

**TESTIMONY OF THE HONORABLE DARRELL SEKI SR, CHAIRMAN
RED LAKE BAND OF CHIPPEWA INDIANS
AND
THE HONORABLE CHRIS MCGESHICK, CHAIRMAN
SOKAOGON CHIPPEWA COMMUNITY, MOLE LAKE**

FY 2019 BIA National Budget Meeting, Washington, D.C., March 22-23, 2017

Mr. Assistant Secretary, thank you for this opportunity to provide testimony on behalf of the BIA Midwest Region Tribes. The Midwest Region is comprised of 36 tribes and nearly 200,000 tribal members. Midwest Tribes are a driving force in the Region, employing tens of thousands of people and contributing billions of dollars to the regional economy. The Tribes of the Midwest Region manage or co-manage the resources of more than 62 million acres of treaty and ceded lands in Michigan, Wisconsin, Minnesota, Iowa, and Indiana for the cultural, subsistence use and the economic benefits of their members. These include 41 million acres of forest, 2.2 million acres of lakes, 4.8 million acres of wetlands, and more than 15,000 miles of rivers and streams. The budget appropriation process represents for us a major avenue through which the United States government honors its treaty obligations and fulfills its trust responsibility to Indian tribes. We come here today on a government-to-government basis to offer specific recommendations as to how you can help this Nation to better implement its contractual treaty commitments and carry out its duty of good faith and fair dealings toward the Region's tribes.

We were pleased to see that Interior Secretary Ryan Zinke's first hearing on Capitol Hill was with the Senate Committee on Indian Affairs on March 8, to discuss Indian Affairs priorities for the Trump Administration. We are optimistic that Indian Affairs and the BIA budget will be one of his top priorities.

Secretary Zinke spoke about the ongoing struggle tribes have with high unemployment and the lack of business opportunities. This is consistent with President Trump's promise to create more jobs and a stronger economy, including for rural communities. Included in our testimony today is a proposal for a Tribal Jobs Recovery and Relief Initiative, which will greatly assist tribes in this regard.

Secretary Zinke also spoke about the deplorable state of reservation infrastructures, including schools, housing, roads and bridges, and our excessive road maintenance backlog. He also spoke of the opportunity that now exists for the Administration to foster economic development and improved infrastructure in Indian Country, working shoulder-to-shoulder with tribes. This too is consistent with President Trump's promise to bolster America's failing infrastructure while boosting economic development. Two relevant BIA programs, Housing and Road Maintenance, have basically been flat-lined for two decades, despite hundreds of millions of dollars in BIA-documented maintenance backlogs. We propose significant increases to these programs in our testimony today.

We look forward to working with you and Secretary Zinke to ensure tribes are not left behind with regard to the above mentioned Administration initiatives. And we also look forward to working with you and Secretary Zinke, shoulder-to-shoulder, to ensure that the BIA budget be the first priority within Interior, and that significant increased investments be made to the BIA budget in FY 2018, FY 2019 and beyond, because as Secretary Zinke said "Sovereignty should mean something".

During our FY 2019 budget formulation process, Midwest Region tribes and BIA have identified a total of \$216 million in Unfunded Obligations that the federal government is responsible to provide. Important Tribal Priority Allocation (TPA) funding areas identified include, but are not limited to, Scholarships and Adult Education; Social Services; Tribal Courts; Road Maintenance; Criminal Investigations and Police Services; Indian Child Welfare Act (ICWA); Consolidated Tribal Government Programs (CTGP);

Johnson-O'Malley Assistance Grants (JOM); Trust Natural Resources Programs; and Aid to Tribal Government.

The Department of Interior and BIA Budget

Although we have begun the FY 2019 BIA budget process, we still do not have a FY2017 enacted budget. We are currently operating on a continuing resolution through April 28, 2017, with funding at the FY 2016 level, minus an additional Rescission.

