

**Tribal Interior Budget Council
November 8-9, 2017
Washington Plaza Hotel**

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Invocation

National Anthem

Junior Miss Crow Nation, Carly Plain Feather presented her name and presented the National Anthem in sign language.

Opening Remarks

Ron Allen: John Tahsuda, we welcome you here as the Acting ASIA and we know that your formal title is the Deputy Assistant Secretary for Indian Affairs and also Bryan Rice who is our newly appointed BIA Director. I'm going to give you a list of stuff that we will eventually want to engage with you more in greater depth, but the land into trust policy or proposal was a hot topic, obviously the budget issue and the budget process is a topic that we want to get into extensive conversations.

Other issues we are concerned about include: the tax proposals, how they affect us, the tax issues that the Administration is exploring with regard to the Indian Trader Act, etc., the reorganization effort of the

Interior, the Tort Claims Act and how it applies to our enforcement and folks in our communities, the DOJ and the BIA, Office of Justice Services topic, road maintenance, transportation is a big issue for us and last but not least a big topic was the DOI strategic plan and how we fit into that new proposed five year plan.

John Tahsuda: There's still no Assistant Secretary. It's been a year since the election but we're still in a transition mode. Bryan and I are still fairly new in the roles but we have a responsibility passed down to us from the White House all the way down through the Secretary with the challenge of an overarching goal of saying, 'What can we do better? Can we run this department better? Can we provide better services to our constituents and for Indian Affairs?'

For the BIA you are our constituents. We have an interesting charge in a department which primarily has the responsibility for trees and rocks and fish and things like that and we have both those and people.

Substantively we are looking at human capital and physical capital. We have some challenges there. If we don't address them, they're impediments to us providing the support that we are required to by treaties, by the U.S. Constitution, by this longstanding relationship we have, this government to government relationship.

That's an exercise that we're going through now in addition to the day to day operation of the Department. I think that as we're going through the exercise on trying to figure out how we implement the strategic plan and with what we have at our disposal; strategically what do we ask for so that we can both meet the strategic plan and all of the responsibilities we have under that that fall ultimately to Indian Country?

We have limited set of resources and we have a huge amount of responsibilities and we ultimately need input from you to tell us how we can prioritize to best meet those responsibilities with the resources that we have. And if needed, if possible, how can we collaborate to expand those resources if possible.

Expanding those resources is not always just asking for more money. This goes back to existing capital discussions as well. We're going through this exercise department wide. I know it's government wide but for us through the department in looking at how does the department handle its responsibilities to everything—people, rocks, trees, etc.—and is there a better way we can do that more efficiently and with the notion of without significantly spending the dollar can we do our job, can we deliver better services and more efficiently so that we get more out of that pot of dollars than we are currently.

So that's an exercise we're going through right now from the Secretary on down. There are many ideas floating out there and it's incumbent upon us to reach out to tribes when the time is right. We're still at a conceptual stage at this point in talking about how we could give form to some of these ideas. I hope that there are no fears that there's an attempt to cut back on what we do. The idea is to do it more efficiently.

Any type of reorganization or restructuring is aimed at being more responsive to the people we serve. That's the goal and when we have something sort of more coalesced in hand we'll want to talk with you and we'll do some consultation, etc. I think that will be in the plan.

Ron Allen: Various representatives from the regions would like to engage as best we can while you have time this afternoon. When we talked with you at NCAI at the annual and asked you to hold off on the

proposal of land into trust reg and you did, we appreciate you listening and hearing us. One of the issues in all these different topics from the budget stuff to the reorganization or realignment of the Department and the Bureau, etc., is underscoring consulting with us, engaging with us to hear what works for us collectively, what works for us individually and within each of the regions. As you know from your experience on the Hill and your other capacities where you've served Indian Country, you know we're complicated in terms of what's going on.

Kitcki Carroll: Two items, one which is the reorg. That's a massive effort and it doesn't just apply to DOI, it's across the entire federal family. Indian Country is not in a position to go to every single department and offer proactive ideas from its perspective. There's limited bandwidth on that so we would hope that Interior takes the approach that they share with us in a proactive way what their intentions are for reorganization so then we can respond to that. We aren't insiders inside DOI to know what could be achieved in terms of efficiencies so we really need to hear directly from the administration, from DOI about what its thoughts are in reorganization. Then Indian Country is in a position to respond to that.

The second is a question on the strategic planning. TIBC was approached several meetings ago about a DOI strategic planning process. It was rolled out with some dates per region when sessions were going to be held. That was then pulled back and we never heard about that again. Then within the last week or two we recently heard that DOI has actually taken the next step and submitted a draft strategic plan to the Office of Management and Budget. I inquired and the response was that a decision had been made that a strategic plan was going to be developed for ASIA separate from the DOI effort. ASIA is a part of DOI. Is every other bureau and agency in DOI submitting its own separate strategic plan from the DOI one? Why is there this disassociation of the ASIA plan with the DOI plan? So in the same way that I'm making the comments about proactive transparency on the reorg side, we would hope that the Department's taking steps to share that strategic planning so Indian Country can respond to that. Before, Indian Country more generally was asked to provide input about what it thought should be within the contents of the strategic plan. That's relevant to us because the plan that exists right now is a little bit of everything and it doesn't have focus. In some parts of it it's measuring what the federal trustee is doing in execution of its responsibilities, in other parts it's measuring how tribes are performing on dollars that are appropriated to tribes directly and at a very granular level. We've had lots of conversation around this table to get DOI to focus on the things that are important in terms of U.S.-tribe relations and diplomacy and those things to be measured as opposed to a grant type of methodology and mindset of measuring widgets. We would hope that there is more transparency with the plans for the strategic plan so Indian Country has an adequate opportunity to engage in that and offer its thoughts and recommendations.

Buster Attebery: I think as we all know in Indian Country the priorities amongst tribes are going to be different. Different tribes will have different priorities. Has there been any more discussion about getting the data needed for a needs based assessment in Indian Country or is that somewhere we want to go?

Ron Allen: In the budget process we've been advocating as we reach out to the respective regions and the tribes in their respective regions that we have a way to quantify with credible metrics what the unmet need is. So my point about the \$2.6, \$2.7 billion that you have to work with and we know the need is north of \$30 billion but we don't know where. We don't know what the number is. So law enforcement, natural resource responsibilities, BIE, education programs, etc. What is that deficiency? We feel that we need to work with you to get the metrics and to urge the majority if not all the tribes to provide that information so that together we can make a case for more resources or the basis for the

capacity to generate our own unrestricted revenue. So as you're working on the Trader Act, etc., there's lots of different venues that you're proposing to advance our economic development portfolios. We need the data to show what that need is in our communities. So that's an agenda we think is going to be of high priority and we need resources to collaborate with us in order to get that data.

Tino Batt: I know we're working with the direct service tribes on IHS issues. We're doing the strategic plan as well but it's coming all the way from HHS straight to IHS and then also through all the direct service or ACF. So the concern is there's the broken leak if we're not part of the strategic plan.

Kitcki Carroll: This body used to be called TBAC (Tribal Budget Advisory Council) but then it was changed to TIBC (Tribal Interior Budget Council) to reflect that this is a relationship with Interior not with just Indian Affairs. Often, it still becomes an Indian Affairs only discussion where the reason for that name change was to capture the broader breadth and scope of Interior and its responsibilities to Indian Country not only through ASIA but through other bureaus and agencies.

Also, I would ask that you do as part of your reassessment is as follows. We did some of our own analysis and research a couple months ago to put into context this whole process that we're involved in. If you look at federal land holdings and you exclude tribal land holdings within that equation and add in the natural resources derived from those federal land holdings, again excluding tribal natural resources and then you compare that to even using the high figure of the \$21.4 billion that OMB says is the amount of appropriations that goes to Indian Country, that represents 1/10th of one percent of the federal budget on an annual basis. So when you think about that, that's kind of absurd that we have to continue to go through this process and as for 1/10th of one percent of the federal budget in fulfillment of that treaty and trust obligation. I'm hopeful that through that examination that you really do a deep dive in how things are done and that the President really demonstrates the words of his proclamation about the importance of fulfilling those sacred treaty/trust obligations and that relationship with tribes and create processes that reflect that so that it isn't a discretionary decision, that we're not constantly having to ask.

One of the other changes that we made at TIBC is it's one thing to think about fulfilling obligations in a needs environment, and Indian Country isn't without needs, but when you think about needs, that's based upon a grant mentality. We are talking about fulfillment of trust and treaty obligations. The process that got put forward for FY20 was a process to identify unfulfilled trust and treaty obligations so the number that the Chairman's using, \$30 billion, we don't know what that number will be. That's why it's important that everybody complete that survey because who knows, that might be \$50 billion instead of \$30 billion if we can actually get to what that looks like. When we do our advocacy we can talk about how well that responsibility is being fulfilled.

The second one I want to raise the profile of is the Office of Justice Services and the importance of interfacing DOJ programs. If we get VOCA monies, then that's going to be a big deal to us but it's all about how we can improve the synergy between those monies to maximize their use and create better certainty and better continuity with regard to public safety. So those issues are going to be important to us.

Roll Call: A quorum is present.

Approval of the agenda

Changes: after the minutes provide Bryan Rice an opportunity for opening remarks and then after the OST update, break for tribal caucus.

A motion was made to approve renewal of the existing protocols subject to modification of a proposed amended version by AJ Not Afraid.

Motion is to adopt the existing protocol with minor amendments. Today when we discussed there were more amendments starting to come around but that wasn't my intent. My original motion was to adopt the protocols with the two co-chairs and then the voting stipulations where two-thirds are required. But within that two-thirds it has to be simple majority. So those are the only two main amendments and then we also included OMB and White House. If there's no consensus among the group, then let's put it on the floor early on because right now we're just trying to start off right with the new Director and the new Assistant Secretary and if our protocols aren't in check, then how far can we really go.

Seconded from Great Plains.

Comments: I would like to have some more time to put some more thought into the proposals that are proposed because it's a TIBC member leadership issue, I think it's something that should be done in caucus as well.

The motion is to reaffirm the current protocols with the three amendments that AJ proposed this morning (co-chair changes, quorum changes, adding WH members to TIBC).

The quorum amendment would be that a quorum consists of two-thirds (16) majority of the voting tribal representatives of 24 of the TIBC or a quorum is called when two-thirds (eight) of the 12 regions are present.

Motion to adopt the protocol with the three amendments was voted down.

Interim motion on Protocol

A motion was made and seconded that TIBC accept the current protocols as is, subject to an amended version that TIBC will entertain later. Motion carried.

Approval of the agenda

Cheryl Andrews-Maltais made a motion, seconded by Buster Atteberry to approve the agenda. Motion carried.

Opening Remarks, Bryan Rice

Shared personal background – from Wisconsin. Maternal family is the Six Killers and Sanders in Cherokee Country down in Sallisaw, one of the 14 counties of the Cherokee Nation. Father's side of the family, French immigrants. Went to school to become a forester. I worked on an interagency hotshot crew for the Forest Service so I started out traveling all over the country based out of Helena, Montana and fighting fire.

This is my fourth senior executive service assignment working in the federal system. First assignment was the Deputy Bureau Director for Trust Services in BIA.

I've been about 15 years in the Bureau of Indian Affairs and the rest has been a mix of a couple other things. I left BIA and went over to the Forest Service where I managed and led the timber program across the country so nearly a four billion board foot timber program with tens of thousands of active either timber sales stewardship contracts, other types of agreements.

Natural resources are important and part of my background, and in the Forest Service they were just beginning to implement the Tribal Forest Protection Act. I started integrating the way that we do business across land management in the other federal agencies with tribes, tribal organizations, tribal forest management professionals.

