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Department of the Interior
Bureau of Indian Affairs
Transcript of Contract Support Costs
Consultation Sessions
Held on July 31, 2014
at
Embassy Suites
Oklahoma City, Oklahoma

* * * * *

YOUNG REPORTING SERVICES
414 N.W. 4th Street, Suite 140
Oklahoma City, Oklahoma 73102
(405) 236-8426 * Fax (405) 236-8429
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Reported by: KELLY LAIRD STOABS, CSR

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|---|---|
| <p style="text-align: right;">Page 2</p> <p>1 AGENDA</p> <p>2 PAGE</p> <p>3 Welcome & Introductions 3</p> <p>4 Overview & Presentation, Contract Support Costs 6</p> <p>5 Discussion, Question 1 11</p> <p>6 Discussion, Question 2 12</p> <p>7 Discussion, Question 3 16</p> <p>8 Discussion, Question 4 17</p> <p>9 Discussion, Question 5 19</p> <p>10 Discussion, Question 6 27</p> <p>11 Discussion, Question 7 31</p> <p>12 Discussion, Question 8 36</p> <p>13 Additional Comments 38</p> <p>14 Reporter's Certificate 55</p> <p>15 * * * * *</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">Page 4</p> <p>1 donuts. We don't get that at all the consultation</p> <p>2 sessions. That's pretty nice. Before we get</p> <p>3 started, what I'd like to do is just go around the</p> <p>4 room and have everyone introduce themselves so we</p> <p>5 have an idea of who is in the room and we can move</p> <p>6 forward from there. Can you start?</p> <p>7 MR. BOHN: I'm Eric Bohn, Chief</p> <p>8 Financial Officer with the Quapaw Tribe.</p> <p>9 MR. JONES: My name is Mr. Jones.</p> <p>10 I'm an attorney with the Confederated Tribes.</p> <p>11 MS. SMITH: Sherry Smith with the</p> <p>12 self-determination officer with the Eastern</p> <p>13 Oklahoma Region.</p> <p>14 MS. BUCKLEY: Patricia Buckley,</p> <p>15 Seminole Nation, Controller.</p> <p>16 MS. THOMPSON: Good morning. Angela</p> <p>17 Thompson, Seminole Nation, Budget Officer/Self-</p> <p>18 Governance Officer.</p> <p>19 MS. LEFRACHE: Good morning. Mica</p> <p>20 LeFrache, Self-Governance Coordinator with the</p> <p>21 Modoc Tribe of Oklahoma.</p> <p>22 MS. ROBERSON: Good morning. Rose</p> <p>23 Roberson, Southern Plains Regional Office.</p> <p>24 MR. BAXTER: Good morning. My name</p> <p>25 is Mike Baxter, Counselor at Thlophlocco Tribal</p> |
| <p style="text-align: right;">Page 3</p> <p>1 (Meeting began at 9:10 a.m.)</p> <p>2 MS. MOORE: Good morning everyone.</p> <p>3 I've been asked to welcome everyone. Our regional</p> <p>4 director hasn't made it here. I don't know what</p> <p>5 happened, but I wanted to welcome everyone to the</p> <p>6 CSC Consultation today.</p> <p>7 We wanted to ask, if you have</p> <p>8 questions, if any of the tribal people have</p> <p>9 comments or questions, when they speak in the</p> <p>10 mic, say your last name or spell your last name</p> <p>11 so we can understand and the court reporter can</p> <p>12 document that. So at this time, I'm going to have</p> <p>13 Ms. Hankie Ortiz come up. Thank you.</p> <p>14 MS. ORTIZ: Good morning everyone.</p> <p>15 My name is Hankie Ortiz. I'm Caddo, Kiowa, and</p> <p>16 Comanche, and I'm from Oklahoma. I grew up in</p> <p>17 Binger, Oklahoma, but I'm now the deputy director</p> <p>18 for the Office of Indian Services. I work in the</p> <p>19 Central Office for Mike Black. Mr. Black and his</p> <p>20 assistant secretary have sent us out to conduct</p> <p>21 some tribal consultations on contract support</p> <p>22 costs.</p> <p>23 First I want to say thank you to</p> <p>24 Kelly and the regional staff who have put together</p> <p>25 a really great meeting location and even provided</p> | <p style="text-align: right;">Page 5</p> <p>1 Town.</p> <p>2 MR. MOUSS: I'm Ed Mouss, Tribal</p> <p>3 Administrator for Thlophlocco.</p> <p>4 MR. HUMBLE: Good morning. I'm Terry</p> <p>5 Humble. I'm the Self-Governance Director for the</p> <p>6 Kaw Nation.</p> <p>7 MS. FOX: Good morning. I'm Bonnie</p> <p>8 Fox, Program Analysis with the BIA Office of</p> <p>9 Logistics Services.</p> <p>10 MS. MOORE: Good morning. My name is</p> <p>11 Kelly Moore. I'm a Self-Determination Officer,</p> <p>12 Bureau of Indian Affairs, Southern Plains Regional</p> <p>13 Office.</p> <p>14 MS. STARRITT: I'm Kimberly Starritt.</p> <p>15 I'm an Awarding Official at the Southern Plains</p> <p>16 Region.</p> <p>17 MS. PACK: Phyllis Pack, Self-</p> <p>18 Determination Specialist at the Southern Plains</p> <p>19 Region.</p> <p>20 MS. BARNETT: Angela Barnett, Self-</p> <p>21 Determination Specialist with the Eastern Oklahoma</p> <p>22 Region.</p> <p>23 MS. KARTY: Hi. I'm Denise Karty</p> <p>24 from the Comanche Nation and I'm a compliance</p> <p>25 officer.</p> |

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1 MS. MCCARTHY: Sabrina McCarthy from
 2 the Solicitors Office in D.C.
 3 MS. JORDAN: Sunshine Jordan, Pacific
 4 Region Senior Awarding Official.
 5 MS. FREEMAN: Sherry Freeman,
 6 Director of the Office of Self-Governance in
 7 Washington, D.C.
 8 MS. ORTIZ: Dan, did you want to make
 9 any comments? We were just getting started.
 10 MR. DEERINWATER: No, this is mostly
 11 BIA people. That's good.
 12 MS. ORTIZ: So I brought Sunshine
 13 Jordan as an awarding official in the Pacific
 14 Region. Hopefully she's here to answer any
 15 questions. And Sabrina McCarthy serves as a legal
 16 advisor. Sherry Freeman is the self-governance
 17 expert. We do have a lot of BIA people and all
 18 bases covered. So I guess we'll go ahead and get
 19 started.
 20 What I plan to do is just talk a
 21 little bit about why we're doing the consultation,
 22 give a little bit of background on contract
 23 support costs in general, you know, a little bit
 24 of history, and then talk about some of the
 25 questions that we've pulled from previous

