together. So that would be the next phase. So yeah, to answer your question, the July report is to put more clarity around each of these recommendations and a proposal on how you actually get them done.

#### May 4<sup>th</sup>, 2017

##### **Invocation, Dave Conner**

**Dave Conner:** Some of the Red Lake delegation met with three representatives of the Interior Appropriations Subcommittee yesterday. We thanked them for the 2017 omnibus bill where they did provide a two percent increase when we were all so fearful that we might have actually seen a cut over 2016. I noted the BIA assisted in many ways. I noted climate change, which is a touchy subject was changed to cooperative conservation/cooperative landscape conservation and we even got a dollar increase so that was interesting. But all of the Interior appropriations representatives did give their assurance that even though they're going to get a topline number that they have to work with, they don't take much stock in the President's budget blueprint and they intend to do everything they can for Indian programs and they all three also said something we've said before and maybe it's most important this year that the more tribes that they hear from via letters, meetings, etc. on this 2018 budget it gives them greater power to increase the amount of funding they provide for Indian Affairs. I'm sure folks talked about this yesterday but the more tribes that contact them and send letters they say that it gives them a better ability to provide more money.

##### Update from NCAI

**Jacqueline Pata:** I wanted to give an update from the Energy meeting yesterday at the White House that was held for tribes, particularly the tribes that are in the oil, gas and coal environment. It was clear by the showing of the participants from the White House—the Deputy Chief of Staff was there, the person in charge of permitting was there, the person in charge of infrastructure stopped by—the list goes on, that they were really catering to tribes and saw that tribes would be a very integral part of their energy agenda. They started out by just saying that part of their energy agenda is really about their trade arrangements and particularly Japan and China, how they want our resources and particularly coal, that in Japan they had 54 nuclear plants that they're replacing with coal fire plants. The coal that comes from Crow has less sulfur. The interesting thing about the Deputy Chief of Staff, Rick Dearborn, he actually in the Bush Administration was in Department of Energy and he attended and spoke at the very first Indian Country Energy Summit he said. He said, 'I learned then and I recognize that you're sovereign...to respect your sovereignty and I want to let you know that we will respect your sovereignty.'

We talked about a lot of other issues but the main point was they were looking for recommendations from those tribes on how they can streamline and understand what the barriers were and if we had recommendations on how to streamline some of the permitting processes to be able to address some of those barriers. They had Navajo who is dealing with their Navajo generating system, Hopi, Mandan Hidatsa from Three Affiliated, Osage, Crow, and the list goes on of the tribes that are really involved in this type of energy development. And they also made it very clear even though this conversation was about those traditional energies that it doesn't mean that renewable is off the table, it just means that this meeting was particularly about that and that they are interested. Their energy policy will reflect all types of energy. It's going to be really important for Indian Country to put together the kinds of recommendations that we want about having to deal with some of the challenges of the cost of permits on federal lands because tribal lands are considered public lands.

We want to deal with some of the recommendations and how we can streamline those areas and I know that we'll have some follow up meetings and maybe some smaller meetings, it's something that we'll talk about at NCAI at our midyear to be able to make sure that we can give them the kind of recommendations. They had the same conversation with mayors a few days before and out of 125 mayors they only heard back from around three of them at that point. I really want to be able to make sure that Indian Country responds back and gives them the kind of recommendations that they're looking for.

But while we were there the Deputy Chief of Staff also talked about the healthcare bill. There was also put forward an amendment that would create a high-risk pool, an \$8 billion high risk pool. It was fashioned after what they did in Maine and I'm not really sure how that works for tribes. We asked that question yesterday and they weren't sure either because one of the challenges to the proposals is to wipe out Medicaid. Indian Country's dependency on Medicaid to help us with our third party billing is really important to us. Today is going to be the vote. I know members of Congress who have heavily populated native communities, it'll be important for us to reach out to them to see how they're going to vote. The Senate's not sure, think that they'll have much more challenge trying to get this forward but there was no answers to our questions about how does this high risk pool address tribal issues. And what happens in Maine is in the high risk pool, there's a high risk pool set aside and then those people are pre-determined who's eligible for the high risk pool and then they're able to have access to the high risk pool. We don't know if tribal citizens will be considered in that or how that will work. He did however say that he recognizes there's a lot of reforms that are needed to be done with IHS and that's one of the things that they plan to do after they get done dealing with the Obamacare.

### **2017 Budget Update/Report**

**George Bearpaw:** Just to add about the Indian Health Service, when they talk about third party collections, a lot of the areas within Indian Health Service really rely on that money. I think their budgets are up to 60 percent of their budgets coming from third party collection. Just to add that to the discussion.

We recently redid the program descriptions. That gives you a reference point on all of the program lines that we deal with. The other thing that was discussed in the Budget Subcommittee was the unobligated balances and Jeanine has provided that to the Budget Subcommittee.

Just a little bit on the '18 and '19 budget before I get on the '17. We got word yesterday on the '18 budget, the President is going to roll that out May the 22nd.

On FY '17, the President will sign the budget today. There are some plus ups within this budget rollout. It's a 2.3 percent increase from '16 and I think that was discussed yesterday.

If you'll look at the first page under Tribal Government, you've got some plus ups. \$160,000 that was added for new tribes, some increases for Small and Needy, and Road Maintenance gets about three and a half million dollars more.