The way tribes are organized, the ways budgets are developed and executed within programs. Yes, there's a federal nexus here but it's different in terms of how the other federal agencies look at it.

I started digging into the different areas within the Forest Service and asking, for instance, why isn't the agency working with a tribe that's part of the more than 4,000 miles of congruent boundaries across the entire country and then looping that back to Fish and Wildlife Service, Bureau of Land Management, National Park Service, state, counties, other local and professional timber organizations.

I had an opportunity to lead the timber program for the Forest Service, which is the most senior forester position in the federal government and then come back and be the Director of the Office of Wildland Fire, the most senior career fire position in the federal government. I got to work on this broad base of the lands that we have out west as well as in the east and to begin bringing in this understanding that working with tribes is not difficult or complicated, but an opportunity.

After the 2016 election, and slowly the Administration has been starting to take shape. This year has been a busy fire year and busy fire season, one of the costliest on record, one of the highest acreages on record within the current paradigm of fire management today.

A lot has changed but there's a lot that's still the same, and it's amazing what three or four years can do on perspective. I stepped away and I was able to focus on very distinct programs, very explicit programs—forestry and wildland fire. Stepping back into the Bureau of Indian Affairs, now it's everything.

The Bureau of Indian Affairs has a touchpoint to just about every single other capability within the federal government. In the Bureau of Indian Affairs, for every forester you find, you go over to the Forest Service and there's three to five depending on what part of the country you're in. And there are different reasons for that.

There's different reasons on how we communicate, on how we develop our budgets, how we communicate that budget, how we defend and support our budget. I'm really glad to hear the conversation today about looking forward in how we do things a little differently or improve what we're doing because I think that's going to be critical to us actually operating in a way to support our budgets and show the outcomes and also meet whether it's unmet needs or unfunded trust and treaty obligations, it's something we need to be able to talk about differently.

I started October 16th. Recently testified on the Tribal Law and Order Act. Both majority and minority staff members had great questions and I think we framed the conversation in the right way where Tribal Law and Order and Public Safety is incredibly important in what we do in Office of Justice Services as well as supporting the tribal programs and letting the tribal programs lead us.

Connect services, looking at detention and methamphetamine use, opioid abuse and addiction, alcohol. It's more than law enforcement. It's mental health issues, family issues. There's an opioid roundtable at the Senate Committee for Indian Affairs and part of that discussion's going to be, 'How do we better integrate HHS, all of their functions within IHS? How is SAHMSA and VA part of the discussion?

On the reorganization, regional directors want to know what's going on. I don't have any information on you. I don't have anything in regards to the Bureau of Indian Affairs.

I'd asked the Secretary if he had time to come down and talk to the regional directors, a longstanding tradition that the Secretary will meet with the RDs when they're in town and lay out priorities, intent, build that relationship and show the support that's there by the Secretary.

Secretary Zinke came and talked to all the regional directors and he went through this broad discussion about reorganization and realignment within the Department of the Interior. He also talked to us about BIA. We've got this idea about how we want to ensure we align services across the Department of the Interior, across all of federal government and the bigger picture but we need help in how the Bureau of Indian Affairs fits into that picture. He said we don't have the plan for BIA and how that fits into it yet. I'll report back to Sec. Zinke on how we're going to do this. I'll commit to all of you that you're going to be part of the solution, part of the conversation as well.

The other part of it that we talked about with all the regional directors in the room was being accountable, being professional, being responsive, operating with an ethos that is expected of everybody in the director roles, in those regional director roles and with that comes all the things that we would expect.

Cheryl Andrews-Maltais: Request that Secretary Zinke attend TIBC. We invited the Secretary once he was appointed to come in and attend this and at least demonstrate his concern, his respect and understanding that while he has over 70,000 employees, we're the only human serving programs and he needs to hear the Tribal Interior Budget Council's perspectives and ideas as the person who is responsible for creating the Interior budget.

Kitcki Carroll: On the reorg, it's a mystery about who or what regions are on the chopping block or for consideration for on the chopping block.

For the record we are adamantly opposed to any reorganization effort that would try to do away with the Eastern Region. This continues to be a fight that we always have to be bringing forward. It seems that Eastern Region is always on the top of that list whenever this conversation comes up. So just for the record, we are adamantly opposed to that and our tribes are adamantly opposed to that.

Report from Tribal Caucus

Ron Allen: As an update from our tribal caucus, a number of issues were raised. *The land into trust proposed regulations* were very disturbing for a lot of us on a variety of levels. We think they're trying to address a problem that is a smaller problem that causes a bigger problem for Indian Country as we want to reacquire our homelands. It doesn't matter whether it's for a large reservation, fractionated ownerships or smaller reservations that are building their homeland base, etc. The proposed rules are disturbing from the perspective that it empowers those in opposition of tribes. It could be the county governments, local governments, it can be tribes against tribes or it could be associations that are basically anti-Indian regardless of what their name is and so forth. Now they can stop us. They can slow this process down and make it very onerous which is inclusive of an extra step for any of those applications that are for properties that are not within or adjacent to a reservation. Our understanding is that any lands adjacent, any lands within a reservation, is still in the regional authority and discretion and that's going to be an important agenda for us. We also want to reiterate we've heard some of it is about land use, particularly with respect to gaming and we want to remind the Department that Section 20 is a very onerous process and since 1988 there's been very few properties that actually got through that process so that's a big deal to us.

We want to talk about the *budget and the formulation of the process*. We talked about the Kepner-Tregoe, that report that came out on this process and we want to engage with you guys on how to take the next steps. Instead of the roughly \$200,000 for them to do phase two, we would rather take more control of it with you, your budget directors in each of the regions who were a part of the process in collaborating with the tribes on putting together the budget and identification of the priorities. Some of our colleagues in different regions are very concerned about the integrity of the process and the timeliness of it so that it's inclusive and it's transparent.

We talked about the current initiative by the Administration and the Congress on *tax reform* and as we are all aware that it's a \$1.5 trillion deficit over the course of 10 years and then they're going to look back at discretionary. We want to make sure that you and our new ASIA will be defending the tribes' base funding and we want to point out that we're going to put together a proposal and a resolution from this forum. We want to make sure as you, the Department, engages in that discussion with the Administration that you're reminding them that we need to be held harmless and that's what we're trying to fight for a decent budget for the tribes.

We talked about the *tribal reorg process* and the notion of moving RDs around and so forth. We're questioning whether the military approach works for the BIA. We need to be engaged with who you would like to assign to our region so that we're comfortable that the person is the right qualified person that would serve in that very important capacity in our respective regions.

We raised the issue of the *federal tort claims* because of that Mohegan case and we're worried about the protection for our enforcement officers and our natural resource enforcement officers that often are off reservation. There's this notion that we're hearing from DOJ and maybe BIA that they're not going to be covered. It's not just a law enforcement issue. We have other people who are serving our Indian community off reservation. It could be mental healthcare stuff and so forth and they serve our tribes and our people and they're operating under a tribal governmental capacity and we want to make sure that the federal tort claims does apply to all those that are applicable within our operation.

Road maintenance, the maintenance program gets about 30 million. The current inventory need is about \$290 million. We're losing ground and we need to the data on roads throughout Indian Country to work with the Administration and the Congress to help us catch up eventually.

The last one is the *DOI strategic plan*. That's off and running. We were under the impression it was going slower and that we would have an opportunity for input. We're very concerned about the Department's five year plan and what their mission, goals and objectives are as they apply to the tribes. When we updated it six, seven years ago to the one that's current that I think expires next year, we worked hard at getting a clearer identification of what the Department's mission with regard to Indian Country. The problem is that now it started to isolate the tribal affairs just in the BIA and our affairs are also in Fish and Wildlife, they're over in BLM, BOR, etc. and so we want to make sure that this plan has our input. We want to get a copy of it, we want to know what they're saying, what they're recommending because we'll hold the Secretary accountable in terms of his agenda.

Denise Desiderio: On the reorg, earlier you mentioned that there's not a reorg plan right now. My question is all the reorg plans were due to the President or to OMB earlier this year. So is the answer that DOI hasn't submitted one or is it still up for consideration? In the absence of a plan are there any proposals that have been made or reprogramming requests or things like that that will impact tribes and are you all utilizing the prior consultations that were very general in saying, what would tribes like to see in a reorg or will tribes have an opportunity to comment on specific proposals before they're enacted?

Bryan Rice: In response to OMB's request, DOI did submit a proposal. I have not seen that proposal even in my previous role in the Office of Wildland Fire I didn't see the proposal but what the Secretary has told all of us, yesterday with the regional directors, the premise of how he's approaching is looking at joint management areas or joint command. If you were to follow a similar model to the Department of Defense in some ways, having a joint area, this is where he talked to all of us he said he doesn't know how we fit BIA in or what the needs for BIA are, but the plan that he is working on is focusing on this joint command structure or joint management area. It has sets of resource advisors. When we first heard this kind of conversation we went to look up what is Pacific Command and South Command, what do those look like in the DOD framework? It's not a one for one kind of comparison but it puts a leadership structure in place at a large regional level.

The analogy of off coast salmon, on shore salmon, up river salmon, spawning ground salmon and looking at all the regulatory requirements on the west coast of what that looks like and the premise behind the JMA model is to get someone at a point that can connect the dots. I think that's something all of us have asked for at one point or another depending on our roles, asking who's ultimately in charge or who's ultimately responsible? I don't have the proposal that was actually submitted but in terms of what that looks like for us and the types of consultation. I don't know if they used a previous consultation model or what was there but that's something I can circle back to all of you with.

Comment: Tribes have not received any information to date. We sent in a letter requesting consultation at the very beginning when the President sent out the executive order and I think it's really important that you take back this message from this body that they are aggressively asking for a copy of that proposed restructuring document and to have consultation on it as it applies to tribes, along with any reprogramming requests that are being made as well.

[BREAK]

OST Update

Jerry Gidner, [Link to presentation](#)

OST Budget: OST's enacted FY 2016 and FY 2017 budgets were \$139,029,000. OST's FY 2018 request level is \$119,400,000, a 14% reduction.

OAS Transition: Indian Trust Asset Reform Act (ITARA) required the Department to administer appraisals and valuations in a single entity by December 22, 2017. Following consultation, DOI is proposing to combine the functions in a single entity, the Appraisal and Valuation Services Office (AVSO).

OST has prepared an ITARA plan proposing a permanent home for OST under ASIA. Draft plan published in the Federal Register today. Consultations are scheduled for December 13 and 14.

TFAS Re-Compete: Trust Funds Accounting System (TFAS) – manages the trust accounting requirements of approximately 401,000 individual Indian money accounts, and 3,400 tribal accounts. The contract is expiring, and a new contract, December 2017. The new system will provide better beneficiary service through a mobile application.

Cobell Payout – WAU must file claims by November 27, 2017. The current list is on the OST website, www.doi.ost.gov.

Questions and Comments

Question: Did you say that you're proposing to put OST under ASIA?

Jerry Gidner: Yes.

Question: Does that require legislative authorization?

Jerry Gidner: Ultimately it might. Right now our plan is just to do by secretarial order a transfer because most of the operational pieces of OST were moved into OST by secretarial order so it would be moving them under ASIA by secretarial order. That doesn't trigger the sunset provision of the '94 Trust Reform Act. We would still have to do something regarding that and that would be in the future.

Question: Could that be done through the Appropriation Act that it could be amended to allow it to be put under ASIA.