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1 consultation sessions, or previous discussions on
 2 contract support costs just to kind of get the
 3 conversation started. And so if you have
 4 comments, we ask you to defer to any tribal
 5 leaders that are here and give them the
 6 opportunity to make comments first, and then other
 7 people are welcome to comment.
 8 So this is the language that was in the
 9 FY 2014 appropriations. This is what directed us
 10 to look into how we're doing things and trying to
 11 make improvements. It says we were directed to
 12 formulate long-term accounting budget and
 13 legislative strategies to address the situation.
 14 In the committee's view, each department, and
 15 they're talking about interior and health and
 16 human services, should consider a standardized
 17 approach that streamlines the contract negotiation
 18 process, provides consistent and clear cost
 19 categories, and ensures efficient and timely cost
 20 documentation for the departments and the tribes.
 21 So what we're really looking at is how
 22 can we streamline the contract support cost
 23 processes? And we're kind of looking at
 24 everything. We're open to making changes to the
 25 policy. We're open to making recommendations to

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1 change legislation. We are open to how we -- the
 2 processes that we use. How can we change those to
 3 streamline them? And we're looking at a number of
 4 things across the country. So this is just part
 5 of it, this contract support cost consultation.
 6 I'm going to go ahead and put all of
 7 these up here, because all of those things are
 8 what goes into Public Law 98-638 contract funding
 9 and the compact funding. It all includes --
 10 direct program funds are the basis, and the
 11 indirect and direct contract before costs make up
 12 the full support package that follows that
 13 funding, and then also startup costs for any new
 14 or expanded programs.
 15 Just to give you a little bit of
 16 background where we've come from. In FY 2009, we
 17 paid contract support costs of 72.6 percent; in FY
 18 2010, 75.16; FY '11, 97.46 percent; and FY '12,
 19 94.86 percent. So we were getting pretty close to
 20 100 percent before.
 21 The 2013 contract support is
 22 currently in the discerning process. So once that
 23 is approved and it's sent to Congress, we'll
 24 publish it on the Website just like we have all
 25 the other shortfall reports. The other ones are

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1 available online, and FY '13 will be published on
 2 the Website as soon as it's available.
 3 For 2014 in contract support costs
 4 funds, we were appropriated with \$241.9 million.
 5 BIA has committed in 2014 to pay 100 percent of
 6 the contract support cost requirement for Title 1
 7 and Title IV agreements.
 8 In 2007, a contract support cost work
 9 group was formed. I believe it was formed under
 10 Mr. Mouss's guidance, and so we've been continuing
 11 to meet at least annually. Well, we've been
 12 meeting more frequently because of the focus on
 13 contract support, so I wanted to provide you the
 14 information on contract support. It's made up of
 15 federal and tribal members. The tribal
 16 representatives, we try to get a representative
 17 from each region who is a primary representative
 18 and then an alternate representative who can
 19 attend so that we have representation from the
 20 different regions.
 21 And we've been talking about contract
 22 support costs. The work group finally has made
 23 some recommendations and we've included those as
 24 part of the comments on this contract support cost
 25 consultation process. So we're going to be

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1 looking at their comments along with all the other
 2 comments we received in this process. We're going
 3 to be looking at possible changes we can make to
 4 improve contract support cost distributions.
 5 So the next few slides are just --
 6 those are just a list of the members. You can
 7 read it here. It's easier to read on your paper.
 8 You have the PowerPoint presentation in your
 9 packet. There's also a contract support cost
 10 policy in your packet. I think they put a copy of
 11 -- there's an agenda and a copy of the Dear Tribal
 12 Leader letter that went out. So all of those
 13 things are in your packet.
 14 You can look and see who those
 15 representatives are on the work group from
 16 Southern Plains, and then be sure and, you know,
 17 let -- have communication with that person on
 18 contract support costs.
 19 We recently added two members to the
 20 Tribal Interior Budget Committee, so we're going
 21 to have a closer timeline on that group, because
 22 the Interior focuses on financial matters and
 23 contract support costs as part of that.
 24 Now we're getting down to some
 25 questions. I thought what would be helpful to the

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1 consultation is if we can provide some questions
 2 and you all can think about them and you could
 3 have some guidance on or have some discussion on.
 4 So I'm going to ask Sabrina and Sunshine, you come
 5 up to this other microphone. Just kind of help
 6 out. If there are questions that come up that I
 7 can't answer, then we're here to help follow up,
 8 provide some legal response from a practical
 9 awarding official perspective.
 10 So the first question that comes up
 11 is: Currently, the Contract Support Cost Fund is
 12 identified in three pools. If BIA is paying full
 13 Contract Support Cost Fund, is a three-pool approach
 14 still effective?
 15 This is how we do it now. Pool 1 is
 16 startup costs paid from the Indian Self-
 17 Determination Fund for tribes to start new or
 18 expanded activities. Pool 2 is the base funding,
 19 what the tribe received last year as long as it
 20 did not exceed 100 percent. Pool 3 are increases
 21 distributed using the bottoms up methodology to
 22 bring everybody up. We do use this and we have
 23 paid tribes 100 percent with other methodology.
 24 If we are paying 100 percent, is there a better
 25 way to do it? Should we be distributing funds?

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1 That's the question. This is the way our policy
 2 is written. We already have an agreement. We
 3 were not getting 100 percent. We were just
 4 bringing the tribes up to a certain percentage and
 5 giving a fair distribution. So that's one
 6 question. Does anyone have any comments on that
 7 or thoughts on that?
 8 Let's go to the second one. The
 9 second question is: How can the BIA clarify the
 10 Indirect Cost Rate portion of the CSC policy? For
 11 this question we've identified two options. The
 12 first option is how I would think most regions do
 13 it. Currently the Indirect Contract Support Costs
 14 for a tribe are calculated using the tribe's most
 15 recent Indirect Cost Rate Agreement. Then
 16 adjustments to the contract support cost payment
 17 are made when the tribe obtains a current Indirect
 18 Cost Rate Agreement within the funding period.
 19 That's one option.
 20 So the policy now says that we're
 21 going to apply the most current indirect cost
 22 rate. And the question here is really should we
 23 clarify that a little bit more? Well, Option B
 24 says use the most current negotiated Indirect Cost
 25 Rate Agreement in existence at date of

Page 13

1 Congressional appropriation or the first
 2 continuing resolution. This same rate will be
 3 reported in the Contract Support Cost Report.
 4 This does not apply to a newly negotiated Indirect
 5 Cost Rate Agreement that is negotiated for the
 6 following year.
 7 So with Option B, whatever your rate
 8 is at the beginning of the year, whatever point in
 9 time that is. Whether it's when Congress
 10 appropriated it or when we first sent out a
 11 distribution, it's that same rate the whole year.
 12 Option A, the first one, you use the
 13 rate that's in effect during the first
 14 distribution, which is probably going to be a
 15 continuing resolution. And then if the tribe
 16 negotiates a new rate that same year before the
 17 end of the year before the last distribution or
 18 before any future distributions, you would use the
 19 new rate.
 20 So, for example, at the beginning of
 21 the year if your rate was 11 percent, you would
 22 use that. You negotiate a new rate in the middle
 23 of the year for future distributions in that year,
 24 you would use the new rate, which might mean
 25 something different like 15 percent. So that's