Congress was pretty generous with some of those lines. There's a deduction of five million for Social Services. We don't have the specifics on a lot of these. We will be getting the specific information from the Department later on, probably as early as next week so that we can start doing our comp table and once we get that done we will be sending that out to this body.

In Trust and Natural Resources, there's a nine million dollar increase from the '16 but there's also a deduction or less, \$14 million from the President's budget. Trust and Real Estate Services, you've got a minus from the '16 of four million dollars and \$13 million deduction from the request. For Education, Forward Funding, there is a plus up from the '16 enacted, \$24 million that was added to that, to those lines. And from the President's budget, it was also a plus up of a million dollars to Education, Forward Funding programs. Elementary and post-secondary education management, there's a plus up of \$39 million from the '16 enacted but it's less \$20 million from the President's budget.

Public Safety and Justice, there is a plus up of \$12 million, which is a plus up from the President's budget.

For Community Development, Executive Direction, there is a plus up of \$71 million from the '16 enacted but it's less \$56 million from the President's budget.

Contract Support, Congress agreed with the President on that so it's an increase of a million dollars from '16.

There were some deductions with Construction in some of those lines. The Public Safety Resources Management and General Administration, there was some plus ups but Education took a hit of \$4.9 million from the enacted and then from the final bill versus the President's budget there was five million deducted from that. Settlements took a hit of \$10 million from the President's budget but the Guaranteed Loan Program did stay whole and in fact they added a million dollars to the President's budget.

The last item on that budget is the Rescission. We got tagged with \$3.4 million of rescission. However, it's not across the board. It's not going to affect the programs. They tagged TMIP balances, the no year funding to pay for the rescission. At least the programs don't have to pay for the rescission, it'll just be isolated in one line so that's how they chose to pay for the rescission under this budget. Again, it's 2.3 percent increase from '16 enacted with this new bill.

**Arbin Mitchell:** On Tribal Grant Support costs under Education, there's a plus of six million. Does that take us to 100 percent?

**George Bearpaw:** yes, that's what we had proposed to bring us to 100 percent and that's what they approved.

**Question:** Is it possible that at the next meeting when we have in Flagstaff that we get a breakdown on the Southwest Region all the way down to each tribe compared to the budget?

**George Bearpaw:** I think we can do that.

**Rick Harrison:** I just wanted to talk about the rescission and where that money is coming from from the TMIP. So that money, a lot of that money is coming from our programs from past years and so that's why we

have to keep on top of that budget at the end of the year and what's being carried forward, what's not being used because it goes back to Treasury when it doesn't get used and then gets re-sent back to Central Office with no strings attached and that's where this money's coming from. So technically it is coming from programs, it's just not from this year's budget.

**Greg Abrahamson:** What happens with the carryover funds then? That's one thing that we don't see in here if there is some excess funds from '16 that may be getting carried over? Are they still within the Department or do they go back to Treasury?

**George Bearpaw:** Well, actually we're working with the programs right now on the carryover funding. In fact we're going to be meeting with the programs fairly soon to make sure that we have a plan for the carryover funding before it expires at the end of the year. And some of those are two year money where they are carried over into the next year and then the other group of funding is the no year money that continually rolls over. So we are going to be having discussions on that, it's that time of the year, to make sure that the programs have a plan to expend those before the end of the year. We did do a report at the last Rapid City meeting. So normally we do that usually around the July meeting and we will be doing that for this year.

**Comment:** In the past we've had several tribes come to the body requesting natural disaster type funding from us but we never had any mechanism inside the organization to assist in that capacity. One because tribes, I believe at the time they were coming to the table didn't have the authority to declare a natural disaster until the...a couple years back.

**Cheryl Andrews-Maltais:** When you identify what those dollar amounts are and which programs you're going to supplementally fund, knowing full well that the self-governance tribes often have a hard time undertaking to try to determine what those increases will be on a percent. Has there been any movement towards figuring out a formula to identify how the self-governance tribes are not going to be left out of these calculations as we have been in years past.

**Response:** That's been a discussion item even when Mitch Thompson was here. There is ongoing discussion on that. We need to have those discussions internally and then report back to the tribes.

**Jeannine Brooks:** And another way you can be proactive with it is when we send out the comp table, compare what they gave us an increase to what we asked for in the Green Book and that'll tell you what the money's supposed to be used for so to be able to see what you can come back to the programs and tell them, 'Make sure I'm part of this,' so that they don't forget to include you as self-governance tribes when they're making their distributions. So while we're pushing from our end at the Budget Office, you guys can come from the other end and we'll make sure that the programs include you.

### **Office of Special Trustee**

**Deb DuMontier:** We've already mentioned the budget and the omnibus bill for 2017. That would fund OST at the same levels that we had for 2015 and 2016 and that was \$139 million. The Special Trustee position is a political position, Senate confirmed and to date we do not and we're not aware of a nomination for that position. I am acting in the Special Trustee position pursuant to a secretarial order. I've presented before on the Indian Trust Asset Reform Act. It was passed about a year ago, June 22nd, 2016, and as I mentioned at last month's meeting, Section 304 of ITARA required that within a year the Department identify all non-monetary functions performed by OST and identify the OST functions that could be transferred to other bureaus and agencies. We held 10 tribal consultations and one listening session. After the consultations the Department evaluated the feedback and the requirements and a letter was submitted to Congress by Secretary Jewell. She submitted that letter prior to the transition of the administration just to ensure

continuity with the new leadership. Her letter advised Congress that the Department was going to continue the operations of OST as a single entity fulfilling the requirement of that section of the legislation. But her letter also recognized that the appraisal activity that's conducted by OST could move to a different office and just to recap, the legislation requires that appraisals and land valuations of Indian trust property be administered by a single entity within 18 months or by December 22nd.