The FY 2017 BIA budget request built upon increases enacted in FY 2014 - 2016, after three years of significant decreases in FY 2011-2013. The FY 2017 budget request was \$2.9 billion, a \$137,595 million (4.9%) increase over 2016 (Figure 1). Both the House and Senate Interior subcommittees have marked up their versions of the FY 2017 Interior bill. The House increase was \$72.3 million (2.6%), and the Senate increase was \$58.5 million (2.1%). Although there were differences between the House and Senate, there was support for increases to critical tribal programs including the Tiwahe Initiative, Natural Resources, Public Safety, Road Maintenance, Tribal Government, and BIE. **Congress should enact a FY 2017 budget that incorporates these needed additional investments, at the \$2.9 billion level, not one that just extends the FY 2016 funding level.**

The President's FY 2018 budget is anticipated to be released sometime in May. There has been talk that the FY 2018 Interior budget request may be 10% below the FY 2016 enacted level. A budget cut at this level, or any level, would be reckless and would result in irreparable damage to tribal programs and the people who depend on them. Midwest Region tribes have pointed out for several years that BIA and Tribes have received the short end of the stick when it comes to budget advances at Interior (Figures 2 and 3). We've also expressed that the recent stepped-up promotion of the Native American Crosscut budget has not allayed tribes' concerns that our critical core government services programs and staff, which are financed by the BIA, are dangerously underfunded and yet continued to be cut through sequestration, rescissions, and inflation.

We believe the Administration, OMB, and Congress do not fully understand the extent of permanent budget cuts that have been imposed on BIA and tribes. For instance, all tribes' Tribal Priority Allocation accounts (which form the core of government services) were permanently cut by about 16% back in FY 1996. These same programs were permanently cut an additional 8% from FY 2000 to FY 2016, from at least 14 different Across the Board rescissions (Figures 4 and 5). BIA and tribes lost an additional 5% in FY 2013-2017 from sequestration. So today, most tribes' critical government service programs must operate with 29% less *actual* dollars than in 1995!

For FY 2018 and 2019, the Administration and Congress must spare BIA and tribes from any cuts, and uphold the Federal Trust Responsibility and treaty obligations by making significant increased investments in BIA and tribal programs. The requested funding level for BIA and tribes in FY 2018 is \$3.4 billion, an increase of \$500 million over FY 2016. The requested funding level for BIA and tribes in FY 2019 is \$3.9 billion, an increase of \$1 billion over FY 2016.

Because the FY 2018 Interior and BIA budgets are still being developed, this testimony includes discussion and program funding requests for both FY 2018 and FY 2019.

Special Section on the Sequester

Sequestration dealt a harsh blow to tribes' government services programs. Every program was cut by 5% in FY 2013-2017, and this could rise to about 8% in FY 2018 continuing through FY 2025. The amount lost to BIA and tribes in FY 2013 was \$142 million. In December of 2013, Congress struck a two-year deal to temporarily soften the blow from sequestration. This resulted in a FY 2014 Omnibus

Appropriations Act which added back exactly the FY 2013 sequestered amount of \$142 million for BIA. Despite our pleas to utilize a significant portion of the increase to replace 2013 Sequestered funds at the tribal program level, the Administration chose instead to fund the President's initiatives outlined in his FY 2014 budget request. Whereas many of these initiatives were laudable, nothing was more important than helping tribes at the local level, who saw critical government service program budgets slashed. We do want to acknowledge and thank the Office of Justice Services however, for using \$4.5 million of their 2014 spending plan increase to replace a portion of the sequestration cuts at the BIA and tribal program level. And we are equally pleased they are Paying It Forward, into FY 2016 and beyond.

Sequestration caused the loss of hundreds of federal and tribal jobs in tribal communities and resulted in significant public safety, education, and human services challenges. Many lost jobs were of seasoned employees with decades of skilled experience. We adamantly opposed the position of the Obama Administration not to request restoration of the FY 2013 sequestration cuts in its last four budget requests, FY 2014 – 2017. And we call on the Trump Administration to exempt BIA and tribes from sequestration in FY 2018 and beyond. Sequestration is a breach of Trust and Treaties, and the President should not stand for it.

In 2015, Senators Tester and Udall introduced S. 1497, a bill to exempt BIA and IHS from sequestration. The bill was referred to the Budget Committee, but no further action has been taken. Tribes strongly support this bill, and we ask the Administration to support the reintroduction of this bill as well.

We must keep in mind, sequestration is a long term threat to tribes' abilities to provide critical government services to ensure the health, safety, and well-being of tribal members. The current two-year deal to soften the blow of sequestration is only for FY 2016 and FY 2017. Sequestration is here to stay, along with its terrible impacts, unless the Administration and Congress take extraordinary steps to hold tribes harmless. The President's FY 2014 - 2017 budgets did not do this – the FY 2018 and 2019 budgets should fully restore the sequestration cuts.

FY 2018/2019 Tribal Jobs Recovery and Relief Initiative

One of the Administration's top priorities is to create more jobs. No sector in America has higher unemployment rates than tribal reservations.