Jerry Gidner: What we're talking about is OST as it is right now intact just moving under ASIA. If we did that, the only real change is that on a day-to-day basis I would report to John Tahsuda instead of to Jim Cason. But it does defer down the road the question of the sunset provision of OST that was in the '94 Trust Reform Act and what we do about that. But there is recognition this function has to be permanent. We have \$5 billion under investment and we run one and a half billion a year through OST so somebody's got to manage the money on an ongoing basis so this may be the first stage of a multi-stage proposal but just as a permanent home our plan and proposal is to move it under ASIA intact as it is right now.

Comment: I'm assuming that you're going to provide us a proposed plan to restructure OST under ASIA. So would that mean that the budget now would be absorbed into the BIA budget?

Jerry Gidner: No. It would be a separate line item in the budget the way it is now but it would just be aligned and discussed in the Assistant Secretary of Indian Affairs portion as opposed to the Office of the Secretary portion of the budget.

It would still be an OST appropriation separate from the BIA appropriation. It would just be discussed in the same section essentially of the budget.

Cheryl Andrews-Maltais: There's pros and cons to both sides of that. In a not so supportive environment we have to be mindful of what that perception can be with OST next to BIA's budget. The flip side is also is that by being underneath the Deputy Assistant Secretary vs. of Interior vs. the Assistant Secretary of Indian Affairs, you're basically higher up on the food chain staying in Interior than you are going into Indian Affairs.

Those are real concerns and somewhat of the debate I think within the building itself so we would love your comments. We would love written comments on those exact topics. That's kind of the crux of the issue right there.

Comment: Evaluations will remain under OST, which will be now under ASIA?

Jerry Gidner: Yes. This proposal would do nothing to what's in OST right now or the OST structure. It would just move intact from the Office of the Secretary to underneath ASIA.

Question: then will they all be located in Albuquerque?

Jerry Gidner: Most of it is already. I'm duty stationed here but most of my other executives are in Albuquerque and we have an extensive field structure We have 48 field offices. For the contracting. The contractor will be wherever it is.

Jackie Pata: I just recently heard from the Hill that there's been a reprogramming request to move the appraisals and functions with other appraisal functions outside of OST and not to move then under ASIA. I understand that the request to move OST under ASIA but not the appraisals and evaluation functions.

Jerry Gidner: Well, the evaluation functions are in PMB already but yes. Our proposal is to combine the OST Office of Appraisal Services with the PMB Office of Evaluation Services into a new office in PMB and there is a reprogramming letter up at the appropriation committees regarding that.

Jackie Pata: Right. So appraisals won't be going with OST to ASIA.

Jerry Gidner: Other than that what's left of OST meaning everything but appraisals under this proposal would move under ASIA.

Question: Your outfit invests \$5 billion of trust dollars so there must be an investment policy somewhere. Who monitors your compliance with that investment policy and double checks the math on the return on those dollars?

Jerry Gidner: There is an investment policy and we are limited to government backed securities. We get about 2.7 percent interest, which is pretty good for government back securities. We do a variety of audits of our own operations. We look at compliance to the policy through that. We also have a KPMG

audit every year. So you probably know the Department of Interior has a big audit of their appropriated funds every year by KPMG. KPMG also audits the trust funds and they're about to issue the new report. Several years in a row we've had an unqualified audit on the IIM accounts. We do not have that on the tribal trust accounts and the only reason we don't is that there are still a number of pending tribal trust lawsuits so there's enough balances in litigation that it's material from the auditor's standpoint and they won't give us a clean audit. But they're not finding any problems with the accounts or the balances are agreed on. So we get looked at a lot actually on compliance with all of those things, both internally and externally.

[TRIBAL CAUCUS]

Report from Second Tribal Caucus

Ron Allen: Provided an overview of the motions in the tribal caucus from the previous day.

Tribal Co-Chair Results

Ron Allen (Self-Governance), Rick Harrison (638), AJ Not Afraid (Direct Service)

Protocols Adopted with Amendments

The tribal caucus adopted revised protocols

(Adopted version here, http://www.ncai.org/TIBC_Protocols_-_November_9_2017_final.pdf).

BIA is to take a look at it and to get it done by the next meeting.

Outstanding Business, Report on the Budget Process

In our tribal caucus, we think that they gave us a good report in the sense that it did a good job of capturing the challenges and the frustrations we have throughout the different regions on the process itself. Now the question is in the proposal that they submitted was to do a phase two to the tune of around \$200,000. In our judgment we thought that it would be better if TIBC took control over it and form a workgroup to look at the findings and discuss what would be an improved process that would be in the judgment of the tribal leadership a fair process. The question to you would be if you concur that that would be an acceptable process, then we would identify candidates who are interested in participating on a workgroup and then you would identify yourself or George or whoever would be the representatives. We would want to identify people who would do that if you would agree.

Bryan Rice: It sounds acceptable. Having the right recommendations come forward for us to have the best process here in how we do business and identify priorities, anything that we can do to improve the process I'll be supportive of.

Kitcki Carroll: I'm fine with internalizing this work but I would ask for as a compromise instead of using the \$200,000 to pay for somebody else to come in, that some of those dollars be used to support the taskforce members. I don't think this can be achieved via conference calls, at least not for all the meetings. There needs to be some meeting in person and having discussion and deliberation and debate and that requires in person discussion.

I would hope that the federal partner would be willing to help those who choose to be part of that with travel and related expenses so they can make that commitment. I'm fine with that but there really needs to be some sort of higher level commitment to make sure that not only the people have a general

sense of the policy and the process and how things work but also some budget wonks who can dive deep into this.

One of the other challenges that we ran into earlier in the process was a commitment by IT for some of the changes that we implemented for FY 2020.

Ron Allen: I agree. If we were going to spend anywhere in the neighborhood of \$200,000 we could suggest that we divert those monies to cover the cost to bring the people who are willing to participate into town because I agree that this is a conversation where we need to be face to face and talk about what worked, what didn't work, why we were frustrated with the process, etc. and what might be a better system. And part of the issue I think was we were discussing the idea that the budget officers, because they are a part of the process in reaching out to the tribes, identifying the priorities, etc. so we might want to consider that. Maybe we can put together a mission, or a scope, a purpose for the workgroup so we're clear on what the workgroup's purpose is. We could probably use a little bit of what the report was using as a suggestion for phase two and we can shape that out. And if you concur, then we can be clear on what their purpose is.

George Bearpaw. Just a recap of where we are with this effort. As you recall, we did identify some funds for the contractor, Kepner-Tregoe and we gave them a contract for \$88,000 to do an analysis of what they were going to do, however they were going to do it and then there was a phase two part of this. They completed the phase one which they presented at Flagstaff and in talking with Ron and others it didn't really appear like they were going to do what we wanted them to do.

A lot of the recommendations that they outlined we were already doing. The phase two part of it was for them to do the actual implementation, to make the changes and make the recommendations to change the budget formulation process that the TIBC has. We reserved some funds for that and it's still reserved and so it's still there for the use of this group as we go forward with this workgroup effort and so we'd be glad to work with Bryan and try to get him up to speed on some of the stuff that we have done and kind of get it approved.

Ron Allen: We can put together a purpose, a charge for the workgroup so that Bryan and George can look it over and see if they agree and if we agree as well. And then we would need identification of who's willing to do it.

Kitcki Carroll: If we're going to move away from the contractor, part of the idea behind the contractor was to have somebody to actual do the work, the substantive work that comes from the conversation, that comes from the preparation to the next meeting, that sort of thing and that's where we've discussed in this space that we're lacking sometimes. So I would hope that with this budget process we could use some of those dollars to identify somebody who's that point person responsible for the coordination of the substance of that work product. Making sure that conversations are moving beyond just conversation, pulling drafts together, putting outlines together, whatever the case may be, maybe partly even facilitating the conversation. We need somebody who's charged with that responsibility.

Jackie Pata: I agree. If we can put together the purpose/charge for the workgroup and then we're clear on what we're trying to do. It's inclusive of when do you want to try to get it done. So we want it done by that March meeting and I think it needs to be done before so the tribes can look at a proposal and have some thoughts about it before we get together in March.

Comment: March 19 is when we actually get together and review the results of the surveys and the prioritization recommendations from the regions.

Kitcki Carroll: Having drafts available to the full body for conversation is one thing. The target for completion needs to be for whenever the FY21 budget process would start. So for this budget formulation guide, right now it formally started October 1. Last time around the goal was to have this done for implementation for the FY20 process and that timeline came and went. So I think the '21 budget process which would start in October of next year is the deadline to have it done, approved, drafts reviewed, edited, massaged for implementation for when the Department releases the next FY21 budget formulation guide.

Comment: So we would probably actually have to have most of the substance work done by our July meeting to give them time to implement it. Which is what we were planning on when we had the July meeting before for them to give us a presentation.

Ron Allen: We'll draft it up and everybody can see it and have input and Bryan and George and John, etc. they can review it and make sure everybody's comfortable with the charge, the schedule, etc. And then we'll reach out. You can let us know if you're interested in participating from your respective regions and then we'll have identification of the actual workgroup that we'll put together.

The other outstanding business is the TIBC direction with regard to the subcommittee, the budget subcommittee. We didn't provide any particular direction other than we agreed that it needs to meet before the March meeting.

Since TIBC is meeting the third week of March, if the Budget Subcommittee could meet maybe the first week of March, it usually takes a couple of days just to remind people who are interested in it.

The Subcommittee is open so if anybody wants to participate who's not actually officially on the subcommittee.

We also discussed ideas in our caucus that rather than coming up with definitive direction on how to make recommendations back to the TIBC is to use principles. And the principles once again is the Executive Summary for the FY 2019 Tribal Budget Submission. The three principles are at the top.

Hold Indian Country's base budget harmless and look for some way of dealing with an increase based upon inflationary factors or something. Inflationary factor might not be the best word. It might be something about economic stabilization or something along those lines.

So use some language along those lines and provide increases to the priority budget rankings in a uniform fashion.

The only thing that we weren't able to definitively determine was what would be the split, the percentage of split. We need some more dialogue around what that could look like but that's why we thought showing the way that we did it historically will at least give you some comfort level on the range of how we did that.

We'll have all the priorities from the regions in by February 15 and Jeanine thought that she'd have all that collated for review by the end of February so that would mean that we'd have that information when we met in the first week of March.

At the regional level though all of the surveys are due by December 18th.

Then the region will have their own dialogue before it comes to Jeanine Brooks. Make sure that all of your tribes participate. The data is only as rich as the input that you get so that will be really critically important to try to pressure to get that done by December 18.

Kitcki Carroll: I want to offer perhaps a compromise because this is a sticky issue for us. I think for the FY20 process when we initially started this conversation for the FY20 process the idea was as part of the FY20 budget formulation guide for this body to have given clear direction about how those monies would get distributed in an increase or decrease scenario.

We never got there but the FY20 process is already underway. So what I would suggest is that we use this executive summary, give some sort of communication to the full body about this is how we are going to handle FY20 based upon how this has been done in the last couple of years. But I would ask respectfully that as part of the budget process workgroup that we are looking at that this be factored into that process and then we revisit this when we are looking at the budget process overall to come to a definitive approach to this as part of the overall process for the longer term fix that would get implemented '21. So right now I'm proposing a stopgap for '20 that we can come to an agreement on how that would get handled and then pick this up again as part of that larger budget process effort.

Jackie Pata: I think that makes sense. That's what we talked about in the budget subcommittee. We felt like we needed to document what we've done so we can actually provide transparency. We felt like this was the first step, making sure everybody was informed about what happened and then using that as a guide for assessing whether this worked, do we need to think about further adjustments.

