



TRIBAL/INTERIOR BUDGET COUNCIL – March 2020 Meeting Minutes

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Executive Summary

The Tribal/Interior Budget Council convened in Washington, DC from March 9-13, 2020.

- A quorum was present.
- The March 2020 Agenda was adopted as a loose guide, as additional presentation topics were considered and the Fiscal Year (FY) 2022 Tribal Budget Submission was underway.
- The November 2019 TIBC minutes were adopted.
- The Tribal Interior Budget Council Tribal representatives produced an agreement in principle on funding amounts for the FY 2022 Tribal budget submission prior to adjournment.
 - o After additional research and application of the Tribal methodology, a Tribal caucus was held on June 1, 2020, via webinar where the FY 2022 Tribal budget submission was approved with a quorum present.
 - o The final FY 2022 Tribal budget submission document includes detailed explanation of the tribal methodology applied and specific funding amounts applied to each program.

Assistant Secretary for Indian Affairs (AS-IA) Update and Discussion

AS-IA Opening Remarks

Tribal Energy Resource Agreements. – Tribal Energy Agreement regulations were updated to make it easier for Tribes to enter into Tribal Energy Resource Agreements (TERAs) with the Department and to develop all types of renewable and nonrenewable energy resources.



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Separate BIA and BIE Budgets. – The 2020 enacted budget included separate budgets for BIA and BIE which will help each bureau manage and operate their budgets for improved delivery of education to native children.

Operation Lady Justice. – The White House signed Executive Order 13898 to establish the task force on Missing and Murdered American Indians and Alaska Natives, known as [Operation Lady Justice](#).

Organizational Realignments. – The 2021 budget proposes the following organizational alignments to improve services to Indian Country:

- The Bureau of Trust Fund Administration (BTFA), formerly OST, would be moved under the Assistant Secretary for Indian Affairs. The budget activities previously in the OST budget are also restructured reflecting Interior’s successful trust reform efforts and eventual termination sunset of OST in accordance with the American Indian Trust Fund Management Reform Act of 1994. BTFA is the new home for the ongoing essential functions currently performed by OST.
- Management oversight of the Office of Justice Services would realign from BIA to the Office of the Assistant Secretary for Indian Affairs. This change would enhance the ability of OJS to increase collaboration with high level Federal, State and Tribal counterparts to develop and implement strategies that increase public safety in Indian Country. Tribal justice support including Tribal courts, emergency management and fire protection programs will remain with BIA.
- The Division of Energy and Mineral Development would align from the Office of Indian Energy and Economic Development or IEED within the Office of the Assistant Secretary to the Office of Trust Services within BIA. A successful realignment would improve communication and coordination, reduce any redundancies, stream line processes, offer cross staffing opportunities, and lead to increased performance and delivery of energy related services to Indian Country.
- Tribal leaders are concerned about realignment actions being proposed without consultation.
 - Tribal leaders from the Great Plains region requested consultation on the realignment of Minerals and Mining programs from Community & Economic Development to Trust – Natural Resources.

ROUTES Program at DOT. – The AS-IA will be meeting with representatives of DOT to discuss how Tribes can utilize the [ROUTES program](#) to address certain infrastructure needs.

2.5 GHz Spectrum Licenses at FCC. – The AS-IA mentioned the [2.5 GHz spectrum license opportunity](#) with the FCC and its August 2020 deadline (extended by 30 days to September 2, 2020).

COVID-19 Response, as of March 10, 2020

The Office of the AS-IA created a pandemic response team made of Federal representatives from AS-IA, DAS-M, BIA, BIE, OJS and OST.

- IA put in place the 2008 Pandemic Plan to guide Indian Affairs leadership and that was the most recent pandemic plan within Indian Affairs.



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- On May 11, 2020, an [updated Indian Affairs Pandemic Plan](#) was released.
- IA developed a crisis communication plan and developed a roles and responsibilities summary and distributed it to the appropriate Indian Affairs leadership.
- IA also created an internal share point site for employees with emergency management equities so that its representatives internally can communicate and share documents and information seamlessly.
- IA created a separate landing page on the indianaffairs.gov website for [COVID-19 updates for Tribes and Tribal members](#) to access.

Tribal Leader Discussion (by TIBC Subcommittee Subject)

(Data Management) BIA Labor Force Report. – Tribal leaders noted the need to bring the BIA Labor Force report back and their desire to collaborate with IA to bring back this report.