So to facilitate a smooth transition, the Secretary left the analysis and the development of the transition plan for appraisals to the new Administration. The ITARA comments, the letter, all of the information is available on our website if you want to review it. The Department is currently reviewing the options for meeting ITARA for appraisals. In conjunction though with the Presidential Executive Order that was issued on March 13<sup>th</sup>; it's the comprehensive plan for reorganizing the executive branch.

The executive order was issued with the express purpose of improving the efficiency, effectiveness and accountability. So reviewing the executive order in addition to ITARA, we're looking at the consolidation or the merging of the appraisal function. And the question has been, can we achieve efficiencies and will the Department and the client, bureau and tribes be better served if appraisals are consolidated into a single office or whether we maintain the current structure with better alignment? OST continues to work collaboratively with this new Administration on the path forward and in the meantime, OST continues to work with our BIA partners to streamline the delivery of the appraisal services. And to that end we are finalizing a Memorandum of Agreement that will clarify our responsibilities and incorporate process elements for reducing delays.

The other projects that OST's been working on include a project we refer to as the Tribal Methodology Project and that is the development of an online evaluation tool for trust programs. We've had nine pilot tribes that have been working with OST since the inception of this project and it's looking at reengineering the Tribal Trust Evaluation process to benefit both the participating tribes as well as the Federal Government. And that's through the use of a web-based application tool and the new Trust Evaluation system will significantly reduce the time that our staff have to travel to conduct the evaluations and also minimize the disruptions for the daily activities of tribal staff. The Trust Evaluation system tool is in its final stages. We're starting user acceptance testing. The department reviews for security and cloud hosting in Section 508 compliance are in progress. We're hoping that the implementation and the rollout planned for fiscal year 2018.

Next in some of our modernization efforts, the collection, the application, the use for smartphones with collecting trust funds. For the past eight years, OST has offered pay.gov as a means for lessees to remit their payments. Pay.gov can be accessed by computer, tablet, smartphone but it does require a browser and you need access to the internet. So OST has recently deployed a new app that's been developed by Treasury and under the BIA logo. Its payments from lessees are brought in through the pay.gov system but it's easier for the interface and you don't need a browser or internet, you can use your smartphone. So it's another tool.

And lastly, Probate Reform. Currently when a beneficiary should pass, if they have trust assets no matter what the value of their asset may be, it requires a probate administrative process which takes time and funding. We continue to look at potential solutions such as legislation or regulations that could be modified. We currently have a workgroup that is working departmentally wide to explore these options and we will continue to engage our tribal partners through formulation of the budget here at TIBC as well as NCAI and Self-Governance.

Each year the Department awards distinguished service awards so this year they awarded 49 total and the award recognizes outstanding contributions of public service by an individual. And this year OST had two— Doug Lords, our Deputy Special Trustee for Trust Services, and John White, the Deputy Special Trustee for

Program Management. John was honored for his leadership with the Tribal Methodology Project, the online evaluation tool I just reported on and Doug was recognized for his significant contributions with the Land Buy Back Program. He worked to build a collaborative and effective training program for OST outreach staff as well as the tribal staff to enhance the information that our beneficiaries are receiving so that they hopefully will have the information that they need to make informed decisions about their trust assets.

### **Dept. of Energy**

Steve Menedes

To sort of give you an idea where Energy/Minerals fits within all of Natural Resources, it is the number two money maker in Indian Country. First of course is gaming. Last year was a down year, but the economic impact was about \$14 billion. The year before was about \$24 billion. It all is linked to the price of oil and gas and those numbers reflect oil and gas predominately and coal. It does not include sand and gravel or renewable energy.

The price of oil is linked internationally. It is difficult to project what the price of oil and gas is going to be over the next six months let alone two years. Right now the price of oil is around \$46 a barrel and that's really low. We expect it to rebound by the end of the year to be about \$60 a barrel and then in two years be about \$70 a barrel. What that means to the oil and gas producing tribes is your revenues are going to start going up and you're going to start seeing increased activity on your property. But as consumers of oil and gas materials, if you're using propane to heat your homes or if you're using other fuel oil to heat your homes, these prices are going to start going up. So we're looking at \$70 a barrel. There are about 80 producing formations on Indian Country spread out over about 43 different reservations. The question has to be asked, what's the break-even price? At what time and what's the price that people start getting interested in coming onto your land to start leasing oil and gas properties? Well, with the Bakken formation, it's right around \$35, \$40 a barrel so you're seeing activity occurring right now with the Bakken on Fort Berthold where people are coming in and I think they have like six to eight rigs working right now and they're still leasing, they're still permitting and so on. You flip that over to a different reservation, there's certain formations that the price of oil has to be about \$110, \$120 a barrel for it to become economically viable so you're probably not going to see any of those guys occurring until much, much later on the road. And our goal right now is figuring out where it is.