Kitcki Carroll: As another example, we could say if there is an eight percent increase all line items across the board get some sort of COLA adjustment. And then half of that goes to the identified 10 priorities for a targeted investment into these areas and then the remainder is open for negotiation in terms of what those needs are at that present time. That's just an example but that way at least we know that there are some parameters about what the approach is going to be that can be consistently expected to be executed so there's no surprises. When it gets to that point of the actual horse-trading as discussed in the Budget Subcommittee, that's when it's on all of us to be at that table. That's when we need to be at the table, if tribal specific needs pop and tribes want some consideration for a program, this would be a discretionary component of our process.

Ron Allen: From my perspective doing this since 1996 when we started this process, when we get into the process, we use those principles that both of you were describing as a general rule—protect the bases, restore anything that the Administration or at least from our perspective, this is the tribal recommendation back to the Administration.

So we ask for the restoration of any zeroed out programs, etc. to make that happen. And so we play with, if we get five percent, eight percent or 10 percent, what will we do. Usually we also ask the Department, 'What is out there that's urgent that we don't know about?' And so they tell us what that is and then we make a recommendation. To your last point, it's a recommendation...a set of

recommendations from the subcommittee to the TIBC. So you hear what the recommendations are and then you can change it any way you want.

So if you someone doesn't agree and we collectively say we're going to modify the subcommittee proposal and that's the final set of recommendations to the Secretary, it's as simple as that. But I can tell you that it's very informative. For those who can come, it's very informative because we can't as a full body get into the 130 some odd line items. It takes a lot of time. We call people in from different programs and ask them about their programs and services.

And the only other thing that's not included in the way that we currently deal with the process is BIE. It wasn't included and it is our recommendation that we do have in future outgoing years BIE is included and doesn't have its own separate process. For business efficiencies, we feel like it needs to be part of the larger piece. So we'll be working on what that adaption looks like but I will include that in the proposal and the guide.

Gay Kingman: Regarding the Budget Formulation workgroup, you need to have somebody in there. As these options are being talked about, that's where every region needs to have somebody in that discussion. The other part of that is our tribes usually rank a lot of things under the Consolidated Tribal Government Program, which other tribes in other regions might now. So if the workgroup could also look at that, the Consolidated Tribal Government Programs and the ranking.

Rick Harrison: If we're going to do an early March Subcommittee meeting and people are going to come here to meet that, maybe we should schedule a one-day Budget Formulation workgroup.

Jeannine Brooks: We're okay with that.

Ron Allen: If you have people that you want on the workgroup with regard to reviewing the process and make recommendations, please let Jeanine know.

Review of Protocol Changes

We reviewed and are putting forward some revised protocols for you to review.

We added under Purposes under E, part of the purpose is to assist in the facilitation with other federal agencies to ensure a coordinated budget strategy for tribal programs. We also added in under Members, White House representatives, Office of Intergovernmental Affairs, Office of OMB and the Executive Director for the Council on Native American Affairs. They typically are invited to participate periodically.

We would like to have more regular representation of them. If there is an issue where they can't be listed as a member, we still want to be able to indicate that they should be invited to all meetings.

We changed the TIBC leadership on the tribal side to be three co-chairs. They would be representative of the direct service, 638 and compacting representatives.

And we clarified that in addition some of their responsibilities on F: Responsibilities would be to assist with the agendas and making sure they get out in a timely basis and moderate the meetings and ensure that TIBC objectives are acted on.

Under the Voting, we clarified what a quorum and what voting standards would be and what kind of quorum requirements that would be. We have two-thirds that means 16 of the voting tribal representatives need to be present or two-thirds of the tribal regions need to be represented that means eight of the 12 regions need to be represented. That was to ensure that votes weren't taken when people weren't here and there wasn't a diverse enough representation on something that we would be voting on.

And then we did some minor clarifications, for example, that all subcommittee meetings are open and an indication that we would have issue related subcommittees not just listing the budget and the data management subcommittees.

FY 2018 and FY 2019 Budget

George Bearpaw, Director of Budgets for Indian Affairs.

This slide shows how levels compare to the current '18 versus some of the requests and also the enacted information from on a five year period. This comparison shows you where we are with '18 starting with '14. It started out at \$2.562 billion request. The enacted was \$2.5 billion in '14. It moved up to \$2.56 billion request in '15 and then \$2.6 billion enacted which was a little higher than the request for '15. The '16 was a \$2.9 billion request with an approved budget enacted for '16 of \$2.796 billion. The '17 was a \$2.9 billion request, President's request with an approved enacted of \$2.8 billion. The difference with '17 on the enacted was that we did get a rescission that year, last year of \$3.4 million so it brought that down to \$2.85 billion for the enacted. And then it shows you the President's budget for '18 which is \$2.488 billion.

We do have a President's budget of \$2.488. It's \$371 million below the '17 enacted. The Indian programs appropriations, there's a decrease of \$256.8 million below the '17 enacted amount. The highlights of the '18 budget includes additional investments in infrastructure, maintaining funding for energy investments and as we went over again in Flagstaff, it does prioritize programs that have a broader reach nationwide rather than demonstration programs. And '19 is going to follow the same methodology for '18 or '19.

For '18 right now the current status is continuing resolution. It runs through December the 8th and I think that's the only update that I really have for '18.

Right now they're not even discussing any spending caps and the latest information is that they're not even going to consider that discussion until after the Thanksgiving break which means that there's a possibility of another CR after December the 7th.

Ron Allen: The past Administration was very supportive of economic development to help tribes diversify their economies and create unrestricted revenue. The loan guarantee program is used to facilitate that initiative. So why are you requesting less money for the loan guarantee program?

I'd like a report. My understanding is that money gets broken out by region and also my understanding is that it's fully maximized. It leverages like \$100 million in loans, \$100 plus and so some of us would like to see that report on how well it's performing because my understanding is it's performing well so I would think that we'd want to continue to enhance that effort.

George Bearpaw: We can get that for you.

Just to continue on. Covering the '19 submission. It was submitted to OMB in August. It has the same focus on infrastructure, energy development and serving tribes nationwide. The pass back is normally due somewhere around the Thanksgiving holiday so we're expecting the same time period or tracking of that pass back. It is embargoed so we can't go over the numbers. I can tell you that just like we're discussing here, we can probably expect the same scenario as we did with '18 as which will be with the '19 budget. And that's the way that we've been discussing internally and also we'll be discussing that with the budget subcommittee. I think Jeanine's going to go over the '20. If there's no more questions, I wanted to kind of do something here before I get off the podium here.

Rick Harrison: Regarding the continuing resolution and specifically when it comes to regards to reduced line items or zeroed out line items, at this point we have some of those areas and that funding isn't being sent to the regions unless there's going to be a full year CR. But there was no marching orders to stop those programs or lay off people so they're still acting as if they exist and so in those areas those regions are already in the red. And if that full year CR isn't realized and there is a budget adopted, then they're not going to give that money back and that's a problem for the regions and ultimately for the tribes. They're going to bear the burden of that because they're going to have to come up with that money somewhere to balance that budget and it's more than likely going to come from the tribes. And so there's got to be a better way to do business. This message has to be taken back to your leadership and this has to be addressed in a better way. This isn't how you do business.

Kitcki Carroll: I don't understand that and I am asking for a specific Bureau response to this. The whole point of a CR is to extend funds as they exist right now through whatever period we're talking about. So right now we're talking about through December 8th. So through December 8th the funding for programs are as they were in FY17. So why are funds not going to tribes as they were at the level for '17 through December 8th or for whatever the period the continuing resolution extends through?

It shouldn't be dependent upon a continuing resolution. FY18 is already started. Work is going on, people need to be paid. The Department should not be sitting on funds when there's a CR through December 8th. Are you telling me that funds aren't going to be distributed to tribes for that four month period?

Jeannine Brooks: This applies only to the zeroed out programs and there's four of them, very small programs. They are looked at on an individual basis. If they were large programs that impacted across all Indian Country, a different consideration would be made for them. These will run through the first CR and I've talked to Rick about this and we know there is carryover funds that will carry these programs long enough. If we continue on with further CRs like George was talking about, there will be a reconsideration of how it will be handled and what percentage will be given. The reason this is done is because if it does come back and they decide to zero that program out, we have no way to get those funds back. If it's a zeroed out program, we will not have funding on those lines in '18.

Kitcki Carroll: So even if the '18 is proposing zeroing out, that's irrelevant through December 8th. December 8th says per CR law that that funding is applied through December 8th as is for '17.

Jeannine Brooks: But not our books. When we get the money and we get the final appropriation, we have to pull everything out of the system and reload as we are appropriated our final budget and if it shows zero dollars for that line we have to have zero dollars on that line.

Rick Harrison: Through my conversation with Anna from OMB yesterday, she said if a budget is realized and they approve a budget, then that is retroactive through the beginning of the year.

Kitcki Carroll: Tribes should not be liable and on the hook for finances because the Feds couldn't come to a decision on a budget but that's what I'm hearing. That's now putting that onus on the tribes because they're carrying the tab right now.

Jeannine Brooks: We can do it that way, we can try and collect or we can just zero it out to begin with. The program is slated to be eliminated so the intention was to not fund it.

Kitcki Carroll: The term itself, continuing resolution, is self-explanatory. That means you just continue as it is until such time as a new budget is enacted.

Jeannine Brooks: It is not with our budgets. When '18 gets realized it is realized as it is appropriated for those that are proposed for removal. We will reconsider now that we know that we're probably going to go even further, then you start looking at what percentage they will be funded.

Jackie Pata: One of the things that we talked about before was because we've had to deal with this for multiple years now is once again just like we talked about earlier, when there's a decrease, where do we see those decreases being able to be addressed at. And I know we don't want to have those tough conversations but that's what you're looking at here is where -- does somebody else get to decide for us or are we willing to have the tough conversations about should there be a decrease, what's the places... And part of that conversation is if the Administration proposes a decrease somewhere, where is it that the tribes perhaps may have some of the best arguments with Congress to restore it not just where do we think is the place that we could take the hit the easiest.

Kitcki Carroll: A decrease is one thing but zeroing it out, it's hard to get it restored once it's zeroed out and the line item is gone. And so that position I don't think should be taken without consultation with the tribes in the region. There should at least be some funding left in there so it can be restored in the future if that is what the body wants. And Jackie, to your point. I get that and I want to be clearly specific here. I'm not talking about restoration of funds that we don't like in comparison to the proposal.

Jackie Pata: Jeanine's actually technically right. So the directions go to the Administration and say, 'Here's your funding levels and you can't exceed this funding level.' That's what it is. It's not 'keep everything running the same as you choose to without making any adjustments ' because sometimes the CR will come with a funding...a percentage, a hold back provision. And the Department has the flexibility then to make those decisions about how that gets applied. So technically Jeanine is right. It's whether or not the Department is willing in the spirit of TIBC and the work that we do together to make alternative choices.

Kitcki Carroll: May question would be then is that clearly being articulated to tribes? Do they know that with specificity that that's what's going on so they can make localized decisions about staffing and service rendering?

Jackie Pata: I don't know what the Department has sent out. I think sometimes that's where this gets so frustrating for tribes and you see such a great frustration when we're dealing with these inconsistencies of federal funding is because tribes get themselves out in front of that and then they end up having to either cough up or deal with the imbalances when it comes around and that's what the challenge is.

Tribes are more susceptible I think than other...certainly no other government has the same kind of dependency on the federal budget process and so that's why we continue to say tribes should be held harmless but exempt from these kinds of policies that have these implications.