(Data Management) 2020 Census. – Tribal leaders noted the importance of the 2020 Census on the next 10 years of funding for Tribal governments and request what IA is doing to work with Census and make sure Tribes are counted.

(Data Management) IA Facilities Inventories. – The AS-IA discussed improvements to construction activities across IA programs and that IA is in the process of identifying a list of school and detention facilities and their condition.

- IA is in the process of developing facilities lists outside of these areas; however, current work stems from the condition of certain schools and detention facilities.

(Budget) Section 105(l) Lease Agreements. – Tribal leaders proposed that IA should create a small workgroup of self-governance and ‘638’ (ISDEAA, Title I contracting) Tribes to discuss section 105(l) lease agreement rules, policies, and processes.

- The AS-IA agrees and is open to the proposal.
- Tribal leaders requested that a Section 105(l) lease agreement session be held at the upcoming Self-Governance Advisory Committee Annual Conference.
- Deputy Assistant Secretary for Policy and Economic Development Mark Cruz is the lead in the Office of the AS-IA developing 105(l) lease agreements and is scheduled to attend the Self-Governance Annual Conference.

(Budget) IA Program and Account Names. – Tribal leaders discussed that certain IA program titles have negative connotations that are detrimental to Tribal citizens, particularly Tribal youth.

- The AS-IA and Tribal leaders discussed the progress on changing “Small and Needy” Tribes to “Small Tribes Supplement” and the need to consider different names for programs like “Welfare Assistance.”

(Public Safety & Justice) DOJ Attendance and Participation. – Tribal leaders noted that coordination with DOJ was a high priority issue. Tribal leaders renewed their request for DOJ to attend TIBC and request that the AS-IA insist on DOJ attendance.

- Tribal leaders underscored the need for better public safety and justice data and improvements to incident data collection to support justifications for budget improvements.



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- Tribal leaders note that DOJ’s control of these databases further reinforce the need for DOJ to participate in TIBC.
- IA representatives replied that these are all important considerations that are intended to be addressed by Operation Lady Justice. Specifically, data collection and accuracy. IA representatives encourage Tribal leaders to tell DOJ representatives these issues during the Operation Lady Justice listening session.

(Public Safety & Justice) Tribal Law and Order Act. – Tribal leaders noted issues with no funding for activities authorized under the Tribal Law and Order Act (TLOA). Tribal leaders posed the question, “should the Administration be raising the issue about how do we implement TLOA to make it effective?”

- Tribal leaders Stated that they recognize TLOA was an unfunded mandate to the BIA and DOJ, and that Tribal leaders recognize that funding needs to come from Congress to support TLOA authority; however, TLOA is a mandate on the BIA and DOJ to implement TLOA authority and Tribal leaders request that the BIA and DOJ better implement TLOA authority.
- IA produces a report to Congress on public safety and justice programs spending, staffing, and estimated funding costs in Indian Country.
 - Tribal leaders commended the efforts made by IA to improve the report, but noted the report took several years to publish and underscores the need to implement TLOA authorities at a faster pace.
 - However, Tribal leaders wanted to specifically recognize Deputy Director Addington for his role in that report and wished that every program and department within the Bureau created a report similar.
 - Tribal leaders Stated that full implementation of TLOA is necessary in order for Tribes to go to Congress and improve budgets that address safe reservations and communities.

(Public Safety & Justice) Health Care in Incarceration Facilities. – Tribal leaders stressed the importance of health care in incarceration facilities and request that the Assistant Secretary encourage IHS to resolve any issues in staffing incarceration facilities with health care personnel.

(Public Safety & Justice) P.L. 280 States. – Tribal leaders noted issues with the availability of funds for public safety and justice activities in P.L. 280 States. Tribal leaders also noted that there are law enforcement issues in P.L. 280 States such as Alaska and California that make Tribal communities less safe.

(Public Safety & Justice) Construction. – Tribal leaders noted the need for construction or upgrades across public safety and justice facilities.

- Tribal leaders noted that DOJ takes a position that it does not do new construction.
- IA representatives replied that facilities replacement/new construction funding has increased since 2018 to \$25.5 million.
 - IA acknowledges that this amount is not a lot of money, given the cost of construction, but it is helping IA start to address its priority list of detention facilities throughout Indian Country.



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(Public Safety & Justice) Operations and Maintenance. – Tribal leaders have considered seeking funds for the construction of new public safety and justice facilities, but there is no guarantee of receiving Operations and Maintenance funding for these facilities.