We believe that the next area that's going to be of interest is going to be the area around the San Juan Basin, which includes the areas of the Navajo allotments as well as the Jicarilla Indian Reservation. That's going to be one of the areas that people are going to start wanting to come in once it gets to about \$60 a barrel. We have little time to get your laws, get your regulations in place and so on. Now gas is a different thing. Gas basically is a domestic product. We don't export out gas. It is contained here and right now the people that are producing a lot of gas is the Permian Basin in Texas and the shale formations in Pennsylvania and New York and it's going to be that way for a long, long time. Right now it's under three dollars. It'll probably stay there for a long time. So for gas producers, bad news. However for consumers, for the tribes this is good news and this is something that you should think about. If you don't use natural gas to heat your home, maybe you should because it's going to be there a long time. Likewise, if you have a pipeline going across your reservation, natural gas pipeline, maybe you should consider opening up a gas fire generator. These things don't cost that much, they're under \$10 million and they can produce five to 10 megs worth of power for local use only. And that's what we're seeing quite honestly is a lot of our tribes are talking to different companies and saying, 'Okay, how do I hook up into your natural gas pipeline, it costs about three million dollars to do that or if there's a natural gas hook up right there, can we just install...and a five meg power plant is about the size of this open space here so it's not...the footprint isn't that big. The pollution is not that big. But we do encourage tribes if they're thinking about that is to really develop the legal infrastructure—the

codes, laws, regulations and statutes—necessary to administer this...the utility and starting up a tribal utility. And to be honest about it, most of our tribes are looking at that kind of thing.

You notice sand and gravel is not included in the price. Sand and gravel, every reservation here has a sand and gravel pit that you're using sand and gravel material from. However, what's reported with the ONR is only 5200 cubic yards of sand and gravel. That's not true.

We're seeing a lot of tribes developing their sand and gravel for roads and you need sand and gravel for your roads, you need sand and gravel for anytime you have any kind of building whatsoever. We emphasize that if you're going to do this, if you're going to do a permit or let somebody know about it, certainly you can develop your own sand and gravel but we really recommend you do a mine plan. If you don't have a mining engineer, we've got one. We're happy to help you out. But sand and gravel's a big deal. An example. Bad River in Northern Wisconsin, middle of July, big rainstorm washed out all the roads. They got sand and gravel from about 30 miles away from non-Indians. Why? The tribe had sand and gravel and this could have been a source of revenue or their contribution to the emergency repairing of the road. And even if you're not going to build anything, you should know where sand and gravel is on your reservation.

Renewable energy. Generally speaking this is production energy. It's about \$319 million a year generated. This by no means is it all. By far, hydroelectric power is the biggest producer in Indian Country right now. Solar though is starting to creep up. We're starting to see a lot more solar, such as farms creep up. Easy to put it on roofs of a house, easy to put it up, a lot of these are HEARTH Act agreements where they're putting things up. We're not seeing that many wind projects. Biomass projects are pretty small. However we would urge you to think about biomass projects for the tribal use. Woody biomass to heat your home is about three times cheaper than propane. We did a study in upper Minnesota and we just looked at propane, we looked at fuel oil, we look at natural gas. Natural gas and woody biomass is about the same but if you don't have access to natural gas like a natural gas pipeline, consider woody biomass. This is a good thing because we've got a couple tribes that have entered into stewardship contracts with in California specifically with the Forest Service for fire mitigation. If they're paying you to go out and gather this stuff and slash it up, chip it and use it for woody biomass and that's the game plan for a couple of our tribes that are working on it right now which is a good idea. Basically they're paying you to collect resource and the economics there are similar to what is up in Minnesota. That's hard to measure on here because we're not making money – we're saving money.

This is our overall game plan of how we try to do things with our tribes. We work on a consulting basis. If you want us, we're there.

For the Feds, what we try to do with all our superintendents and regional directors is anytime we have a phone conversation we're telling you we're having a phone conversation. This is what's happened when we've switched from resource assessment to resource development. For years when we looked at resource assessment, we came out, we did a study, and we wished you good luck. The royalty stayed really stable. It bounced between \$190 and \$220 million a year. Didn't matter what the price of oil and gas did.

We've now gone to more, how do we help a tribe develop its resource, what can we do, how can we get the right kind of people? Our goal is to find out what your business plan is.

How do you want to see this develop? What do you want to have happen with this whole thing? And if that's the case, what do you want to get out of it? Is it jobs, is it joint venture? And each company has a different business model that fits it so we want a company that fits your business model. And we've had success doing it that way.

We have 223 projects on reservations throughout the United States. Basically we don't have anything going in Alaska mainly because there's lack of trust lands up there. We only work on trust lands, although we do provide technical assistance to various people.

**Question:** What's going on in Pine Ridge?

**Steve Menedes:** Solar farm on a lot of the land and they've also requested assistance with the TDC which is a Tribal Energy Development Capacity grant which helps the tribe develop the laws, codes, regulations so that if they wanted to get into some kind of utility or energy uses company, they can.