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1 Option A, and Option B is using the same rate.
 2 Does anyone have any comments on that? How we
 3 could clarify that?
 4 MR. DEERINWATER: If you're changing
 5 your rate in the middle of the year, you're
 6 putting an additional burden on these awarding
 7 officials to get more money out in the middle of
 8 the year and then coming back on us for not
 9 getting that money out in a timely manner. So
 10 that gets to be very frustrating not only for us,
 11 but tribes, too. They want their money up front
 12 at the beginning of the year. This constant
 13 change of rates, you're dumping all this burden on
 14 the awarding officials to get that out, more
 15 modifications and so forth. So what remedy do you
 16 have for that? Do you see what I'm saying?
 17 If they start out the year with an 11
 18 percent rate, which is what you used, the middle
 19 of the year they negotiate a new rate at 15
 20 percent. Okay. These awarding officials have to
 21 turn around and do a modification for every
 22 contract, compact, whatever, again.
 23 MS. ORTIZ: They're going to have to
 24 apply a rate whenever they make the distribution
 25 anyway, so which rate it is, I don't know. Does

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1 that make much of a difference to you?
 2 MS. SUNSHINE: I think personally,
 3 because I am an awarding official, but if we
 4 weren't on continuing resolutions, that may be
 5 different. If we had all of the TPA money and all
 6 the contract support money up front, we could
 7 surely negotiate whatever rate the tribe had at
 8 the moment. But as we are getting CRs, as the
 9 tribe is getting a revised rate, it's just a
 10 moving target. As they're getting additional TPA
 11 money added, those types of programs just
 12 throughout the year, it always causes a
 13 modification, which causes a recalculation.
 14 MR. DEERINWATER: I agree. But at
 15 the same time, Central Office is putting pressure
 16 on us to get that money out, yet we're not getting
 17 the money to get out, so it's hard. Sometimes
 18 that will lead to two or three modification awards
 19 when it is all said and done. It's a given. We
 20 live with CRs full time,
 21 MS. ORTIZ: And I think the other
 22 issue is, you know, we want to get the most
 23 accurate, especially if we are paying 100 percent.
 24 We want to pay 100 percent but not go over 100
 25 percent, and sometimes using the current rate

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1 would give you the more accurate numbers on both
 2 sides. But thank you for your comment. That was
 3 Dan Deerinwater.
 4 Okay. Does anyone else have any
 5 comments?
 6 Okay. The third question we had was:
 7 How should BIA determine Indirect Costs for Tribes
 8 without a formal Indirect Cost Rate Agreement?
 9 Currently, the BIA negotiates a lump sum amount
 10 for Indirect-Type Costs. Should the BIA continue
 11 to do this?
 12 So this applies primarily to small
 13 tribes that may not meet the threshold for getting
 14 -- for being required to do an annual audit, so
 15 they may not have the required audit to negotiate
 16 an indirect cost rate. If they don't have that,
 17 this is what we have been doing, negotiating
 18 indirect-type costs instead of using a rate. It's
 19 been negotiated. And we're just asking -- this
 20 applies primarily to small tribes, I guess. So I
 21 don't know if any of you have had a chance to
 22 think about this or if you had thoughts on it, but
 23 do you want to share?
 24 MS. SMITH: I'm with the Eastern
 25 Oklahoma Region and I have a couple of tribes that

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1 do lump sums. And when I first started, there's
 2 really no policy or direction on how to negotiate
 3 the lump sum. That was my only issue on that.
 4 It's just based upon asking on how to negotiate
 5 that rate or negotiate for lump sum. I basically
 6 just did what the last awarding official did. So
 7 that was my comment.
 8 MS. ORTIZ: Okay. Thank you. Thank
 9 you for your comment. Does anyone else have any
 10 comments on this question?
 11 Okay. And for Question Number 4:
 12 Should small and needy tribes that have not
 13 negotiated a formal Indirect Cost Rate Agreement
 14 receive a flat rate of 30 percent for
 15 indirect costs? And then below you can see the
 16 definition for small Indian tribes in the lower 48
 17 includes tribes that have less than \$160,000 in
 18 annual funding and have 1,700 or fewer members
 19 enrolled. The Alaskan Native tribes must have
 20 less than \$200,000 in annual funding to qualify.
 21 So in the BIA, that's how we define
 22 small and needy tribes. So we do have a small and
 23 needy fund where the small and needy tribes get
 24 less than \$160,000 in the lower 48, or less than
 25 \$200,000 in Alaska. Then we give them funding to

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1 bring them up to at least that much for their
 2 annual funding. So what we're asking here is if
 3 they've not negotiated a formal indirect cost
 4 rate, should they receive a flat rate of 30
 5 percent for indirect costs? Did anyone have
 6 thoughts on that?
 7 MR. MOUSS: My name is Ed Mouss. And
 8 right off the top of my head, I work with
 9 Thlopthlocco out there, and 30 percent will be
 10 extremely low. They've got a number of things.
 11 One, it is one of the largest land bases here in
 12 Oklahoma, continuous land base not counting
 13 allotments. We have to control that land base.
 14 And when you start operating a Federal program, it
 15 doesn't begin to cover the support that's needed
 16 for that. So I think 30 percent is too low.
 17 MS. ORTIZ: Do you have a
 18 recommendation of what you think would be --
 19 MR. MOUSS: We're still in the
 20 process of getting comp rates on this thing, so I
 21 can't give you a recommended amount right now.
 22 And I think the general approach is probably
 23 right, because some of these small tribes, when
 24 they take on that Federal responsibility, there's
 25 a lot of stuff out there they haven't begun to

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1 address. That's where your contract support comes
 2 in and the interpretation of the contract support,
 3 the application of it.
 4 MS. ORTIZ: One of the comments that
 5 came from the Alaska Consultation is that it
 6 should be 65K across the board to be able to pay
 7 for an accountant and some of the audit work that
 8 has to be done. Is that a closer --
 9 MR. MOUSS: That's in the right
 10 direction, but 65, that's probably not an
 11 accountant, because when you start adding in your
 12 fringe, you can really eat that up.
 13 MS. ORTIZ: Okay. Thank you.
 14 MR. MOUSS: It needs to be upward,
 15 but I don't know what the rate would be.
 16 MS. ORTIZ: You think that's a good
 17 start?
 18 MR. MOUSS: Good start.
 19 MS. ORTIZ: Okay. Thank you very
 20 much. Does anyone else have any questions or
 21 comments on this one? Okay.
 22 Question Number 5: Currently, the
 23 BIA uses 15 percent of program salaries to
 24 determine DCSC. Should this be included in the
 25 CSC Policy? So we said this is what BIA has been

Page 20

1 doing and it kind of -- it was first established,
 2 I think, as a stake holder.
 3 We had a memo from the former
 4 Assistant secretary and it was identified that we
 5 were going to do this and then look at negotiating
 6 it. So the BIA could negotiate Direct Contract
 7 Support Costs, but we don't have -- we haven't
 8 been doing that. And so we would have to identify
 9 staff to do that and we would have to make sure
 10 that everyone is trained on how to do that,
 11 whoever is going to be doing that.
 12 So the question is, what should we
 13 put into the policy? Should we have a percentage?
 14 And if a percentage is put in, is 15 percent a
 15 good percentage? That's what we've been doing,
 16 but what are your thoughts on that for Direct
 17 Contract Support Costs?
 18 MS. FOX: I'm Connie Fox with the
 19 Office of Justice Services and former longtime
 20 Awarding Official.
 21 The reason I wanted to comment is
 22 just because if we put this 15 percent in the
 23 policy, we really need to clarify what it means,
 24 because there are some awarding officials that
 25 determine the 15 percent based on pay cost,