- Tribal leaders acknowledge that section 105(l) lease agreements could help address some of these Operations and Maintenance concerns.

(Education) ISEP Formula. – Tribal leaders expressed concern over not knowing the ISEP formula and how funding increases or decreases are allocated.

- Indian Affairs representatives replied that it will bring the ISEP formula to TIBC and explain how the ISEP funding is calculated and the weights that are used in the formula to distribute the funding.

(Education) School Facilities Maintenance. – Tribal leaders are concerned that school facilities maintenance is underfunded, causing funding to run out while there are still needs like heating and air conditioning. Tribal leaders expressed that funding to address heating and air conditioning needs in schools should be increased.

(Education) Roads to BIE Schools. – Tribal leaders asked whether roads around BIE schools are in BIE's inventory or BIA's.

- IA representatives responded that ownership varies and some can be county roads.

(Transportation) Roads Maintenance. – Tribal leaders noted inadequate Road Maintenance budgets, growing road and facilities maintenance backlogs, and that using TTP or other sources of funding to supplement road maintenance funding takes away from Tribes' ability to construct or improve roads.

- Tribal leaders stated that increasing severe weather patterns are depleting road maintenance budgets faster or causing roads to be impassable.
- Tribal leaders also stated that additional investment in road maintenance and preventative construction measures can prevent more expensive, catastrophic events that result in road closure.
- Several Tribal leaders noted that road maintenance programs are losing ground and that the condition of roads in Indian Country are worsening.
- Tribal leaders noted that bus routes are in poor condition, including bridges that require school bus reroutes.
- Tribal leaders stated that there are rights of way and other restrictions that make Tribes unable to fix roads to address certain issues and conditions.
- Tribal leaders noted the importance of routes connecting Tribal communities to non-Tribal communities and facilities, including schools, clinics, food sources, and fuels.
- The AS-IA is scheduled to meet with the U.S. Department of Transportation to discuss the ROUTES program and how Tribes can take advantage of the program.

(Transportation) Road Maintenance funding in the NATIVE Act. – Tribal leaders asked about funding for road maintenance in the NATIVE Act.

- IA representatives replied that the cooperative agreement with the American Indian Alaska Native Tourism Association (AIANTA) was signed last year and as of March 10, 2020, it has been unable to get an approvable work plan/staffing plan from AIANTA.



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(Land, Water, & Natural Resources) Climate Change/Climate Resiliency. – Tribal leaders expressed concerned that the administration had zeroed out funding for climate change. Tribal leaders firmly believe that climate change is contributing to adverse weather conditions and increases the severity and frequency of disasters such as forest fires.

(Land, Water, & Natural Resources) Irrigation, Dams, and water resource programs. – Tribal leaders expressed concerns with inadequate funding amounts for irrigation programs, dam programs, and water resource programs that threaten food supplies and present safety hazards to homes in Indian Country.

(Land, Water, & Natural Resources) Tribal Access to TAAMS. – Tribal leaders requested whether Tribes could have access to the Trust Asset Account Management System (TAAMS), noting that all Tribes should have access.

- IA representatives responded that only Tribes that have contracted or compacted to operate that program have access.

(Land, Water, & Natural Resources) Subsistence Management. – Tribal leaders noted that funding gets sent to the U.S. Fish and Wildlife Service (FWS) for subsistence management and that the overhead of their operations drastically diminishes the available funding that gets sent out to rural Alaska and to Tribes.

- Tribal leaders are concerned that interests in FWS favor States over working with Tribes.
- IA representatives note that there are two funding sources for Alaska Subsistence programs: one with BIA and one with FWS.
 - Tribal leaders expressed that they would rather that money go to a BIA Regional Office to administer the program.
 - Tribal leaders replied that their interest is in both funding lines, improving Tribal/Federal partnerships at FWS, and in IA support to encourage FWS to use subsistence funds to support Tribal partnerships and not to supplement other refuge management funding received by FWS.
 - Tribal leaders argue that a change in funding disbursement and administration of subsistence management funding could increase the amount of funding that makes it way to Tribes by reducing bureaucratic inefficiencies and improving Tribal/Federal partnerships in subsistence management.