### **Strategic Planning Report and Data Workshop**

George Bearpaw

There will be a Data Workshop that's going to be held on July 24th that we discussed at the last TIBC. It's an all day workshop that the Department's having on the 24th. There is a contact person on there, Malka Patterson is the one that you need to call for RSVP.

The DOI Strategic Plan. We had a session with the Department on their strategic plan about a month and a half ago and now they're still reworking the framework for the strategic plan. They're going to do that through June. They plan to present that to OMB in August, by August the 1st so that they get their approval for the framework and how they're going to push out the DOI strategic plan. Final adjustments are going to be made in October through the November timeline. Consultation is scheduled for the November TIBC so we'll try to work with the Department and make sure that we're coordinating that with what's going to be coming down from the Department.

We will be working with the Department on what they're coming out with, especially as it affects Indian Affairs and what those sections are going to look like. So any information that we get out or that we get from them, we'll pass it onto this body. There could be a lot more added. What they're looking for also is any information from the new Administration that they want added into the strategic plan. So they're working now or they will be working with the new Administration on how they view any new initiatives or any new additions to the strategic plan. Again, the DOI Strategic Plan release dates have not changed. It's still in February of '18 is when they will publish the actual DOI Strategic Plan. And getting to the Indian Affairs Strategic Plan that we've talked about in the last several TIBC meetings, in light of what Mike said about the Indian Affairs restructuring and also with these new timeframes with the DOI Strategic Plan, we're going to take a look at that internally to make sure we're not crossing some of the due dates on that as far as tribal consultations so we're going to push back a little bit on those timelines that we gave. I'll be talking with our administration to make sure that we're in sync with what they're doing in the way of tribal consultation, whatever dates that they set up and make sure that we're not crossing some of those scheduled timelines.

**Kevin Bearquiver:** I was the representative who wrote those sections on the strategic plan for the Department of Interior. I was the BIA representative when we went in. If you look at previous versions of what the strategic plan was for DOI and in regards to Indian Affairs and look at what we managed to get in there with the Assistant Secretary Echo Hawks' approval was we have subsistence rights and treaty rights and that's basically what we built off of. Previously the Department never even recognized subsistence, the subsistence rights for Alaska Natives or treaty rights for the Lower 48. That was never in the Interior's plans. If you look at our section that we have in there, that's mainly what it builds from is the subsistence living which addressed the Alaska Natives and then the treaty responsibilities for the Lower 48 and that's what we kind of built the framework from.



**Kee Allen Begay:** As chair of the subcommittee of the Public Safety and Justice Workgroup, we want each tribe across Indian Country to receive adequate funding to provide public safety within their reservation. At Navajo, we do get funding but we don't get the technical assistance that we should be getting.

I've been asking and making suggestion to the body and especially with the 12 regions how we can bring our police chiefs and division director or those that have direct service have some form of a Public Safety Summit and directly hear the recommendation from our police force, those that actually are out there that are patrolling. What specifically is needed there? Cased from my experience and what I see within Navajo is that we train up individuals but a year or two years later they move on to a different police force because surrounding communities have better package in terms of incentives, in terms of housing, in terms of higher salary, better benefits and better retirement. So how could we be able to have a competitive package for law enforcement on Indian Country the same way? Could we add additional funding for those competitive salaries, better benefits, and better retirement? We need an outstanding elite police force on Indian Country. This goes with an announcement that was made on April 18th by the United States Attorney General announcing a new action to support law enforcement and maintain public safety in Indian Country.

The other area that I'm encountering and beginning to understand as a tribal member with the 500 plus Indian tribes across the United States, how many are 280 tribes, how many are direct service tribes, how many are treaty tribes and so on. There are rural and urban differences.

I think it was February or January's meeting this body reconfirmed to say that let's continue to have the subcommittee and continue to address Public Safety issues. We should discuss how can we have a competitive salary, better incentives, housing for each of the police offers and so on.

**Rick Harrison:** Last year in one of the Public Safety Subcommittee meetings, Jason Thompson was there and Darren Cruzan and they indicated how they prioritized that funding across the tribes and the nations. I thought it was a legislative issue but it's not how PL280 states aren't getting enough funding and they are eligible for it but it's that they don't have enough money. I appreciate the report they did identifying the two billion dollar shortfall. I think that's helpful but during that meeting I asked what level of funding would they need in order to start funding some of the tribes in PL280 states and he couldn't give me an answer. He wanted that information from tribes. But we weren't involved in the process of that prioritization to begin with. So it would be helpful to know from them at what funding level they would need before they would start allocating funding to tribes in PL280 states so we can go to our senators and let them know this.

## **Lunch**

### **Bureau of Indian Education**

Tony Dearman, Director

Topics that will be addressed are: omnibus bill; Every Student Succeeds Act; reorganization and hiring; and service oriented BIE.

A short breakdown on some of the increases that we received this year: BIE has a total estimated amount of \$37.4 million as an increase and we broke it down all the way down to education program enhancements.

The tribal grant support cost amount should get us at 100 percent for our tribally controlled schools. We haven't been 100 percent in a long time. The reason I say if it gets us there, everything's formula driven so when this school year closes out, all the formulas will be calculated so the next year's funding will be distributed.

School construction: in the omnibus bill we received \$133 million.

Native Languages: We receive two million for this. We want to reach out to our tribes. In discussing with some of our tribes, we look forward to partnering with our tribes to rely on the tribe's input on preserving the native languages.