The other part of it is as a TIBC, internally within the Department we could make a stronger voice and continue to make a stronger voice that when we're dealing with these kinds of scenarios, whether it be a CR or whether...well, typically when it's a CR or even a closed government situation that tribal governments should not be considered the same as other programs. And this is a good reason right here, this is a great example of it.

Rick Harrison: In the four areas that were zeroed out, was there any carryover?

Jeannine Brooks: Yes. I know Rick saw that because I knew that was coming at me when I got here and there's \$424K sitting in Alaska Native programs. Now the other ones are HIP was zeroed out and that usually doesn't come out this early in the year anyway and we're hoping it's going to be restored so that shouldn't be that big of an impact as of yet. Litigation support attorney fees, there's probably money sitting in there because it really doesn't get hit that hard. And what was the fourth program. JOM.

Rick Harrison: Could carryover, as a question to the Administration, be used?

Jeannine Brooks: Yes. And that's what we intended and we looked at before the decision was made for this first quarter CR to not send out. Now that we know that more CR is impending, we will go back, we will re-review, look at a percentage that we would be able to re-comp with the hold back on these so that we can continue to move forward under further continuing resolutions.

If we go through a full year CR, then it becomes an operating plan and it becomes our choice of what we fund and we would put those back in.

Gay Kingman: Does that include the welfare assistance funds that we haven't received yet?

Jeannine Brooks: Welfare assistance you probably haven't received just because they haven't done the calculations and kicked out. Welfare is not held back. That was distributed under CR. So CR1 went out October 10th. So most of that and it's actually welfare has to be calculated by Hankie.

Hankie Ortiz: That is distributed on a methodology calculation. The methodology is based on the information that we get from from the tribes so once we have all the information from the tribes that's based on the users that were submitted from the previous year. So the tribes submit exactly what they used and that's part of the methodology. So part of it depends on what we get so I'm not sure where we are as far as collecting all that information from the tribes.

Question: But what was the timeline for them to have to submit it?

Hankie Ortiz: They haven't set one. Let me just check and I'll have an answer to you today.

Dave Conner: Just following up on the zeroed out programs. There's actually 15 of them or more. Of course we mentioned the Small and Needy Tribes, the Alaska Native programs, Litigation Support but all of the TIWAHE initiative programs, the Domestic Violence Initiative, Methamphetamine Initiative, HIP, Recidivism Reduction Initiative, the Tribal Justice Support for PL280 Tribes, Juvenile Detention Education, Special Higher Ed Scholarships, Science Scholarships, Replacement School Construction.

So a whole host are impacted by this action and we are having a little sidebar and still a little confusion on something that since the CR authorizes spending up to 18 percent of this money for 2017 'cause all of those I mentioned are funded in 2017. Is it OMB that's holding back the money? Congress has authorized via the CR the spending that we're a little confused over. You said something about they're not actually letting you authorize the partial distribution?

Jeannine Brooks: No. That went out. All of those programs that have funding that'll still be there, your money's already been distributed.

The '18 money is out. All TPA money went out at the percentage that it's authorized under CR unless it was a zeroed out program. TIWAHE is part of Social Services, Courts, all of that. They all got their funding.

Dave Conner: All of these programs I just read were zeroed in the budget.

Jeannine Brooks: While TIWAHE disappears, you still have Social Services money, ICWA still has money, Courts still has money. So those monies will still be distributed at the percentage for the CR because we won't have to re-comp. We're talking about the programs that are zeroed out completely that would disappear if an '18 budget came to fruition.

Those Tiwahe zeroing outs are part of other programs that still have funding left over so they can still be distributed.

Hankie Ortiz: With regard to Welfare Assistance, the final distribution for the first CR went out yesterday. So that was the final one, that we've already done the rest of them. So all of the money should be at the regional level either today or in the next couple days. So it's out of Indian Services. And then with regard to the final distribution, that'll be calculated on the methodology after we have the information that's submitted and the process for that is in the Indian Affairs Manual so you can go through and look at that for that process.

But with regard to the TIWAHE funding, TIWAHE was reduced to the extent that the funding is provided to the pilot project sites. So if you recall with regard to Social Services and ICWA there was an across the board distribution to all the tribes that had contracted for either ICWA or Social Services. So for that funding, that funding is preserved but what goes away is the funding that the individual pilot project sites received on top of that across the board distribution. So all tribes, including the TIWAHE tribes, will retain those across the board increases but the funding above that is what is going to be going away.

Dave Conner: Okay. I understand that but again the point we started to make here was that for all of the 16 at least programs that are eliminated—Alaska Native programs, Small and Needy Tribes, Housing, the TIWAHE Initiative, the portions that went to the pilots, you're saying that none of the '18 money authorized in the CR is going out because you zeroed them. So the only question we were asking about was that you were saying you're zeroing them and you're not putting them out because OMB or someone is not letting you or?

Jeannine Brooks: No, because it's just basically how are we going to recoup it if they zero us out? Are you going to give BIA that money back? Yes, the CR says we continue as we are but when I get my final bill, that's how much I'm appropriated. What other program am I going to take the money away from? If

they zero you out because I let Red Lake have their TIWAHE money, am I going to go and take somebody's Cops money or what am I going to do because I'm still going to have to balance out to that bottom line that I'm appropriated in the end. So that's why you hold back.

We can make further decisions on percentages based on the percentage hold back under CR as we come up to further CRs. But as long as you're getting some kind of money, the more important areas I think to look at is like with Alaska Native programs. They've got zero dollars. You've got some Social Services money that you can move forward with until we can figure out if we're going to get restored. So those are the ones that we're talking about that are completely zeroed. And I understand you do other things with your TIWAHE money and it funds your counselors and things like that but we have to figure out what we can use and what carryover can be provided to keep us afloat until we get a real bill and know if we're going to be cut or not.

Kitcki Carroll: The Bureau has a responsibility to tell those tribes what actions it's taking so they can take appropriate actions at the local level because you're talking about where are you supposed to get the money from, where are they supposed to get the money from because they're carrying those expenses right now.

Jeannine Brooks: I thought this had been explained to the TIWAHE tribes. I thought we met with Mercedes and we've been asked several times, 'What is the plan for TIWAHE in the face of elimination of this money?'

Hankie Ortiz: And we have. We have Mercedes Garcia is the TIWAHE coordinator and she has talked to the TIWAHE tribes and there have been plans made actually for elimination of program. If the program is eliminated, there's a path that we're planning to go down. If the funding is restored, then there's a path that we're going to go down. So they've made plans for either way what's going to happen in the future.

Terra Branson: I just have a logical question. So if Congress appropriated the funds for these four programs that have been zeroed out that you're not distributing, that's my understanding, Congress appropriated the funds and I'm sure you've gotten direction not to send out those funds for those four programs that have been zeroed out. But somebody got that 18.9 percent of the funds from FY17 so when there is a final appropriation, whatever it is that they choose to move forward with, will you distribute that 18.9 percent if the program is zeroed out because you got the money, someone did.

Jeannine Brooks: What we have under CR, it's not like the money's sitting there and it's in a holding pattern. When we get a final budget, they're going to say, 'Okay, CR's gone.' Our entire system, we have to pull out everything we entered under the CR and you enter just that appropriated bill. Period. That's what goes into the ledger. They pretend the CR never happened. And if that CR, if the bill comes in less than the CR, that money is gone. If they zero it out, it won't be part of that and it will no longer be part of our budget. It does not exist. So if we had sent it out and we let a tribe spend it, then we would have to recoup that from some other program because the money did not exist. So if I gave that '18 money and then they came in and said, 'It's gone,' then I'd say, 'Okay, now where am I coming up with the money to replace for what we spent that we shouldn't have.' Do you see? It's not like it sits there as itself. The '17 CR goes away on the books and the '18 actual bill is what takes the place. The money's not sitting in a holding pattern waiting to go.

Terra Branson: That doesn't reconcile with the Title V process so that's what I'm confused about. You've been given statutory authority to distribute that funding and you're not. But we can do a follow up. I'm having some problems understanding why that's the choice but it might be just my misunderstanding.

Question: So is that the reason why in the past they would implement those carryovers in the CR and not zero out?

Jeannine Brooks: Yes.

FY 2020 Budget Formulation Update

Jeannine Brooks

We made some changes to the 2020 guidance. If you have done the webinars that we've done over the last few days, you've seen a lot of this.

Formulation Guidance was updated for 2020 to try and address some of the issues brought up through TIBC and from feedback from the survey. Review and suggested edits of the Guidance were done by three tribal members of the Budget Subcommittee. Review and testing of the 2020 Preferred Program survey were done by the same three tribal members.

We sent all of the guidance and the first survey which is Preferred Programs which is the priority setting. That was sent out on October 6th. We had the kickoff webinars on 10/11, 12, 13, 18.

We tried to cover everybody on 11-12 but we had a lot of audio issues, technical issues. DOI decided security GoTo webinar was not secure so we had a lot of issues so we did some follow up sessions which we've gotten much better with the audio piece and they were actually very well attended.

The last one on November 2nd had 72 people dial in. The one before that had 58 so we're getting some more folks getting in and looking at it. The changes for the regions that came out in the guidance, we're looking at a five percent increase on the table instead of an eight percent and the only reason that took place was because that's what we were being held to by DOI so we just handed that five percent down. One of the big things is all regions must hold a meeting with their tribes.

We were getting a lot of feedback from a lot of tribes that some of their regions did not do this so in speaking with Jim James, the new Deputy Director Field Operations, he has now made it mandatory that every region must hold the session with their tribes. What we've also done is a lot of regions would hold it as a kickoff session to introduce whatever tool they were going to do or talk about the budget but we are asking...they can still do that but in addition we are asking that they actually hold their budget meetings after the survey data is in so that they can sit with their tribes and actually come up with what their regional presentation is going to be at the TIBC session as opposed to just getting it in and coming up with that on their own. We want the tribes to be part of that overall product.

This is why we have the dates of December 18th for the survey data to be in. For the tribe's changes, we want a definitive point of contact for the surveys that are coming in. We asked for this because last year we got four or five, even six submissions from various tribes and it was a process to go through to try to figure out what is the right submission and who was authorized. So by giving us a point of contact we won't have that question anymore. We know who you authorize as your person to submit surveys.

This is the bone of contention. Tribes must pick 10 preferred programs. I've gotten lots of feedback on this already. This is an issue that the budget subcommittee is going to have to wrestle with, we know that, from here on out. But for rolling up purposes, we wanted all to be consistent so we required 10 preferred programs and the system was set up so that you can only pick one program once.

We want the full body of TIBC to give specific direction to the budget subcommittee and that is written into the guidance. The budget subcommittee will now be meeting before the March meeting so that they can get consensus with the full tribal caucus on the budget that is to be submitted to the Assistant Secretary.

For the survey itself, we heard a lot about it being too cumbersome last year because we put the unfunded obligation in with the preferred programs. So we have separated it out. It's going to be two individual surveys. The preferred programs is already out there.

We were hoping to get a lot of data in by the 20th so then everyone can focus on the second survey which will come out on November 20th and that's going to be your unfunded obligation. The BIE schools are going to have their own separate survey. We did them separate with just their line items. We're still working through with them the final testing stages so that we can get their preferred programs out to them. But this is the first time we're actually engaging the schools in this manner so we're kind of excited about that.

We got a new format. We have a lot of complaints that came back on things like people being dropped off the web in the middle of doing their survey and losing their data, getting frustrated, and giving up. We worked with the IT group. They came up with a pdf format. It's simple, it's easy, anybody can use it. You do not require a web connection for it. All you have to do is have a computer and every computer has Adobe Reader and that's all it takes to look at it and fill it out. It also allows for printing for those that don't have a computer.