Page 21

1 salary, information that's two years old.
 2 We have some awarding officials that
 3 obtain current year budgets from the tribes and
 4 they calculate 15 percent of salary based on
 5 current year budgets. So we're just kind of all
 6 over the place with this 15 percent.
 7 So my recommendation is I think it's
 8 a good idea, because if you do a calculation based
 9 on 15 percent of salaries and actually compare
 10 that to doing a negotiation for direct contract
 11 support costs, it would come out about the same.
 12 It's just a matter of identifying the methodology
 13 and clarifying what that 15 percent is based upon.
 14 MS. ORTIZ: Okay. Thank you.
 15 MS. SMITH: I had this question come
 16 up one time. My name is Sherry Smith again.
 17 Where did the 15 percent come from?
 18 MS. ORTIZ: They established the
 19 policies before I was here, but it's my
 20 understanding that this is something that IHS was
 21 doing from people that were on the work group at
 22 the time.
 23 MS. JORDAN: Ed, do you remember?
 24 MR. MOUSS: It was a target point.
 25 MS. ORTIZ: Was that something that

Page 22

1 IHS --

2 MR. MOUSS: To this point here again,

3 if you contract through tribal law enforcement and

4 you begin to look at all the contract support that

5 the Federal side has, and I think that's what we

6 failed to look at. Look at how much contract

7 support the Federal side gets to run a law

8 enforcement program. I think it should be

9 comparable for the tribes.

10 And, again, getting back down, if we

11 have law enforcement, we have to patrol those

12 lands down there. We're now in the process of

13 setting up a radio system to reach all of those

14 lands. It's hard to do with 15 percent, so you're

15 going to have to look at a comparable way.

16 The federal government gets a lot of

17 contract support. I don't know if you guys

18 realize that. When you begin to analyze the

19 Federal budget, they've got a lot of contract

20 support. I think it should be comparative since

21 you're running the same program.

22 MS. ORTIZ: Okay. Thank you. Any

23 other comments on this issue? Okay. Thank you.

24 MS. THOMPSON: Angela Thompson,

25 Seminole Nation. We had requested -- we had one

Page 23

1 budget that I can think of off of the top of my

2 head where we did not have any salaries in that

3 contract. So I submitted a request to negotiate

4 other direct contract support costs that was

5 included in that budget. I never received a

6 response, so that -- for that purpose of that

7 specific budget, 15 percent, where we do not have

8 salaries in there would not benefit the tribe. So

9 I would prefer that we have an option to either do

10 the 15 percent or to negotiate.

11 MS. ORTIZ: Okay. Thank you.

12 MS. MOORE: My name is Kelly Moore,

13 Self-Determination Officer. At our region we do

14 the 15 percent DCSC with a final program budget,

15 salaries, but that's just kind of how we had done

16 it before. And, you know, what is the protocol?

17 Should we do it up front in the first distribution

18 contract support? You know, we used to do it at

19 the end. What if the rate changes? You know,

20 costs are more. That is my question.

21 MS. JORDAN: Are you talking about

22 awarding the DCSC?

23 MS. MOORE: Yes, the calculation.

24 MS. JORDAN: So you do the DCSC at

25 the end of the year?

Page 24

1 MS. MOORE: At the end.

2 MS. JORDAN: In the beginning do you

3 calculate the contract --

4 MS. MOORE: Right. I don't know how

5 the regions are doing it.

6 MS. ORTIZ: That's a very good

7 question, because I think what you're saying is at

8 the beginning of the funding period, the tribe may

9 have a budget expecting a certain amount for

10 salary, but by the end of the funding period the

11 tribe may have spent more than that on salary, so

12 the 15 percent would be larger.

13 MS. JORDAN: If the rate changes

14 in between, there's more costs involved.

15 MS. ORTIZ: And I'm not sure if it's

16 done consistently across the regions or not. I

17 don't think -- you know, it's not written in the

18 policy exactly when to do it, so I don't know. I

19 guess they --

20 MS. MOORE: That's just my comment.

21 MS. ORTIZ: Thank you very much,

22 Kelly.

23 Anyone else have any comment?

24 MS. FREEMAN: I think I'm going to

25 just step up so I can be heard.

Page 25

1 We just finished a meeting with the

2 self-governance tribes in Washington and they had

3 a number of recommendations that came forth. We

4 have a small work group on contract support, so we

5 kind of sat down for a day and talked and rolled

6 around these issues. These are the

7 recommendations that they are offering, so I'm

8 going to share with you.

9 For Direct Contract Support,

10 contracting tribes use salaries budgeted in their

11 638 contract; whereas, compacting tribes use pay

12 cost data to do the calculation. So the

13 recommendation is to initially establish a self-

14 governance tribally driven submission form, and

15 that doesn't have to be particularized to self-

16 governance, and seek the approval for future years

17 using the floor.

18 Then have either pay cost data

19 submitted by the self-governance tribes in the

20 regions and then shared, and establish a deadline

21 for this data so it comes in at a particular time.

22 Tribes should then have the option of using the 15

23 percent of eligible salaries or negotiating the

24 direct. So you can select either or.

25 And then the second -- the third

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1 thing they said is have a work group, a contract
 2 support work group tasked with determining the
 3 parameters to negotiate so it's not one region
 4 does one way, self-governance does it another way.
 5 Have a group sit down and talk through whatever
 6 the parameters are, then do a sample of a variety
 7 of tribes with various different things going on.
 8 Some tribes have had multiple rates.
 9 Sit down, do a sample and see what it looks like.
 10 Then that way you can develop a more useful
 11 mechanism as to how to go about negotiating it.
 12 And then lastly, during the
 13 transition stage, ensure that the process is
 14 consistently applied to tribes, and the agency has
 15 sufficient capacity to accommodate the
 16 negotiations. Sometimes you don't have enough
 17 people or some kind of hardship. So have that
 18 capacity as well and have the training that's
 19 needed on both sides to be able to proceed forward
 20 with negotiations. So that was their comment
 21 regarding Direct Contract Support Services.
 22 MS. ORTIZ: Thank you, Sherry. I
 23 appreciate that.
 24 Okay. Do we have any other comments
 25 on this question?

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1 MS. FREEMAN: Did anyone have
 2 thoughts on that way of doing business? I saw
 3 some heads nodding saying that would work.
 4 MS. ORTIZ: Question Number 6: How
 5 should overpayments be recovered to be fair to all
 6 tribes? This is a serious question that we're
 7 dealing with now, especially now that we're going
 8 to be paying 100 percent. We want to be fair. We
 9 want all tribes to get 100 percent of their
 10 contract support cost. So if a particular tribe
 11 may get 125 percent, that's not really fair, and
 12 so we're trying to figure out how to adjust those
 13 overpayments.
 14 We have talked -- some of the things
 15 that have been discussed are Bills of Correction
 16 where tribes can appeal or offsetting the amount
 17 the following year. And how do you do that?
 18 What's a good option and how could we do that?
 19 Does anyone have any thoughts on that?
 20 UNIDENTIFIED SPEAKER: Can you give
 21 an example of how the tribe would get overpaid?
 22 MS. ORTIZ: Part of it has to do with
 23 maybe the rate that's applied. You know, they use
 24 different rates or, you know, there's just a
 25 problem with changes in cost. Kind of like