Johnson O'Malley: We are working with the national JOM organization. Actually I attended a meeting last week and spoke at the meeting and when we start going out to redo this count that we're looking at, we're really going to have to have some assistance in getting this count because when we look at the count of our Indian students across the United States in the public schools, we've got to figure out a way to also utilize our tribes because we may have to have some tribal assistance in getting enrollments for an accurate count. Because when you compare it to the '95 count, we're anticipating that JOM count to be huge. We're doing a better job in making sure our students are serviced.

Forward Funding in this omnibus bill, \$5.1 million is being transferred forward to the Institute of American Indian Arts. Last year we forward funded two other higher education facilities. This year it looks like we're going to be forwarding our funding to American Indian of Arts.

Every Student Succeeds Act. December 2015 this passed. We are behind on this because the Department of Ed don't really know where we fall as an organization as far as being a state. So when we meet with them they're saying we're not a state but we're saying that we need to be recognized as an education institution. So we are working with the Department of Ed.

We're going to be moving forward with this but we want input from our tribes. We need stakeholder input and our focus is going to be how we can really drill down into the classrooms to improve the performance of our students.

Negotiation rulemaking. Some of the tribes around the room had nominated members for our negotiated rulemaking; we're going be rolling that back out. We're starting over fresh. Administration right now wants to start that process over so we're going to be sending notifications out to our tribes, our to the members that were nominated and we're going to be starting that process over and we're going to be pushing that to get that vetted.

**Denise Desiderio:** And you might have just answered this Tony but when you're talking about coming up with a state education plan for BIE, you mentioned that the Department isn't quite treating BIE that way.

**Tony Dearman:** We're going back and forth on that. In the discussions that we're having with the Department of Ed, they've informed us that we're not really considered a standalone state because we're located in 23 different states. We're unique. So what we're looking at is once we put this together, we want to pass it to the Department of Ed and at least get their input, whether it be through peer review, whatever input but we want...they are coming to the table and we're discussing this. But as far as having to have their stamp of approval to declare us as a state, we don't know if they'll do that but we want them to review.

**Denise Desiderio:** One is how are you getting input from tribes on the BIE state plan and then are you also providing technical assistance to the tribes within each state to make sure that they're participating in the state plans as well?

**Tony Dearman:** We actually got the approval to move forward today so that's going to be rolled out. We want to hit as many regions as we can to get as much input as we can.

I'm just encouraging you if you have not engaged at your state level, it's really, really important that we engage at our state levels right now 'cause that's how this information is rolling up and it'll reinforce whatever may come out of the BIE process.

Reorganization in hiring: we just had the hiring freeze lifted. Mr. Black explained a little bit of the process that we have to go through. We have submitted some waivers. We are moving forward with our contract educators and all of our GS11 and down throughout the nation except DC. We don't have anything in Denver so that's why we're not mentioning Denver. But we are moving forward with this. The exciting thing with number two is, phase two, we initiated phase two in January the 8th of 2017. We brought HR underneath BIE and we've done some things there with teacher certifications in the past six months that's going to make us competitive with states as far as being able to get teachers onboard faster. We've started looking at certifications because if states are taking certifications, we should be doing the same thing. One of the policies that we changed is our internal process; we used to pull transcripts down and our HR department would go through every class they had to make sure they had specific classes. No one else does that. We were losing teachers. So we started to be competitive with states. If they have the state certification, we go with it. Total phase one we're about 53 percent filled. We finally have our organizational chart but it is under final review.

**Teresa Paul.** I'm the Student Health Program Specialist for BIE in the Office of the Director.

We first initiated the Culture and Meth Don't Mix program in December and since then it has grown. We originally designed the curriculum to take a psycho-educational approach in terms of looking at using culture as a resilience and protective factor for our students and giving them education on the dangerous effects of using methamphetamines. During the course of the program we've learned that there's so many other issues that are affecting our communities. And so one of the really key things is that we have the ability to tailor it to each site specifically. Right now we're in Lower Brule, Pine Ridge, Northern Cheyenne, three schools in Maine and Circle of Life Academy and we're rolling out our last and final session in May and we're looking at expanding the scope of the curriculum and including other types of substances.

After getting feedback from the schools in the community, one of the biggest things that we've talked about is opiate use and trying to integrate that and ramping up our cultural piece. One of the things that has been interesting is allowing the schools, the place to kind of take the program and really tailor it to the students. Some examples of that have been incorporating their own language specialist to come in and speak to the students in their native language and sharing cultural stories that some of the kids knew or may not have known. We have a session within the curriculum where we talk about Meth the Trickster. We are looking at expanding for next year so contact us if you're interested.

### **WIIN Act, Water Infrastructure**

Helen Riggs, Deputy Director of Trust Services

The WIIN Act was passed in December of 2016 and it involved many other bills and other things that got approved in the process—the Blackfoot Water Settlements and the Pechanga Water Rights Settlement was included in that. Yesterday we had a discussion about the priorities. Where do we fit in some of our priorities, the bills that get approved and the authorized funding for certain types of activities and programs? How do we go forward in working with OMB and Congress in appropriating funds for these bills that get passed? This is one of the areas where it impacts the infrastructure in Indian Country. So this impacts the infrastructure in Indian Country and it's very specific to the dams, the Safety of Dams Program and the Branch of Irrigation and Power Program that's in Trust Services.