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Office of Budget and Performance Management (OBPM) Update and Discussion

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[Fiscal Year \(FY\) 2020 & 2021 Budget Update \(March 10, 2020\)](#)

[FY 2021 BIA Budget Comparison Table](#)

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[BIA Internal Transfers and Fixed Costs](#)

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[BIE Internal Transfers and Fixed Costs](#)

[National Tribal Program Rankings Results for 2022](#)

[Comparison of 2021 Rankings to 2022 Rankings](#)

Timely Disbursement of Funds. – Tribal leaders continue to express frustration with the time it takes to disburse funds once enacted by Congress. Tribal leaders noted that when funds are delayed, they must borrow funds to maintain their governmental programs, services, functions, and activities.

- IA representatives responded that IA must respond to the Office of Management and Budget for the apportionment within 10 days and it takes OMB about 30 days to respond back with the money.
- Tribal leaders acknowledge that some delays are procedural delays from the date of enactment to the date funds are eligible for draw down but support that IA could still make the funds available to Tribes more quickly.
- IA representatives also stated that delays in disbursement are natural consequences of taking amounts for all of government and splitting them until they are the amount to be received through hundreds of contracts at each BIA Region and the Self-Governance office. IA representatives acknowledge that there is a capacity issue but argue that much of the lag in funding occurs as a result of Continuing Resolutions (CRs) that require duplicative processes across OMB, DOI, and IA program offices.
- IA representatives also stated that it is in the process of determining a more streamlined way of funding disbursement.
- IA representatives note the importance of having funding agreements signed and in place so that funds can be disbursed without delay.

Contract Support Costs. – Tribal leaders continue to express frustration with the time it takes to disburse Contract Support Costs (CSC) funding to Tribes. Tribal leaders suggest partial payments of CSC up to an amount that allows for the final adjustment of indirect cost rates and any other fluctuating variables that affect CSC. Tribal leaders suggest that CSC could be reconciled in the last quarter after a majority of CSC funds are paid.

Pilot Program for Alaska Subsistence. – Tribal leaders asked whether the recipients of the FY 2020 increase of \$700 thousand were Tribes or another type of entity.



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- IA representatives replied that currently the funds have been going to tribally authorized consortiums and the funds were within the Tribal Management/Development Program (TMDP), so those increases are intended for organizations that submitted proposals for it.

Appropriations with Specific Uses. – IA representatives and Tribal leaders discussed programs that have apparent increases on the comparison table, but there are instructions for how to use some or all of an apparent increase. OBPM featured some of those special instructions in its presentation so that increases in the comparison table can be understood more clearly.

- There was further discussion on how increases occur to programs in which IA representatives clarified that funding tables are included in Congressional reports with appropriations bills, so increases are often very specific.
- IA representatives distinguished these specific use amounts as funding available within a single program line but that funding has a specific use other than a general increase to the entire program line.

Native Language Grants Outside of BIE Schools. – Tribal leaders discussed general support for funding made available for native students outside of BIE schools for native languages and supported the recurrence of such funding.

Small Tribes Supplement. – Tribal leaders asked if Small Tribes Supplement (formerly Small and Needy) funding was moved to be in Tribes' TPA base funding for FY 2021.

- IA representatives replied that it did not get done on the FY 2021 budget and it is going to be base transferred in the 2022 budget.

Issues with 2022 Tribal Budget Submission Process. – At least one Tribal leader reluctantly cast their votes in the 2022 Tribal Budget Submission to rank each of the eight categories in the Tribal program ranking tool. Tribal leaders were concerned with the inconsistency of process across BIA regions as it related to their BIA Region's deliberation and ranking process.

- Tribal leaders recommended that providing instruction for the ranking process more consistently across BIA Regions could resolve this issue in the future.

Report of Funding Amounts by Region. – Tribal leaders note that Tribes do not share equally in all programs in the BIA and BIE budget. Tribal leaders request that OBPM provide a breakdown of where funding goes for each program by BIA Region.

Unmet Obligations Report. – Tribal leaders stressed the need to measure the unmet obligations of each IA program so that better budgets can be developed that meet targets and progress can be measured against the true need.

Operation Lady Justice Listening Session

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[Operation Lady Justice Listening Session Agenda](#)

[Task Force Summary](#)

[Task Force Bios](#)



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Listening Session Topics of Interest Operation Lady Justice Listening Session Presentation

Money and Personnel for Tribal Public Safety & Justice Programs. – Several Tribal leaders stressed that after the Task Force does its work and it reports back to the President, that money and personnel are needed in Indian Country if we really want to put a stop to this issue.