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1 Sunshine said, it's a moving target. So it's not
 2 uncommon necessarily. It doesn't happen all the
 3 time, but it does happen. And, you know, for
 4 different reasons.
 5 Sherry, did you want to say
 6 something?
 7 MS. FREEMAN: I'm the queen of
 8 overpayment in the organization. I have 12 tribes
 9 that are over. And the way it happens is
 10 initially we take the rate that the tribe gives us
 11 at the time that we make the first payment. So
 12 what we were doing, we would take the tribe's
 13 rate. It could be an old rate. It could be three
 14 years old. We'll apply it to that -- we'll use
 15 that rate, come out with a number and push that
 16 money out.
 17 When we get to either pool 2 or pool
 18 3, we discover that they have a new rate that's
 19 more current. So we take that rate and we apply
 20 that rate and pay the money out. When we get to
 21 the end of the fiscal year, we have more
 22 obligations coming in. We applied the most recent
 23 rates that we had.
 24 So all along we're doing what
 25 Regional Director Dan says is a headache, we're

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1 giving them the headache. We're changing, a
 2 complete change in defining against the
 3 obligation. So what happens then, at say year
 4 2014, we've got loan obligations. We'll apply the
 5 most current rate at the end of the year, and then
 6 we discover we put out too much money, we're over.
 7 And so I had 12 that are over. Now,
 8 I'll be honest with you. I had kind of a bad
 9 attitude. I would say, "Oh, so we're over. We
 10 paid more than 100 percent? No problem. We owe
 11 the tribe that." No, that's not the way it's
 12 supposed to be working. And I say we owe the
 13 tribes that, because after all, we have litigation
 14 going on regarding Rema. That's wrong. Okay?
 15 We should be hitting the target,
 16 bringing all the money in terms of overpayment.
 17 We should be issuing a Bill of Collection if we're
 18 over. We should be working with the tribe to
 19 establish a mechanism so that when we go over,
 20 then the next fiscal year we can figure out and
 21 adjust accordingly.
 22 So the question becomes what rate do
 23 you take at the time of payment, or at the end of
 24 the fiscal year so you get that rate? Do you do
 25 it two or three times? Do you do it once and

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1 you're stuck with it? And then if you're over --
 2 we try not to issue a Bill of Collection if we can
 3 help it. We try and say, hey, you're over. Let's
 4 adjust accordingly in 2014.
 5 **A lot of tribes then send in the**
 6 **money back and then we're okay. Some don't. Some**
 7 **are in litigation over it. You know, they're not**
 8 **going to pay it back. But this becomes, then, one**
 9 **of the questions. What is the way? What rate do**
 10 **you take up, what time? And is it going to be the**
 11 **same for everybody? And do you freeze that rate**
 12 **or do you wait until the end of the year and do a**
 13 **second? What's the final rate on September 30th?**
 14 **That's the first question.**
 15 **And the second question is if you're**
 16 **over, do we do a Bill of Collection or do we take**
 17 **it out of your next year? Do we give you a choice**
 18 **to say we'll do the Bill of Collection and pay you**
 19 **back since we're on a two-year program? Do you**
 20 **say to us, no, we're not going to do a Bill of**
 21 **Collection. Just calculate our rate for the next**
 22 **year and take it out of that, take it out of that**
 23 **pot of money. So it's really your choice as to**
 24 **what you want. Queen of overpayment.**
 25 MS. ORTIZ: Sunshine mentioned this

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1 at a previous consultation, that it's better for
 2 tribes to make -- agree to adjustments rather than
 3 bills of collection, because bills of collection
 4 just are headaches accounting-wise.
 5 MS. JORDAN: And I think what we've
 6 heard is when funding is off, that it's done
 7 proportionately to appropriations that are already
 8 received. So if we're getting a CR with only 32
 9 percent of their funding, then that's how much
 10 that they're off, that would be 32 percent of what
 11 is going to the offset. Instead of taking -- like
 12 if you were overpaying \$100,000, instead of taking
 13 the whole \$100,000 out of the funds CR, if you
 14 have that much money, if the tribe had that much
 15 money, only taking a percentage of that
 16 distribution. That's what somebody had discussed
 17 before at a previous consultation, also.
 18 MS. ORTIZ: Any other thoughts?
 19 Question Number 7: Should BIA
 20 propose a change to Section 106(c) of Indian Self-
 21 Determination and Education Assistance Act so that
 22 the annual CSC report is submitted to Congress
 23 later than the current due date of May 15th?
 24 And this has been referred to in the
 25 policy -- well, in the statute the report has to

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1 be submitted to Congress by May 15th, and then in
 2 the policy there are deadlines that have to be met
 3 along the way to help us meet that goal. It's
 4 been very difficult for everyone to meet all of
 5 the deadlines that are laid out for them and for
 6 the region, for central office, for the
 7 secretary's office.
 8 And, I mean, I don't think that we
 9 ever submitted it by the 15th. That's why this
 10 issue was raised. It would be easy if all the
 11 charges were on a fiscal year, but many of them
 12 are on a calendar year cycle, and so that
 13 information may not be readily available by the
 14 deadline that I've identified.
 15 I think the first one for the region
 16 is in November, so that's even before the end of
 17 the year for a calendar year. So that's hard to
 18 meet right off the bat. You have to have time to
 19 move it back and forth between the region and the
 20 tribe to try and get the correct contract support
 21 cost amount identified.
 22 And then after that's cleared up, the
 23 region sends that information to Central Office,
 24 and the Self-Determination Division in my office
 25 gathers the information and puts it in their

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1 report by region, by tribe, and then we attach a
 2 narrative to it to explain.
 3 And it's all calculated. Everything
 4 has to add up. All the funds have to add up and
 5 everything has to make sense, and then we send it
 6 to the Determining Office. The Determining
 7 Office, once it's all packaged, it's still very
 8 long. It goes from Indian Services to the
 9 solicitor's office. At least two solicitors have
 10 to see it and give it to LeFrache. If she
 11 approves it, then it goes down to the assistant
 12 secretary's office. We have a couple of
 13 counselors looking at it. Then once the assistant
 14 secretary approves it, then it goes to the
 15 secretary's office. And then I'm not really sure
 16 who all sees it in the secretary's office, but
 17 it's moved around a lot, and then it's sent on and
 18 they have to approve it and then it goes to
 19 Congress.
 20 There are a lot of little steps. I
 21 probably left out a couple. I think it goes to
 22 Tommy Thompson's office, too. I think I left that
 23 one out.
 24 It's a long process. That's why this
 25 issue has been raised, because everybody was

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1 having trouble meeting that deadline.
 2 But this would be a legislative, a
 3 statutory change in something that may not be very
 4 easy anyway, but it's something that we felt we'd
 5 raise because it's been raised by others.
 6 MR. DEERINWATER: Why can't we
 7 propose that it be a certain number of days after
 8 the final appropriation for that fiscal year and
 9 look at those CRs? In other words, we didn't get
 10 a final CR until, say, August. We had 180 days
 11 from the last appropriation for that fiscal year
 12 versus a date certain like this.
 13 MS. ORTIZ: That's a good idea.
 14 Thank you for that comment.
 15 MR. DEERINWATER: Do y'all have any
 16 suggestions?
 17 MS. ORTIZ: Somebody threw around
 18 August 15th as a date. They thought that would be
 19 enough time for everybody to have the information
 20 at the regional level, get it reported, and then
 21 kind of work backwards from there. Because I
 22 think that's what everybody did with the May 15th
 23 date to get those deadlines kind of working
 24 backwards. So that date has been put out there.
 25 That seems closer to when it actually had been