In 2003 the Senate Committee on Indian Affairs looked at a town hall meeting that was held in Montana. At that time Senator Conrad Burns and Congressman Rehberg held meetings with the tribes and when they did that, they authorized some funding and this goes back to 2006 to 2007 appropriated \$50 million at that point for those tribes in Montana. Subsequent to that GAO reports also identified issues with the irrigation systems and the safety of dams. These maintenance needs have been on the radar for a while that need to be taken care of. A lot of recommendations came out of the GAO reports and BIA has addressed a lot of those including inventory and GPS mapping of all the irrigation assets, engineering evaluations of all of the different projects documenting the deferred maintenance. The deferred maintenance is any of those items that were not fixed at the time when it should have been and you put it off to a later date for whatever reasons—lack of funding, you may not have the resources to take care of it at the time.

The engineering evaluations address some of that and those are called condition assessments. The GAO report pointed out that you don't know exactly how much you have in deferred maintenance. Part of those condition assessments helped us to identify what those were. Some of them have been quite a few years back when these condition assessments were done and so the dollars back then maybe back in 2008 or 2009 so not brought up to date.

That's one of the other things that we're addressing is bringing those dollars up to 2016, 2017 level now. The other thing is training for local staff in water management and water measurement, modernization studies. That's taking a different look at how can we improve and increase the efficiency of some of these systems that we have.

The WIIN Act has a Title A and a Title B. Title A addresses the Safety of Dams Program and Title B addresses the Irrigation side. And so the bill identifies a lot of different criteria that must be met and so the funds that were authorized in the bill are different for each program. The Safety of Dams side from 2017 to 2023 talks about the Secretary of the Treasury shall deposit into an account \$22.75 million for the high hazard dams for deferred maintenance and then \$10 million for the low hazard dams for that deferred maintenance. And then for the Irrigation side, it's looking at from 2017 through 2021 so two years less, five years for that one, the Secretary of the Treasury shall deposit in the Irrigation Fund \$35 million into the general fund of the treasury. The Act creates the funds in the treasury account but it has not appropriated the funds.

Here we are in FY2017 and for the programs it says from 2017 to these years the funds will be put into these accounts. And so that's kind of the gist of what we're looking at.

On December 16th, 2016 the President signed the Act into law and so that established a date for us to work from in terms of tribal consultation. You have to also meet with the Indian landowners, you also have to meet with the irrigators and get their comments and incorporate it into a plan that will be submitted to Congress on April 15, 2017. We've done those tribal consultations. We've had them in various areas and got all of that together and we're in the final processes of submitting that to Congress. We've also had to include OMB and the Department's Budget Office as well as our own.

In December 2018 we have to submit the Study of Indian Irrigation Program and Project Management. And again, that's going to involve talking with the tribes and the stakeholders to get their input into a review of those programs. And then a biannual BIA Irrigation Status Report to Congress that will also be due at the end of December 2018.

The BIA Safety of Dams Program was established under the Indian Dam Safety Act of 1994. BIA manages the dams located on Indian lands within the United States with special emphasis on those dams that would pose a threat to human life. So this just shows you a map of where the dams are located all over the country in the various different regions.

So the WIIN Act, if funded, can help tribes in performing data collection of their dam inventory every 180 days on their land to report this data to the Secretary of the Interior. That's part of what is included in that. But other things that were also part of that is to establish a tribal committee to recommend legislation to modernize the Indian Dams Safety Act of 1994 to also conduct flood plain management in a pilot program, various different things that have to be met for the Safety of Dams Program. The other thing that we had to look at was the funding priority criteria. How are you going to allocate some of this money?

For the dam side of the house, right now we primarily work on the high hazard dams. We don't get a lot of money for that in our deferred maintenance. At this point we get about two million dollars for deferred maintenance. Our deferred maintenance costs right now are \$585 million. So two million, we have to be very careful how that goes. And then emergency situations come up so that also has to be considered. There are criteria that we use with elements in weighting the criteria, so that we come up with some of the priorities for that year that we'll be working on.

As part of the funding criteria that we proposed and to meet the requirements of the WIIN Act for high hazard dams we put an emphasis of 75 percent on public safety. The remaining 25 percent, those could be a whole different factor of other criteria that could be considered in that. So that's for the high hazard side. For the low hazard dams we really don't have a low hazard dam program right now and we continue to find new dams that are added to the program. The funding criteria for the low hazard dams, we looked at other different elements that we would take a look at and then...for 50 percent of that and the other 50 percent would be potential uses and economic benefits weighted again at 50 percent.

For the BIA Irrigation Program side of it, right now we manage 17 congressionally authorized irrigation projects of which 15 are revenue generating and so far \$35 million in receipts are taken in annually and that money is turned around. That goes to Treasury and comes back to us and we send that back out for the O&M on those irrigation projects.

The BOR did a study and they estimated \$960 million in gross revenues annually are collected, an addition \$670 million of indirect benefit, \$1.6 billion to that economy, that local economy and community that's close to that project. Those are pretty big dollars and so maintaining them, bringing them back up to proper functioning is really important.