It prints out just what you see on a computer screen is exactly what prints out in hard copy for them to complete and submit back for the region to upload for them. It also allows for unlimited characters.

Another major complaint we had was the narrative section cut you off at 500 characters and you had to send a separate email to give us your narrative support of why this was your preferred program. This you can put up to 25 pages if you want to under the narrative and it's going to come forward in the survey. And you can also save at any point.

Another big thing with the survey was you had to go all the way to the end and go through each page before you could save. This you can save anywhere because like I said, it is a regular pdf file.

Once we get the information back, the IT team will export the survey data into a database which we're probably looking at an Excel spreadsheet. Each of the regional budget officers will have access to this. They'll be able to analyze their own regional data. We'll also be able to look at it at the national level.

The IT team is going to work with us to do query reports for it so if anyone isn't Pivot savvy in the regions, that's okay. We'll have them set up so we can look as well as they can create their own if they are Pivot savvy and do what they want.

Questions

Comment: I think we need to look at this two different ways. One, we need to be committed to the longer term fix of a process to get us closer to or arriving at a point where we have a process that we're all happy with that reflects our regional specific interests and priorities and that sort of stuff but we're not there yet but that's what the target is.

Even though we all have our respective dissatisfactions with the process as it exists right now, if we don't engage with that process as instructed, the input will be junk so then the output will be junk. We've got to find a way to participate in the process as best we can for a national rollup to have any value and merit to it.

What I would like to particularly underscore is the unfunded obligations piece. We have got to find a way to get to that number. We talk about it but I'll tell you as an advocacy organization, whether it's \$20 billion, \$30 billion, \$40 billion is what the obligation is of the BIA, I don't know what that number is and the only way we're going to get to that is if we complete this unfunded obligations piece. And that way, when we are hitting the Hill trying to restore dollars, we can say, 'You're funding BIA at \$2.95 billion and your actual obligation is \$50 billion.' But we can't say that right now with any real validity because we don't have the data behind it. So we need everybody at every tribe answering those questions as best they can, it doesn't have to be perfect but something's better than nothing, to be able to get closer to what that actually looks like and what that means. So we have...we've struggled in our region. There's been some years where we've had 15 percent participation of our folks. Our goal is 100 percent and we need 100 percent of our tribes completing that so we can have an actual strong foundation to do our advocacy off of about what at least our regional interests are and then coupled with what the national interests are. So again, I know there is still challenge with this process but we've got to find a way to engage in it so that we can at least have something that allows for that rollup to happen. Otherwise the rollup doesn't happen.

Question: So you said that when we get the data after the survey's completed and it can be broken down by region—nationally and by region. So the regions will each get what's surfacing in terms of the priorities or how do you envision that report?

Jeannine Brooks: Both of them. When the unfunded comes out, it's going to be the same thing. It's going to come in the same format and it's going to be uploaded into the Excel spreadsheet and each regional budget officer has access to this. We'll be able to filter and sort so that all they're looking at is their own regional data and that's what they should be using when they sit down with you for your regional budget meeting. They should be looking at your priority data and they should be looking at your unfunded data rolled up at that level.

We also made the unfunded much, much easier. I know last year it was a nightmare with calculations and asking you how you did your calculations and all of that and that's no longer there. All we're asking for are the variables and we will do the calculations on our end. For like roads it's number of miles, current funding. That's all we want you to plug in. So we've tried to make this as simple as possible so everybody can get the information back and we can roll it up.

Carryover Surplus Report

There is a five page document and this is what we had been asked for to provide you with our surplus, our expiring funds for the year. This only reflects the first page OIP funds because that is what goes into

TMIP. And we actually did good and \$820,197 is what fell off the table for '16 funding. Some of the larger pots, this money gets held in limbo for five years. I have been told by Education that they are working on that ISEP amount to make some adjustments so that number will actually go down because they had a big pot of money that looks like it expired. But once they make their adjustments because there are schools that didn't charge things the way they were supposed to and once those corrections are made that that amount will go down substantially.

So the first one was the surplus, just to let you know what did fall off the table for Operation of Indian Programs. And then the other pieces are what the carryover looks like for the '17 dollars. This is '17-'18 money. We're going into the second year. Yes, you will see some large amounts here but that's expected. This is two year money and it's intended to be two year money. But we are proposing to do is to expect our regions within the first two quarters of the year they should either have that expended, obligated or at least have a definitive plan for where that money's going. By second quarter of the second year you should know what you're doing with that money one way or another. If not, it's time to open it up to the tribes within your region to say, 'Do you have a one-time funding request that I can use this money to spend on?' So we are trying to put definitive timelines on that. I am proposing that they have through March, second quarter, open it up to tribes within their region for April and May to come in with proposals and get funded. And if that money is not put somewhere, then we will pull it back to Central Office in June and get it out because basically by the end of July our contracting office is shut down and we can't do any more so we would prefer if someone's not going to get it out to you guys then we will do it at a Central Office level if need be.

Ron Allen: bottom line with this with regard to the region's carryover, they've got to make sure that they're being very transparent with the tribes, how much money they have and what are their priorities in terms of getting those monies obligated.

Jeannine Brooks: At the March meeting I intend to provide this again just to keep all those regional directors on their toes so they know come March, money should be moving or they should be requesting and soliciting one-time requests from each of the tribes within their region and say, 'Do you have a one-time request for funding?' Keep in mind, it is carryover so you can't hire with it. It's not permanent funding so it needs to be one-time requests for things. Specific projects are like for Public Safety and Justice money because I do have Central Office in here too so they're all open to it too, your Trust Director, Indian Services Director, Public Safety and Justice and I know Charlie and company, they get it all the time. Tribes come in and say, 'I want to buy a car. I need this,' those kinds of things. So that's when we'll be looking at that is in June for Central Office distribution but first we're going to try and leave everything at a regional level and let you guys expend at your own locations first.

Kitcki Carroll: So our region does a good job at that so they communicate to the membership about that. I guess my question that you were just responding to, I want to make sure I'm clear on that. So I know that in that communication you sent back to me that there are Central Office surplus monies.

But is there a formal process at the Central Office level to let tribes know that those opportunities are there similar to their opportunities at the regional level? Unless you're part of the process, how would a tribe know that that opportunity is even there to make the ask?

Jeannine Brooks: And they wouldn't and that's something I'm going to work with Bryan on. We talked briefly about it to figure out how do we do that. I know when I was in Trust Services I used to do that but

I can't count on the budget officers from each of those programs engaging that way so we'll come up with a way that we do that as well beyond me just standing here at the podium at TIBC.

Kitcki Carroll: It'd be helpful to make that a part of the report, how well we improved that process.

Update on Federal Tort Coverage and Tribal Law Enforcement

Charlie Addington: There's been an inconsistency with the tort coverage that has been occurring for tribal law enforcement officers carrying out the self-determination contracts where they're saying if the officer doesn't have a special law enforcement commission in enforcing federal law then they're not covered under the federal tort claims regulation. And what we are fixing now is we have found that there's been a lapse in that due to a 1996 policy memo that was issued that said if they weren't carrying out federal law they wouldn't be covered. So what we're doing is we're going back and amending the 638 contracts and adding language and also the Solicitor's Office has come out with an opinion as well saying that officers, if they're carrying out the function of the contract, 638 or self-governance compact, then as long as they're in the performance of their duties, then they will be covered and that's the Bureau's stance on it now. So we're trying to fix a little loophole that was in there that we've had some inconsistency with federal tort coverage being actually...the officers being represented in federal tort claims acts.

Ron Allen: So we have to amend the...some of the provisions in the 638 and self-governance compacts our funding agreements that is to make sure that's clear?

Charlie Addington: Yes. The position with the Solicitor's Office now and with the OJS is that these officers are covered, but we are going to reinforce that by adding some language to the 638 contracts and the self-governance compacts to ensure that that language is actually in there so that's what we're trying to do to fix the gap. So it's based upon a 1996 policy memo that come out and there's been some courts that's ruled that if they're not enforcing federal law at the time when the infraction occurred that they wouldn't be covered and we're saying that they should be covered 'cause when they step into a 638 contract or a self-governance compact they're stepping in the shoes of what the Bureau would normally be doing so they should be covered the same way under the tort claims.

Ron Allen: Okay. So they're the only ones that we have concern about is because the BIA officers are already covered so there's no question there. It's just the ones who were contracted or compacted.

Charlie Addington: Yes. And like I say, where the problem has been is they're saying they have to be enforcing federal law is what some of the claims have been where they haven't wanted to represent the officers and we're saying that they don't have to be enforcing federal law because we enforce tribal law if the tribe gives us permission so anything that we're doing out there as long as we're in the scope and performance of our duties, they should be covered under the federal tort claims. And how that's come up is we had an officer that was involved in a fatal officer involved shooting and in order to prosecute the individual that killed the officer under the federal statutes, that was one of the things that they looked at. So we've seen that there was a gap there so we're trying to fix that.

Angela Thompson: Question is so after those amendments, what if issues happen prior and we've got a declination of tort claims coverage? Can we still go back and request that coverage for a prior before the amendments are made?

Charlie Addington: There shouldn't be anything unless there's been a court case that's happened where the judge has ruled, then it shouldn't be an issue. But if you've already had a ruling from a judge, then it would have to be...that ruling would have to be appealed.

We should be okay. Now we're working with the Department of Justice as well on this because their civil division is what represents the officers if they're involved in a tort claim for unintentional torts. If we have an intentional tort the federal tort claims coverage will not apply. So that's one of the areas that you have to make sure that they're within the scope of their employment and they're performing their duties to carry out either a self-determination compact or a 638 contracted program.

Transportation Subcommittee Update

Dakota Longbrake, Dave Kelly, and LeRoy Gishi

We're charged and tasked to justify why we need the increase for road maintenance. I've seen the devastation that happens after construction. After we do new construction on a road, we get to look back and try to maintain that asset for 15 to 20 years and a lot of times without maintenance being done we lose our investment. We don't get the resources to maintain that investment to the capacity and capability that it should have.

At the Subcommittee, LeRoy did a program overview of where the TTP program is as well as the Road Maintenance program. We touched a little bit on the continuing CR coming in. We talked a lot about the road maintenance survey. And we talked a lot about the GAO report and how that'll not only affect the TTP program in construction and how it'll affect road maintenance.

Out of our meetings we came into some new recommendations, some new priorities. One, we need to keep encouraging tribes to have a member of the tribe have access to RIFDS. Without access to your own inventory data, how are you going to have a well-organized, up-to-date database?

The next topic we'll discuss is our survey that's going out. The first one we'll talk about is RIFDS, the Road Inventory Field Data System. That's where all the data is for our roads. There are only 165 tribes that currently have access to RIFDS.

The GAO report focused on the weaknesses of the data. Some of this data is outdated. Some of this data doesn't get needed anymore. It's not a part of the official Map21 formula, FastAct formula now. Why is it part of the inventory?' So now there's another shift towards data and cleaning up what the NTTFI is going to be. That'll be an ongoing process with us here at TBIC, the Coordinating Committee, the QCQA team through the Coordinating Committee and other things to decide what the new national road inventory is going to look like.

Without tribes having access to it and to your own data, what's the chances or what's the likelihood that a tribe is going to be actively involved and get all of their data up to date? So we just want to push that when you go home, push, push, push all your tribes that have any kind of road miles to go get access to RIFDS. It's one of the most important things to having accurate databases at the tribal level. They can go in there and change a surface from six inches of gravel down to three inches of gravel or from gravel to pavement. Simple changes like that without access to RIFDS will be hard change.