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1 submitted. It's gone out of our -- the deadline
 2 for us to get it out of Indian Services is April
 3 1st. We've been getting it out of there. It's
 4 not been sitting in the review process.
 5 MS. FREEMAN: Can I say something?
 6 Part of what tribes may want to think about in
 7 terms of the date for final reporting of financial
 8 information is that the purpose of the report to
 9 Congress is to give Congress an idea of the
 10 contract support cost need so that Congress has
 11 the appropriate, the correct amount for the future
 12 year. And so the more accurate we can be in
 13 giving Congress a true picture of the need, the
 14 better likelihood we will have a resolution for
 15 the right appropriations the next time around.
 16 However, that conflicts with trying
 17 to get the information quickly to Congress so that
 18 Congress can take it into account when it passes
 19 the next year's appropriation. So one side is
 20 more accurate. The other side will actually get
 21 it to Congress in time.
 22 MR. DEERINWATER: That gets difficult
 23 for the CR money. All of this might work, but
 24 they don't do that.
 25 MS. ORTIZ: Right. Okay.

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1 MR. DEERINWATER: The best timing
 2 with the formulation --
 3 MS. ORTIZ: Well, the budget process
 4 is like two years in advance.
 5 UNIDENTIFIED SPEAKER: When did we
 6 get the report in this year?
 7 MS. ORTIZ: I think it's in June. I
 8 think they said middle of June, right? I think it
 9 was last month. Sherry, do you know?
 10 MS. FREEMAN: Yes, it was last month.
 11 MS. ORTIZ: It was last month. So I
 12 think that might be why that May 15th date was
 13 identified.
 14 MR. DEERINWATER: If it could cue
 15 with the formulation process, it might be more
 16 timely.
 17 MS. ORTIZ: Okay. Anything else on
 18 that one before we move go on to Question
 19 Number 8? What types of Self-Determination or
 20 Contract Support Cost training do tribes need that
 21 is not currently offered?
 22 This is a question because we kept
 23 hearing in the different consultations that more
 24 training was needed, more training was needed.
 25 And I'm not sure that everyone's aware, but I

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1 wanted to make sure that everyone's aware that on
 2 the BIA Website, on the first page there's a
 3 button that says self-determination training. And
 4 you can click on that button and you can see what
 5 training courses are offered. And since the
 6 beginning of FY '13, we've offered 52 different
 7 courses. Many of them are in person and many of
 8 them are available by webinar.
 9 And we also offer training
 10 opportunities for regions. If you want training
 11 on a specific topic or range of topics for your
 12 region, then we can make arrangements to come out
 13 here. So -- but if you are interested, we can
 14 show that the training is meeting the needs of the
 15 participant. And the training is available for
 16 tribal representatives, and we encourage everyone
 17 to take some of the training courses that are
 18 offered, because it's important for all staff who
 19 work with tribes to understand a little bit about
 20 self-determination.
 21 So we did get a comment yesterday, I
 22 think, on the super circular and how the impact of
 23 that. That would be something y'all can think
 24 about. If there are other ideas you have, let us
 25 know. Does anyone have anything right now off the

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1 top of their head they can think of that is not
 2 offered but should be or could be?
 3 Okay. With that, those are all the
 4 questions that we had pulled out of previous
 5 sessions and discussions that we've had on
 6 contract support costs. Really, those are just --
 7 as you can see, they're difficult questions and
 8 there is more than one way that things can be
 9 done. And there's pluses and minuses for doing it
 10 either way. So that's the kind of difficult
 11 questions we have to address when we talk about
 12 contract support costs, but there are many others,
 13 also.
 14 So at this time I just want to open
 15 it up to any additional comments that you might
 16 have. Is there anything else that you think would
 17 help us to streamline the process or improve a
 18 policy? Anything that you want to mention right
 19 now, I'll just open the floor up to whatever you
 20 want to talk about.
 21 MS. KARTY: I have a comment. On the
 22 training, a couple of our directors were absent
 23 due to other commitments, but I know the Public
 24 Law 638 course, they were offered two or three
 25 times a year. I wonder if you could maybe

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1 increase those to maybe four for each quarter.
 2 MS. ORTIZ: Just the general 638
 3 class?
 4 MS. KARTY: Yes. All of the classes
 5 really.
 6 MS. ORTIZ: Do you have a specific
 7 time period or course? Because we could do that,
 8 we could try to do that. And then, also, if you
 9 wanted something specific.
 10 MS. KARTY: I would do the Public Law
 11 638, probably January, February, March?
 12 MS. ORTIZ: What's your name again?
 13 MS. KARTY: Denise Karty.
 14 MS. ORTIZ: Any other comments?
 15 MR. DEERINWATER: I was going to ask
 16 for increased training. I'm finding that I get
 17 people find out on where I'm at and I get called.
 18 Some of these people can't tell you the difference
 19 from A, B, C.
 20 MS. ORTIZ: Is there a specific
 21 question that you're asking me that we could train
 22 on that would be helpful?
 23 MR. DEERINWATER: I think in
 24 general --
 25 MS. ORTIZ: Just basically like she

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1 was saying?
 2 MR. DEERINWATER: Some people don't
 3 even understand the concept of what the law is
 4 about.
 5 MS. ORTIZ: Okay. That sounds good.
 6 MS. FREEMAN: On training, let me go
 7 ahead and offer some of the ideas we've been
 8 working with. One of my own ideas, the work group
 9 wants if you would establish a mechanism for
 10 adjustments for over and underpayments. We
 11 currently do that with welfare assistance, kind of
 12 an over and under, so let that be part of the
 13 training.
 14 Provide training and technical
 15 assistance to tribes with audit and financial
 16 issues that become barriers when they go in to
 17 negotiate their IBC rate. The default matrix or a
 18 list of pass-throughs and exclusions to be used
 19 only in absence of information from the tribe to
 20 use as the contract on the support adjustments
 21 paid to date. Develop a matrix so that tribes
 22 know what the items could possibly be for pass
 23 through and exclusion. Establishes instruction
 24 for tribes to determine the pass through and
 25 exclusion, kind of a worksheet as far as the

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1 training.
 2 Then in terms of my own
 3 recommendation on training, a lot of regions now
 4 are required, or even the agencies are required to
 5 do a budget talk or presentation with tribes
 6 annually. A lot of the folks who show up for that
 7 are not only tribal leaders, but a lot of finance
 8 folks for tribes. There is a providers'
 9 conference that takes place in Alaska. There's a
 10 Midwest providers' conference that now takes place
 11 in Minnesota. So, again, when that call goes out
 12 to do that budget discussion, maybe have room or
 13 have a workshop or have a time scheduled at the
 14 same time, since you already have those finances
 15 folks there, to have that training take place
 16 there so that it's not coming to a special 638 or
 17 contract support training, but you include it
 18 because you're already going to be there to talk
 19 about budget with the regions or with the
 20 agencies, so do the training at that same time.
 21 MS. ORTIZ: Thank you, Sherry. Were
 22 there any other comments that you wanted to make?
 23 UNIDENTIFIED SPEAKER: I think it's
 24 important to state that I know that the department
 25 is paying 100 percent contract support costs;

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1 however, I don't know where those extra dollars
 2 are coming from. And I think it's important to
 3 state on behalf of the tribes that the department
 4 looks at other resources other than the direct
 5 service tribes, the money that's going to them,
 6 the Title I contracts or under the self-governance
 7 compact, any of those tribes. They're not pulled
 8 from other people, those services. I just wanted
 9 to state that.