- Tribal leaders noted that the Federal government can produce protocols for action but it comes down to resources to get the job done.

Collaborative Action between FBI, DOJ, and DOI. – Tribal leaders noted that the FBI, DOJ, and DOI will need to work together to elevate this mission beyond Memoranda of Understanding or Agreements between agencies if the Administration hopes to address the issue of missing and murdered Natives.

Extracurricular Activities for Kids on Reservations. – Tribal leaders suggested that additional after school and summer programs and opportunities for Native youth could reduce incidences of crime and other social outcomes that contribute to less safe communities.

Restrictions on Activities under DOJ Grants. – Tribal leaders stated that VOCA funding restrictions made use more difficult. Specifically, money in year two could not be used on projects funded with money from the prior year, even if the prior year funding was only half of what was requested.

Too Many Grants. – Tribal leaders noted that there are so many different grants with different restrictions that grant management can become cumbersome and reduce program efficiencies and outcomes. Tribal leaders suggested consolidating public safety and justice funding sources and reducing funding use restrictions.

- Tribal leaders emphasized that they understand and acknowledge reporting and audit requirements and seek greater consolidation of public safety and justice program funding.
- Tribal leaders mentioned a ‘477’ (workforce development)-like consolidation of program funding or the ability to receive those funds through ISDEAA ‘638’ or self-governance funding agreements.
- Several Tribal leaders support reducing the number of grants that are required for funding every year.

Greater Field Engagement from the Task Force. – Tribal leaders expressed their belief that the Task Force should spend more time out in Indian Country to address this problem and that addressing this problem should involve understanding the unique situations across Tribal communities that are contributing to the issue of Missing and Murdered Indigenous Women (MMIW).

Lack of Telecommunications. – Tribal leaders note that a lack of reliable telecommunications lead to difficulties in reporting and responding to calls on the reservation for law enforcement.

Reward Money Works. – Tribal leaders note success in certain reward money programs for witnesses who come forward with information on incidents of crime. Specifically, Tribal leaders



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noted that reward money can help solve crimes when evidence is limited or considerable time has passed.

Better Data Collection Needed. – Certain incident reports do not include the race, ethnicity, or national origin of the deceased, making tracking incidents against Native Americans more difficult to track and quantify.

- Tribal leaders noted the need to collect better data, but also the need to protect that data.

Funding needed for forensics. – Tribal leaders noted the need to send samples to outside laboratories and wait for results. Supporting forensic and chemical analysis capacity within Tribal communities could improve evidence collection and lead to more convictions and safer communities.

Public Perception. – Tribal leaders also noted the perception that this issue is limited to Tribal citizens in rural Tribal communities. Tribal leaders encouraged the education of urban areas and non-Natives on the issues of MMIW instead of ignoring the issues as something that happens “over there on the reservations to Indians.”

24-Hour Missing Periods and Police Response. – Tribal leaders noted that often they’re told “we can’t do anything until after the 24 hour period is done” or “maybe she ran into some friends and they’re out having a good time.” Tribal leaders stated that if a family is adamant that they know that their loved one is supposed to be returning at a certain time and they have not returned, then some action should be taken.

- IA representatives Stated that there is no law requiring that police wait for a person to be missing for 24 hours and the BIA Office of Justice Services policy and handbook given to all BIA officers and Tribal police departments recommend an immediate response.

MMIW Investigations in Alaska. – Tribal leaders recounted stories of police officers shooting Native villagers without adequate investigation of the incident, including failing to interview witnesses more than one year after the incident; rape investigations that also fail to include relevant parties with critical information.

- Tribes have Village Public Safety Officers but they are restricted in what they can respond to. Specifically, Tribal leaders say they can’t respond to felony crime issues.
- Tribal leaders argue that their officers go to the same academy as Alaska State Troopers but lack the jurisdictional authority of State Troopers.
- Tribal leaders also stated that response times when calling the Alaska State Trooper can be several days.
- Tribal leaders stated that State Troopers arrive faster to issue citations for a sublegal killing of a moose than a murder in a Native village.
- One Tribal leader stated that their entire region in Alaska has one single Tribal Peace Officer that is funded using DOJ-CTAS money, but it is obviously not enough.

“Somebody’s Daughter” MMIW Documentary. – Tribal leaders requested that the trailer for “[Somebody’s Daughter](#)” a documentary that focuses on some of the higher-profile MMIW cases be played during the listening session for the Task Force.