Point 2 is the Road Maintenance Survey. We are waiting on OMB to approve a couple things. We have to comment on some of their comments and then hopefully this survey will go out to tribes. But this is a good first step in collecting some road maintenance data that's never ever really been collected before.

We gathered all the addresses for every single transportation director and road maintenance foreman for the 175 tribes and we've got hard copies and we're going to mail them out also. So the more data we get back, that we can bring back to justify to you folks who can carry it forward and this is essentially what we need. We've tried several different options to try to get the survey out and there always seemed to be a problem whenever it got the government involved. This initial survey will collect more road maintenance data about individual tribes, individual roads and how maintenance is done on them, some costs associated with that stuff.

To know how much money was spent on BIA 8 on the Navajo Reservation last year, Leroy would have to ask Navajo. I think that's something we need to have and that data needs to be in one spot and be collected a lot more. It'll give us a lot better cost of actual costs being spent as well as deferred maintenance cost going forward. It'll be more real data driven directly from tribes.

I think the goal of this thing is to try to get a web-based software, a web-based program so all tribes are going to be reporting uniformly in the one searchable database. We've looked at several options of this too. We need the rest of the tribes to step forward and start having your transportation directors, your transportation planners, your maintenance foremen submit some numbers so that we can accurately reflect what the need is for road maintenance. For years we sat stagnant at \$24 million when the price of fuel doubled in that time, the price of metal tripled in that time. These snowplows, they don't operate themselves. They've got to be serviced. They need cutting edges, they need these oils.

This is to justify why we need the increase in road maintenance. This software is going to save us a lot of time. It'll be more realistic rather than having to sit there every evening and write this information out and submitting everything hard copy.

We've been doing this for a couple years now trying to find a software that'll work for us and the baseline on this is around \$10,500. We've looked at a lot of different options. One that we are kind of narrowing down to now is about \$10,500 for the software itself, \$4,500 for training and then there's \$1,900 for hardware—computers and things like that. You multiply that number out it gets big in a hurry. It'll be roughly \$3.5 million to get the first initial wave of this program into action, working and then out there to tribes and then there'll be smaller costs per year after that for user fees and things like that.

Comment: I know there's some complication questions around it but we established a tribal data system out of this process actually. That system that we designed is actually being held right now by Chickasaw and we were going to use it for gathering data on performance of our contracts, compacts, etc. Just sort of wondering if we should explore whether or not that... 'cause it was designed to gather different kinds of data for different programs and transportation was going to be one of them. So I'm just wondering if we can maybe use it, George. I'm not sure if your shop has control over it. I'm not sure who has the actual property rights of that data system but my understanding, Sharee, that Chickasaw's willing to either maybe continue to host it or somebody else could host it but they're the ones that worked with us to design that system. Should we try to explore that? I understand we need resources in order to implement it and get an accurate data update on the status of all the roads and what's the cost and all that stuff. Sharee, do you have something to offer there?

Sharee Freeman: Yes, Chickasaw doesn't want to host it any longer because it's too big of a project but they have the guts of the system and they'd be more than willing to give it back to the Feds to run it, to LeRoy's shop and it's just a matter of whether or not you want to explore that to see if it would work and if the system can be used for that purpose instead of spending more money to go out and buy another system to do that work.

We could put you guys in contact with their IT operator and the you guys can explore whether or not does this system work for what your needs are.

Leroy Gishi: Mr. Chairman, in closing I wanted to just mention that three of the last four years in terms of the budget we've had House reports that have concentrated on increases. One of the things I want to make sure that we made clear was they've really been emphasizing school bus routes and any increases that they're seeing and that's how we're addressing it. So those are areas that we're looking. Dakota talked about being able to amend the inventory so that we can identify school bus routes because that's a changing target. It changes from year to year depending on individual schools that are out there. So that's an area that has really been picking up in the last three to four years as I indicated has emphasized that so it's a good clue as to where Congress is going with a lot of these efforts for road maintenance particular.

Question: I know you discussed this also at the July TIBC, this issue on school bus routes and how you're going to tackle it because you really didn't have within your database the ability to say in the Pacific Region or Eastern Region to know how many BIA tribal roads are actually along school bus routes. Are you formulating ideas on how you're going to tackle that?

Response: Yes. In fact part of the process that we're talking about here is one of the first areas that we're looking at making a recommendation is part of the GAO and we've met at different locations out in the field in the last two to three months since that report came out – NCAI, ATNI, a number of meetings with transportation subgroups – and one of the areas that they feel very comfortable with is that's one of the areas that we need to identify is school bus routes and have a process that we report that. This is not just BIA routes at that point because we have 161,000 miles of public roads, this would include tribal routes, BIA routes, county, other municipality type roads and state roads. So the whole idea is to make an effort to identify those so that when we start getting these data calls and these requests we have an immediate way of being able to address those and if it's specific funding that's geared toward those areas then we have that information to be able to pursue. Thank you.

Education Subcommittee Update

Buster Atteberry

The Education Subcommittee met on Monday. It was recently formed and the main focus on the Education Committee is to bring information and analysis and strategies to the full TIBC body. Our purpose is to analyze resources in BIE that support Indian education as well as resources serving the 88 percent of tribal students who are in public schools; review funding methods used by BIE and BIA, as they are separate, that serve Indian students in BIE and public schools; determine spending trends for BIE and BIA programs that serve Indian students; review recommendations from GAO reports for progress especially when related to funding; assess whether education funding receives proper consideration and input from tribal and BIA stakeholders as part of the TIBC budget formulation process; provide recommendations to TIBC on ways to improve the BIE budgeting process as part of the TIBC

budget formulation process; and that BIE should have a voice at the table for including priorities in the budget.

There is designated funding for BIE but their funding is intertwined with other departments and agencies within the departments and agencies within the Department of Interior as well as the Department of Education. The subcommittee is seeking to ensure the education funding is prioritized in larger TIBC discussions and protocols. For instance, we learned that surveys that are sent out to the regions do not include a portion of the education prioritization. We also learned that BIE is on a separate fiscal calendar than other Interior programs so we will be seeking additional financial information to ensure we have accurate and timely data. The subcommittee is requesting information from BIE including status of the reorganization and how that would impact resources throughout BIE; financials including information on per pupil expenditures, information on funding from other sources like the Department of Education and other DOI programs; MOU with the Department of Education so we can determine whether we can utilize that process to compel financial information from education; report out spending from Cobell settlement regarding scholarships and determine whether some of that funding can be utilized to enhance educational opportunities for native students.

Students are trying to maintain their own culture and at the same time learn another, especially when they come directly from reservation.

In California, Governor Brown just passed a bill making it mandatory to teach Native American history in all public schools. So we definitely want to be at the table when they provide that curriculum to the students because we don't want to go back to the same old thing.

Again, for the subcommittee, we will be looking for data on dropout rates, Native American students in public schools. We also want to get a timetable on the maintenance of our BIE schools.

[BREAK]

Office of Justice Services Update

Jason Thompson, Assistant Director for the Bureau of Indian Affairs Office of Justice Services

I'm going to present to you on the '17 and the omnibus and what that resulted in. The 2017 budget that came in for us with the omnibus. Criminal Investigation, CI&P—was \$4,496,000.

The fixed cost, there's a million dollars for the NAGPRA implementation, an opportunity for us to get into the NAGPRA and ARPRA investigations again. We used to do that some years ago and we got out of that because just funding and things changed. Some of the tribes really are impacted by these types of investigations. The remaining got split up between 638, self-governance and then BIA direct service programs. Detention, Corrections—there was \$1.2 million. Fixed cost again took up \$202,000 of that and then there's a million dollars there for contract bids.

Tribal Justice Support, this is the Courts money. You can see in the proposal for that year the proposed was a reduction of \$8 million. That was the money that was specific to the PL280 locations. Congress put that money back.

TPA dollars, there was an increase of \$2,500,000. You can see fixed cost and then a reduction of \$46,000 to base transfer requests and then the \$2.6 million program increase that was specific to the TIWAHE initiative.

Here are drug cases reported in Indian Country. Starting back in 2011 we had 722 total cases and that increase across 12 to 1,605, 2013 is 2,157, a pretty drastic jump from '13 to '14 of 3,364 and again similar jump from there to 15, 4,750 and then in '16 5,093.

I think one of the things that I want to highlight to you, you probably are hearing a lot of discussion about the opioid issue, the opioid epidemic that we believe is being manifested and forced in Indian Country.

The other thing that I want to highlight to you is methamphetamine is making a really strong comeback for us. In 2016 we had an increase in methamphetamine seizures of 106 percent over the year before and an increase of opioid seizures of 56 percent. The problem for us with it is it's largely medication, it's largely pills type seizures that we go through with the opioid. The issue with methamphetamine is we have always seized a much larger amount of methamphetamine than we did opioid and so that's a much larger increase by volume across Indian Country that we've seen. So it's 106 percent for methamphetamine and 56 percent on opioids. There are 33 BIA criminal investigators nationwide to address that. That's actually down to 28 at this point. And then 16 school resource officer positions.

They come out to your reservations and do either some sort of high intensity or operation type stuff. We do it with marijuana groves, we do it with opioid and methamphetamine across the board but we try to get these folks involved in task forces, we try to get them involved with your tribal programs, those of you that run programs yourselves, to try to increase the resource there. We're never going to cover this with 28 officers. We're never going to cover it with 50 or 100 probably. That's a much larger issue than what we are currently staffed to address.

So one of the things that we're trying to do going forward this year, especially with what we're seeing in kind of what we would term as an explosion in both methamphetamine and opioid is to get somebody who is a full time trainer in these areas for us so that we can get those folks out to the field to do programs for you at the local level as well as district and region wide. What we see is there's a whole lot of misinformation or non-information related to this opioid. There is some seriously dangerous opioid related drugs out there that are even dangerous for you to touch.

This is much more dangerous than that when you start talking about the fentanyl. The fentanyl drug and the A-fentanyl and there's a number of derivatives of that. The problem for us with that and the reason it's so dangerous; there is no regulation on the purity of fentanyl. I went to a presentation a couple of weeks ago with DEA and he had packages of salt and he handed those packages of salt around and one of the packages—there were 10 packages—one of them had a small hole in it and every person that held that package, about three or four grains of salt fell out into your hand. And whenever we got done handing that around, what he said basically was those three or four grains of salt oftentimes with fentanyl is enough to kill you but you don't know that.

Naloxone is another issue that we've tried to use to address that in trying to get as many people as we can trained up to carry the naloxone which is basically an anti-overdose drug for opioid type situations.

Your tribal officers, if you're running a tribal program, can go to the nearest IHS and let them know that they need naloxone training and get that naloxone from IHS. It doesn't cost you anything and so we entered that MOU with IHS within the last couple years and so that's out there.

I don't know how many overdoses you're seeing in your communities but we see regionally very large numbers in some locations and very small in others. It's no different than the drug itself. We don't see opioid drug abuse cases so much in some regions and in other regions it's extremely high and on the rise. Why that happens is based on prevalence, on availability, how many people are bringing those drugs into those areas and so that's an issue right now that we see quite a bit.

Acting Director Addington is over on the Hill right now at a roundtable discussing these exact issues. I know they're going to be back this afternoon I think to share with you some of the conversation that happened up on the Hill and hopefully to keep conversations going related to this. I wanted to touch on that just briefly to let everybody know that this is a huge issue of concern for us and I know for your law enforcement programs and your tribes as well because it is affecting our people and in many cases we're seeing a number of deaths from it.