10 MS. FREEMAN: Thank you. On that
 11 note, one of the comments that came back from
 12 self-governance tribes is that if you're going to
 13 try to meet the 100 percent and you don't know
 14 where it's going to come from, if you've already
 15 kind of extended that contract support amount of
 16 money, that at least have the opportunity to have
 17 consultation with tribes as if you're going to
 18 take programs or where you're going to go to take
 19 that extra needed money. The hope is that we
 20 don't have to do that, but if we do, at least have
 21 the consultation with the tribes so they know what
 22 programs. You know, they're a part of that
 23 discussion.

24 MS. ORTIZ: Okay. Thank you. Any
 25 other comment?

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1 MR. DEERINWATER: I think that leaves
 2 the main question of transparency of the
 3 appropriation and where it comes in, what's the
 4 target population.

5 MS. ORTIZ: Okay. Thank you. Any
 6 other comment? Okay.

7 MR. JONES: I have a comment. Thank
 8 you. My name is Ethan Jones. I'm with the Yakama
 9 Nation. I wanted to make sure all the tribal
 10 representatives here got a chance to speak before
 11 I did.

12 We would like to say just on behalf
 13 of my client, the Yakama Nation doesn't consider
 14 this as consultation. Under Yakama Law,
 15 consultation can only take place on the Yakama
 16 Reservation with the Yakama Nation Tribal Council,
 17 and I encourage you to live up to the Treaty of
 18 Sovereign Nations with the Federal government by
 19 doing so. This is an important issue. Tribal
 20 Council has taken an interest in this and would
 21 love to hear from you.

22 So I guess my question, and I
 23 apologize. It seems that there is a lot of
 24 technical staff here. But my question is a little
 25 broader. So I feel that the BIA is planning on

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1 fully funding FY '14. Is BIA fully funding beyond
 2 2014?

3 MS. ORTIZ: That's the plan, yes.

4 MR. JONES: Okay. And that -- has
 5 that been captured anywhere that I could find
 6 that?

7 MS. FREEMAN: No, it hasn't been
 8 captured yet. It results from two things. One,
 9 through the FY 2013 appropriation, Congress had a
 10 cap on the amount of funds that could be used for
 11 contract support cost. In Fiscal Year 2014,
 12 Congress did not have a cap. And the statute says
 13 that tribes should be paid full contract support
 14 costs. So now it is incumbent on the department
 15 to honor that statutory obligation. The barrier,
 16 the appropriations language, has been removed.

17 MR. JONES: Wonderful. Thank you.
 18 And I guess along those lines, what
 19 efforts is BIA making to ensure that Congress is
 20 appropriating enough funds in the future so we're
 21 not dealing with cuts in other programs?

22 MS. FREEMAN: As part of our
 23 appropriations process, we have tried to -- we
 24 have to try to predict. As we said, the budget
 25 process runs two years prior to the actual fiscal

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1 year when funds are appropriated. So it's kind of
 2 a target that we're trying to make two years down
 3 the road. Every year we try to do that anyway.
 4 We try to identify. In months that the shortfall
 5 quota is used for the contract support cost report
 6 that goes to Congress, that's how it's been
 7 helpful, because it identifies how much contract
 8 support cost had been paid.

9 And in the past, it showed where they
 10 need to actually run, so that we could try to
 11 calculate our best guess for what we're going to
 12 need in a couple of years. And so now I'm paying
 13 them 100 percent contract support costs. So it
 14 will still be done and still will be submitted to
 15 Congress. It should not have been out in the
 16 first place. It should identify what has been
 17 paid and then hopefully using that will help us
 18 predict in a couple of years what our need is
 19 going to be. That's how we try to determine that.

20 MR. JONES: So is there an active
 21 effort? Because I guess I haven't seen an active
 22 effort, at least I haven't received any
 23 communication about how BIA can be working with
 24 the Yakama Nation in particular to work with
 25 Congress, because this is an effort where BIA has

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1 to fully fund, the Yakama Nation wants full
 2 funding. How can we be helping you to communicate
 3 with Congress so that we can get -- you know,
 4 putting the right foot forward for full funding.
 5 MS. ORTIZ: So there are a couple of
 6 opportunities. As I mentioned before, we have a
 7 contract support cost work group with
 8 representatives from the regions. So
 9 communicating with your regional representative
 10 what your needs are, what your ideas, comments,
 11 thoughts are and have them translate that to the
 12 work group.
 13 Also, the Tribal Interior Budget
 14 Committee is made up of representatives from each
 15 region. Those representatives work on budget
 16 issues year round, so they are constantly working
 17 on budget issues, so any time the Yakama Nation
 18 should be communicating with their representative
 19 to that committee, also. And, of course, to try
 20 to make every opportunity to have their own
 21 conversations with Congress and how they want to
 22 proceed. That is their option. Sherry, did you
 23 have something else?
 24 MS. FREEMAN: One other option is the
 25 regional director every year has what's required

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1 as a budget meeting with tribes to talk about
 2 plans or kind of what it is that they want to see
 3 in the budget for the next year. So each regional
 4 director has been tasked to do that, and they do
 5 it at various -- different tribes come in, some do
 6 it by agency meetings, some do it with a big
 7 providers' conference I talked about, or the
 8 Midwest. I think Midwest conference is happening
 9 next week. So that's an opportunity for the
 10 tribes to actually come in and sit down and talk.
 11 Also, be with the other tribes.
 12 MS. ORTIZ: Just anytime throughout
 13 the year if you have issues, you can submit them
 14 to the leadership at the BIA, the assistant
 15 secretary, the regional director at any time.
 16 There's always an opportunity.
 17 MR. JONES: So it sounds like there
 18 are numerous opportunities. So I guess my
 19 comment, then, following up is communication.
 20 Communicating those opportunities so that we're
 21 aware of when we can be doing that.
 22 And just one final note is, I notice
 23 one of the questions was ensuring that the Federal
 24 government is going to overpay, and I think that
 25 the focus at this point, I know this is in active

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1 settlement discussions, but we've had decades of
 2 underpayment. So I think we should be focusing on
 3 fixing that underpayment before we focus on, you
 4 know, 5, 10, 15 percent overpayment. Thank you.
 5 MS. ORTIZ: Thank you for your
 6 comment. Does anyone else have any comments they
 7 want to share?
 8 UNIDENTIFIED SPEAKER: I have a
 9 question. This tribal work group, are they the
 10 ones going to be making the decisions or --
 11 MS. ORTIZ: The work group is not
 12 considered consultation. They're not going to
 13 make any decisions. What they're going to do is
 14 help us sort out the comments that we receive. So
 15 we're taking it from transcripts, because this is
 16 a formal consultation. We have a transcript from
 17 every one of the consultations conducted so far,
 18 and we're going to do that for the ones we're
 19 going to conduct in the future.
 20 I just put up a slide that identifies
 21 the consultation sessions that we have done and
 22 are going to be still. So we get the transcripts
 23 and we are going to pull the comments out of the
 24 transcripts and we're going to try to categorize
 25 them into particular issues that are important,