On the Irrigation side, the total deferred maintenance right now is \$630 million and on the Irrigation side we get approximately a million dollars in deferred maintenance funding per year. On the irrigation side, the project eligibility, the law is very specific about who can be part of that program on the Irrigation side and it has to be owned by the Federal Government, must be managed and operated by BIA or through a 638 contract, must have a documented deferred maintenance number and all of our projects are, they're included up in that deferred maintenance number.

And then the WIIN Act further specified funding priority be given to eligible Indian irrigation projects serving more than one Indian tribe within an Indian reservation. The Wind River Tribe, the Wind River Agency, Shoshone and Arapahoe. That was the one that fell into that criteria. Then projects without a settlement in the past 10 years.

The other key points on the Irrigation side was to prioritize deferred maintenance projects based on specified criteria and tribal consultation and then to submit our goals for programmatic goals and to conduct a study of the Indian Irrigation Program and Project Management. That's due within two years and we started doing that using our existing funds because we haven't had any funds appropriated through for this legislation.

Rehabilitation funds. Should funding become available, BIA intends to work cooperatively with the tribes and irrigators to identify what some of those rehabilitation efforts would be for each of those projects and work will be offered to tribes under the 638 construction compact through self-governance. We've talked about the ability of the nominated feature to resolve or improve health and safety issues. The type of work that will be needed, the rehabilitation priority index, those types of things that we're looking at.

### **Transportation Subcommittee Report**

Sam Thomas

Per the last meeting, Mr. Gishi and Mr. Longbrake developed a survey and vetted it through the DOI process to get it out. It was a DOI facilitated survey that would be going out, starting off with the reservation tribes to get a true picture of what the unmet need or unmet obligation is in regards to road maintenance. As we got into this, there was not a lot of statistical data that we could just run or other means of databases that the government uses for other things. It should be hitting the road and that we will have a comprehensive report being followed up to us at the Flagstaff meeting.

### **Discussion of the Agenda for July TIBC**

Subcommittees that will be meeting:

- Transportation
- Education
- Public Safety
- Budget
- Data management is not meeting because we're having the economic development data meeting on July 24<sup>th</sup> instead.

Larger Agenda items: First of all, since this is a budget meeting, we do like to cover the important things that have happened. '17 will be fleshed out by then. We'll have the FY '18 budget to really discuss what that means from the President's budget that's going to be released. So that's going to take up a little bit of time for us to do that. The rest of it is just the things that we have to cover, the reports from BIA. There was also some discussion about where we're at at the year end, the balances that we have on our books at the end of the year. I think that probably needs to be covered.

Other topics: Energy; Wildland Fire; Kepner Tregoe; report outs from all the subcommittees; carryover funds; IT system in the budget formulation process; American Public University System, a student who is working on doing some survey; IANTA; self-governance funding; presentation from Navajo Nation, traditional activities.

**Mark Azure**, Tribal Council President from Fort Belknap in the Rocky Mountain Region

I had an opportunity to sit down with the Secretary of Interior last night and it was something that I planned anyway but after his comments Tuesday it was a real concern. I told him that those comments that he made were very concerning to Indian Country and that he probably should have come here to this venue and started the dialogue and that I don't think, at least for my region, I know that there isn't a tribe there that's going to want to give up its trust land status and become a corporation and that I and the tribal leaders in the Rocky Mountain Region saw that there was some value to having the BIA onboard and that maybe he should also find an Indian that could sit across from Mr. Jim Cason and get all of the facts.

By the time we had finished and I think I was in there a little over an hour, he had a very concerned look on his face and what he shared with me was that today that I should let folks know that maybe those comments were taken out of context and that apparently he didn't mean what was printed in that story but that he

apologized and wanted to find a way to get the message out and asked me if I would start that getting the message out but that he would probably retract some of those statements and I advised him to put it in writing. I don't know if that's forthcoming or not but that even yesterday morning I think some of the comments in this room was it felt like a step towards termination and I shared that with him, that we we're not onboard with that I don't think. But I just wanted to share with you folks that, yeah, he wasn't here, he should have been if he really wanted to honor, respect that treaty obligation, trust responsibility. But that was very hard to read Tuesday I know when I read it. Hopefully he gets the message, hopefully there's somebody out here in Indian Country that can sit across the table from him and really work our issues from both sides not just one. So I just wanted to share that with everybody in the room. Hopefully we see something here in a day or two to where he's going to clarify those comments but that's all I have.

**Closing Remarks**

**Mike Black:** We're in between the '18 and '19 budgets right now but I fully anticipate that the July meeting at Flagstaff we're going to have a lot more to discuss. The President's budget is expected to come out on May 22nd for the President's 2018 proposed budget. We will continue our efforts toward the 2019 budget and a lot of seeing what's in there from '18.

**Sam Thomas:** I thought it was a good meeting in relationship to what was on the agenda. Typically we'd already see the FY18 budget. Let's keep engaged with your subcommittees and if you're the subcommittee chair, you might want to identify within your subcommittees as an alternate chair. I wish you all safe travels home and I look forward to moving on with hopefully identifying within the next budgetary cycle that we do have unmet need and unmet obligations that reside out in Indian Country and that this Administration acknowledges it and we continue to see these small increases within our budgetary process. At this time let's all join hands and join us in a prayer.

**Jackie Pata, Closing Prayer**

**Adjourned**