Next here are violent crime trends. You can see the trend for violent crime. We have seen a steady decline with some spikes obviously up and down in Indian Country. Some of that is related to how we're enforcing or the way that we're reporting. We've had a lot of changes in the last couple years the way that FBI takes the reports or the way that we have to write their reporting so that can change some of that. But you can see starting in the end of '14 and into '15 a pretty drastic climb for us in Indian Country and outside of Indian Country as well but a pretty drastic climb for us. Some of that is again attributed to another change in the way that DOJ or FBI does the booklets in the UCR but certainly not all of it. This would correlate back to the slide we just talked about with the drug trends.

Anytime the drug trend climbs, so does violent crime, so does property crime, so do those things that are related specifically to that. Violent crime rates are on the rise for us right now and we're hoping to be able to address those things based on statistics that your staffs are putting together, based on patrol needs and staffing needs, those sorts of things.

You can see that the climbs there are occurring into and through '16 and we'll see what the numbers are moving forward but we're not seeing any slow down there.

We're in an area where the drug rate is climbing. We haven't had increases in budget in sometime in law enforcement and so we haven't been able to increase staffing the way that we would hope to and I will always argue that an increase in staffing for us historically has always equated to a decrease in violent crime.

Ron Allen: The tribes have high hopes that we're going to access that violent crimes money, the VOCA monies which would mean a lot of money that would be put into our communities for public safety. I'm hopeful that the Administration is being very supportive of that amendment legislation.

Jason Thompson: I wish we had somebody here from DOJ here to specifically talk about not only that but the grant monies and those sorts of things that are going to be out there. I do understand that there is some talk that there may be some increases in BJA and that area and so certainly that would be advantageous to it at some level but I can't speak to it with any authority, Ron.

The Tribal Law and Order Act reauthorization. We've testified on the Hill on that here lately or in the last few weeks, a few issues with that that are kind of hanging out there. There's not a whole lot in there for BIA specific related to the reauthorization. A couple of things that are a little concerning to us. There is a provision in the Tribal Law and Order Act to withhold our funding if they don't get the unmet needs report.

The TLOA Spending Report is a report that we do to Congress every year that details to them the shortfall or what I would call the unmet need. The latest one that we've submitted is two billion dollars in unmet need. A billion on the law enforcement side and a billion on the court side. That doesn't encompass facilities in anyway.

And so those are some areas that Congress has proposed that they withhold our funding if that report is late so we've made some steps to make sure that we're able to get that to them. \$2.2 billion I think is what it is, it's a huge amount of money. And so hopefully whenever consideration for funding comes in they'll take a look at that report and we can make some changes there.

A number of areas requires Attorney General, Secretary of Interior, Health and Human Services to enter an MOU to cooperate, transfer funds, share resources, information relating to detention of Indian inmates, recidivism reduction, facility leasing and technical assistance and training. This is really designed for us to get HHS and SAMHSA and others to the table about providing treatment in facilities.

Extends Bureau of Prisons Pilot Program for another seven years whereby tribally sentenced defendants and violent crimes may be housed in federal facilities. We supported the reauthorization of this pilot. The program with the initial pilot, I don't know if any of you tried to utilize it or not. It was very difficult to get any of your offenders into the Bureau of Prisons under this pilot program. In fact, we only know of four offenders that were ever put into the initial pilot and so what we've done with Congress is to work with them and BOP into find a way to make this a lot easier for you to use.

There is a provision there for authorization for U.S. Customs and Border Protection to transfer funds to BIA for roads repair and maintenance where the Customs and Border Protection is the primary user of the road. Tohono O'odham and some of those areas down there where Border Patrol, there's a lot of damage happening to roads down there and so this is an effort to try to get them some help to get those things fixed.

Requires reporting for grants for pilot programs under the Trafficking Victims Protection Act of 2000 and other grants through the Department of Justice on matters relating to Indian tribes and Indian victims. This is a start at getting into the human trafficking arena. There's a reauthorization funding from 2018 through 2022 for several Indian tribal grants including those under the Omnibus Crime Control and Safe Streets Act of 1968, Indian Tribal Justice, Technical and Legal Assistance Act of 2000, Indian Alcohol and Substance Abuse Prevention Treatment Act of 1968 and Juvenile Justice and Delinquency Prevention Act of '74. So that was just extending those things further.

Old Business

Three resolutions were adopted. The first supporting the Federal Treaty and Trust obligations in the FY18 budget. That was putting TIBC on the record opposing the deep cuts in the Administration's budget and calling for a number of things—an executive order laying out the government to government relationship.

One supporting the federal trust responsibility for Indian Education and that was supporting restoring the funding for education programs, BIE funding and the Interior appropriations for FY18. \

And the third one was supporting funding in the Commerce Justice Science Appropriations Bill. We got an update from Virginia on the status of that earlier in the caucus or yesterday.

The old business was continuing to look at the next phase of the Kepner-Tregoe third party contractor. So we're working on that and we have set the dates for the Budget Subcommittee meeting and the Budget Workgroup, which we will disseminate via a flyer.

For March 6th I believe for the workgroup to meet a day before the Budget Subcommittee which will be the 7th and 8th.

The other action was the motion that was passed that the Central Office carryover be applied to FY17 tribal priorities which were Scholarships, Adult Ed, Aid to Tribal Government, Tribal Courts, Criminal Investigations and Social Services. Those were the action items from the July meeting.

We have the 2018 summer meeting region identified which was the Great Lakes Region or Midwest and NCAI has a pending contract for Mystic Lake.

George Bearpaw: The budget portion -- I did talk to Bryan about that and I think we're willing to do that. We can set up the conference line for that once we set the date. The other thing is for the actual meeting, the location, we can facilitate that if you want to have it here so we can help with that. We just need the dates and then we'll go into the actual budget formulation dates that we've already established. We can help with all of that.

Ron Allen: December 4th, 1:00 Eastern time -- pre-call scheduled.

Then that way we'll have a first face to face meeting maybe in January and then that will help us gear up for a follow up meeting in March.

Comment: TIBC should provide testimony at appropriations hearings.

[A draft agenda was developed for the March meeting and the tribal caucus agenda – emailed to TIBC reps.]

Division of Forestry and Wildland Fire Management

Peter Wakeland

Overall, against a 10 year average, total wildfires and the number of acres burned on Indian lands actually decreased in 2017. Indian land saw about 3,478 fires, which was down 28 percent. There was about 274,566 acres burned. That was down 45 percent. What I think is helping us is that when we look at lessons learned from the past we've learned that if we can get resources called in earlier, the appropriate number of resources at the appropriate time, we have a much better chance of keeping those fires small and keeping the acres down and I think that that was significant in helping reduce losses this year. I also wanted to say too, remarkably this year we had no fatalities.

Operationally we had more than 1,100 people out there. We were fully engaged this year. 1,100 people staffing about 205 engines, which is primarily our source of initial attack for tribal fires. Seven interagency hotshot crews. Four of those crews were 638 crews, tribal crews. Chief Mountain, Warm Springs, Geronimo, Syquan, three of them were federal crews from Fort Apache, Navajo and Zuni. We also had 43 pieces of heavy equipment and eight helicopter modules. And again, 2225 emergency firefighters. Remarkably we had no fatalities. We had minor injuries but to get through a fire season like this without fatalities within the Bureau, it's a great thing and we're so thankful that all our firefighters made it home safely.

The BIA Wildland Fire budget. We can see over the past few years that preparedness is up slightly which is good. We always need to maintain a level of preparedness that'll allow us to respond.

Emergency suppression shows a decrease but the total numbers for 2017 aren't in yet so we're likely to see that number go up. There's a slight upward trend in fuels treatments but most notably there's an upward shift in burned area rehab and it's bar funding and that's likely a result of the catchup work being done after the 2015 fires. There's a backlog of acres that need to be treated out there that were burned and we're doing our best to catch up on that. It's going to continue to be a priority for us until we get that backlog of acres completed.

Comment: We just want to make a request that if you could regularly send us a report so that we know. This topic about fire preparedness and fighting fires, etc. plus the rehab is a topic that keeps coming up in a lot of our areas and we're trying to get our arms wrapped around it so we know where we are and what's going on. To state the obvious, it's very troubling for a lot of tribal leaders.

Peter Wakeland: We'll do our best to help you there. In preparedness, those are the things that fund our readiness and with these particular dollars you can see 96 percent successful in keeping fires small. That's a pretty good number. We work very hard in doing that and like I said, lessons learned from the past have been helping us. Protection. Preparedness dollars provide protection dollars for burnable acres out there in Indian land. Workforce development and this is something that we're struggling with truly not only in Fire but on the Forestry side as well and I know they kind of go hand in hand but the fact of the matter is with our fire workforce we've got folks that are getting older and retiring. Same way in Forestry.

Back in the day the things that were very attractive to us might not be necessarily attractive to younger kids because there's so many different opportunities that they have, so many more different technologies and it does present challenges and we're looking at ways to figure out how do we recruit and maintain and continue to build a firefighting force for the future. We did stand up three Type 2 IA crews this year. They're stationed in Bay Mills, Yakima and Flathead.

Those programs accept candidates from all over Indian Country and it really is an emphasis on the fire training piece. If you folks have members that are interested in that and want to become involved, let us know and we can help you with some information.

Suppression funds. This is the workload funds. When something happens, this is where the dollars come from. It pays for crews, it pays for the engines out there on the fires, for the helicopters, for the shot crews, emergency firefighters. You guys will know, there's only a certain capacity we have within the federal government and actually no one agency or bureau can do it all by themselves. It's a collective effort. So when fire activity gets high, we have to draw all the resources we can. Surge capacity you can

see in 2016, there were over 1700 emergency firefighters and about \$12,000 that it generated for tribes. Fuels management. This is one where it's just a good investment when you think about it. Suppression dollars, fires happen, forests burn and a lot of suppression money is spent trying to put those fires out. What makes a lot of sense from not just a forest health standpoint but from a resiliency standpoint, fuels treatments, we get projects out there, we can keep forests healthier, we can reduce fuels, hopefully we reduce the severity at which fires are burning now.

Fuels management is a good investment. There are some studies that would show that it's cost effective, like two to 30 times more cost effective compared to suppression dollars. So fuels management is something that we need to continue to look at and focus our efforts there. Prevention. I think this gets overlooked a lot of times but prevention is a really important piece.

In Indian Country historically we've averaged over 5,600 human caused fires every year before the prevention program went in place and since that has been put in place and funded, Indian Country has reduced human caused fires annually by an average of 2,100 fires. If we look at dollars, what does prevention buy us? There's numbers that show us that investing \$300,000 produces an estimated \$5.2 million reduction in suppression cost or for every one dollar spent in prevention there's \$16 avoided on average elsewhere. So you can see why it's good and you see why it's important.

Post wildfire recovery. NIFRMA that provides the basis for what we do in Forestry plays into this in that we're mandated by law to ensure that the tribal forests are maintained and managed productively in perpetuity. Part of that means that when fires come through and burn and cause damage, we need to be able to do the rehabilitation. We need to facilitate the recovery of those fire acres. In some cases, with the severity that we're seeing fires burn right now, those acres, if we don't actually go in and rehabilitate them and get trees back in the ground, some of those acres could take many decades before they recover, if they recover at all. SO without doing this work we're really not maintaining that forest health like we need to. So burned area rehab has become very important. Like I said, there is a backlog on it right now. This year... Last year's numbers I believe showed us we needed about \$50 million to catch up on the backlog of acres for bar. This year I think we made about an \$8 million dent in it. That's not all of it, we realize that but it is making some progress and we'll continue to make progress as money becomes available. With that really that was my quick recap of 2017 and I'm certainly open for questions if you have any.

Meeting Adjourned