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1 and the work group is really going to help us sort
 2 through that and try to come up with some
 3 recommendations that would address those comments
 4 that it receives.
 5 And then we're going to show the
 6 assistant secretary and then have some discussions
 7 on next steps, whether that means we're going to
 8 do a proposal with changes to the policy, to
 9 consult in the future, maybe do the Federal
 10 registers. I don't know. I'm not sure exactly
 11 after we take the comments how it is going to go.
 12 Depends on what they are, depends on if they're
 13 policy change recommendations, procedure change,
 14 procedure recommendations or legislative changes
 15 they want to make. It depends on -- that will
 16 determine the next steps. So the work group is
 17 just going to help us sort through those
 18 recommendations, but not make any decisions.
 19 UNIDENTIFIED SPEAKER: I just wanted
 20 to add one thing. I just want to make sure that
 21 the tribes have approved each review, the
 22 shortfall report before it goes to Congress. And
 23 then if there's any payment they feel like that
 24 needs to be changed, that it's changed.
 25 MS. ORTIZ: Every tribe should have

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1 that opportunity to review their data. So we have
 2 been instructed not to share the entire shortfall
 3 report with everyone. Some tribes don't want
 4 their data shared with other tribes. But every
 5 tribe should have an opportunity to look at their
 6 own data and confirm that that's correct. And I
 7 believe, Kelly, you work with the tribes in the
 8 region.

9 Okay. Any other comments? I want to
 10 make sure we capture everything. We're here to
 11 listen.

12 The sessions we had, we had two
 13 national sessions in Washington, D.C.; one at the
 14 self-governance conference and one during the NCAI
 15 Executive Council Intercession. And then we had a
 16 national consultation at the midyear conference at
 17 NCAI in Anchorage, Alaska. This week we had one
 18 on Tuesday at the Navajo Nation, that region, and
 19 then in Phoenix, Arizona. So this is our third
 20 consultation this week, and then we are going to
 21 come back next week and have one in Minnesota, and
 22 then on the 19th we're going to have one in South
 23 Dakota.

24 So we have tried to do some regional
 25 consultation. We've tried to reach out to other

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1 places across the country and give them an
 2 opportunity. So I just wanted to let you all know
 3 that these are open to everyone, so everyone's
 4 invited to comment. We sent out a Dear Tribal
 5 Leader letter to provide notice that these
 6 consultations were going to be conducted.

7 We also published in the Federal
 8 Register notice. So hopefully people have gotten
 9 the word out, and, you know, people will have
 10 comments. They're welcome to attend any of these
 11 sessions, or you can submit a written comment by
 12 August 31st.

13 August 31st is going to be the cutoff
 14 for our consultation comments. You can send them
 15 in e-mail with your comments to
 16 consultation@bia.cutoff or you can mail a hard
 17 copy of your comment to the BIA, the Department of
 18 Interior, Attention Charley Park. He is going to
 19 be gathering those comments. He is also the
 20 Federal co-chair for this contract support cost
 21 work group. So that all would be very helpful.

22 I think the written comments are
 23 extremely helpful because we can see exactly what
 24 your comment is and what you want to state. So I
 25 think we kind of threw some questions out there to

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1 you that you have on the PowerPoint. When you go
 2 back home, if there's something that you want to
 3 say or the tribes that you work with, the Federal
 4 staff, if they have some comments, please let them
 5 know that they can submit written comments, that
 6 there is still plenty of time to do that. You
 7 have over a month to get those submitted and we
 8 look forward to having them. We welcome all
 9 comments because there are so many complicated
 10 issues.

11 Contract support costs are not an
 12 easy issue. There's many factors that are
 13 involved, so there are opportunities for
 14 improvements all across the board. We want to try
 15 to make those changes. And the more substantive
 16 comment on point with regard to policy,
 17 legislative, or procedural changes that we can
 18 get, the better, I think, we're going to be.

19 Someone else have a comment?

20 UNIDENTIFIED SPEAKER: I wanted to
 21 urge everybody to take a look at the policy, the
 22 current policy, because a couple of things have
 23 happened. First of all, the powers that be have
 24 come up with ONB that replaces the old ONB
 25 circulars. And our current policy refers to the

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1 old ONB circulars, so we're going to have to be
 2 doing some cleanup work on that, which gives us
 3 the opportunity to look at the whole policy and do
 4 cleanup work based on comments that we received in
 5 these consultations. So take a look through the
 6 current policy and any suggestions you have for
 7 revising it during this coming period.

8 MS. ORTIZ: Thank you. Yes, that
 9 would be very helpful.

10 Sunshine, did you have any final
 11 comment? Sherry, did you have any?

12 MS. JORDAN: I'd just encourage those
 13 that are from self-governance side to take a look
 14 at the tribalself-gov.org. They're going to post
 15 the comments that were done by the self-governance
 16 smaller group contract support work group sometime
 17 probably next week. Just go ahead and take a look
 18 at those and send in your comments if you have
 19 additional comments.

20 MS. ORTIZ: Dan, did you have any
 21 final comments?

22 MR. DEERINWATER: No. The only thing
 23 that I'd comment on is you guys having cool
 24 weather when you come to Oklahoma is not normal.
 25 Usually it's 110 degrees.

1 MS. ORTIZ: We were in Phoenix
2 yesterday. It felt so good. We were just so hot
3 in Phoenix yesterday, and then to come here. I
4 said, "I love Oklahoma."

5 MR. DEERINWATER: I can't believe you
6 scheduled it in August. But thank y'all for
7 coming. We appreciate you.

8 MS. ORTIZ: I say thank you to your
9 staff, because they did an outstanding job in
10 setting up everything. This has been great. They
11 bought donuts for everyone. We appreciate getting
12 everyone set up. We know it's a lot of work
13 because we've had to do it, and we just appreciate
14 your staff. Thank you so much.

15 All right. Thank you all for coming
16 and spending time with us. We appreciate your
17 comments and look forward to receiving some more
18 written comments from you. Thank you.

19 (Meeting concluded at 10:16 a.m.)
20
21

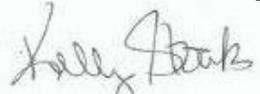
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1 R E P O R T E R ' S C E R T I F I C A T E
2

3 STATE OF OKLAHOMA)
4 COUNTY OF OKLAHOMA)

5 I, Kelly Laird Stoabs, Certified
6 Shorthand Reporter for the State of Oklahoma,
7 certify that the above and foregoing meeting
8 transcribed by me is a true and correct transcript
9 of the meeting; that the meeting was held on July
10 31, 2014, in the State of Oklahoma; that I am not
11 an attorney for nor a relative of any said
12 parties, or otherwise interested in the event of
13 said action.

14 IN WITNESS WHEREOF, I have hereunto set
15 my hand and seal of office on this the 17th day of
16 September, 2014.



Kelly Laird Stoabs
Certified Shorthand Reporter
For the State of Oklahoma



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