We propose a \$143 million BIA initiative in FY 2018 and 2019 for Tribal Jobs Recovery and Relief, to be distributed to tribes as a TPA General Increase. This increase would be similar in concept to the TPA General Increase Congress provided in FY 1998, which at that time was for Social and Family needs relief. The purpose of this Initiative shall be for Tribal Jobs Recovery and Relief. As a general increase, tribes would have the flexibility to determine how to use the funds, consistent with the individual tribal needs to promote job creation and relief. Allocation of funds would be on a pro rata basis, and based on each tribe's TPA funding levels.

This initiative would provide a balanced approach to allocation of FY 2018 and 2019 resources, while at the same time providing significant and lasting relief for tribal communities, which have suffered significant erosion in the last decade from across the board rescissions and sequestration.

Tribal Priority Allocations/Tribal Government

Tribal governments have suffered unprecedented cuts and erosion in federal funding for their critical core governmental services in recent years, seriously undermining our ability to provide public safety, security,

and well-being for people who already suffer some of the worst living standards in America. These services, including law enforcement, fire protection, courts, road maintenance, and education and social services, affect the everyday lives of ordinary people in Indian communities in America.

For instance, all tribes' Tribal Priority Allocation accounts (which form the core of government services) were permanently cut by about 16% back in FY 1996. These same programs were permanently cut an additional 8% from FY 2000 to FY 2016, from at least 14 different rescissions to pay for things like tax cuts, wars, hurricanes, and even BIA information technology upgrades (Figures 4 and 5). Tribes lost an additional 5% in FY 2013-2016 from sequestration. So today, tribes' critical government service programs must operate with 29% less *actual* dollars than in 1995! On top of all this, the only additions to most tribal core service programs in 20 years has been pay costs. But for the last 16 years, pay costs have only been partially funded, usually at 50% or less.

In just the last decade, the federal government spent more than two times the amount on the Iraq and Afghanistan wars (\$1.6 trillion) than it has on BIA and IHS programs collectively, *over their entire history*. It may be the case that some federal agencies can absorb this onslaught of cuts, but tribes cannot - we have reached the breaking point.

The only solution to this crisis is a General Increase in Tribal Government funding, to be distributed to all tribes. The increase should be at least \$100 million, and dedicated to just the General Increase. Although this amount will not even come close to replacing funds lost to inflation and across-the-board rescissions, it will provide a start at addressing the present crisis. Additionally, any targeted cuts to the TPA/Tribal Government, Other Aid to Tribal Government, Human Services, Education, Road Maintenance, and Trust Natural Resources components must be off-the-table.

Tiwahe Initiative

We strongly support the Tiwahe Family Initiative, which is intended to provide resources and flexibilities to assist tribes in addressing the inter-related problems of poverty, violence, substance abuse, and associated outcomes such as youth suicide in Indian Country.

Tiwahe offers a unique opportunity to streamline programs and services, and consolidate funding, to empower tribes to make changes to improve the lives of families. All of the programs currently under the Tiwahe Initiative have been top priorities of the Midwest Region. Social Services, ICWA, Job Placement & Training, Courts, and Housing, had not increased in many years. While Tiwahe initially includes some pilot tribes, it has also included Base increases for all tribes who operate social services and ICWA programs.

Congress has supported this initiative in both 2015 and 2016, as well as in their respective mark-ups of the FY 2017 Interior Appropriations bill, which is very good news. **We strongly support the BIA FY 2017 request of an additional \$21 million for the Tiwahe initiative, and we request a robust continued investment of an additional \$40 million in the FY 2018 budget, and an additional \$50 million in the FY 2019 budget.** We also recommend that a concerted effort be made by BIA and tribes to meet with the Administration and discuss the importance of the Tiwahe initiative in order to build continued support.

Finally, we recommend that tribes and the BIA undertake an expansive effort to engage with other federal agencies which provide services that could support the Tiwahe Initiative, including but not limited to IHS,

SAMHSA, DOJ, HUD, and OMB. By informing and engaging other agencies on Tiwahe, we could increase knowledge of related services available as well as build synergy.

Public Safety and Justice

Adequate funding of public safety programs is of critical importance in Indian Country. Several of these programs are among the highest priorities of Midwest Region tribes. Tribal governments need sufficient resources to combat rising crime, provide fire protection, and to uphold our laws, including fish and game laws.

Law Enforcement Services

One of the biggest problems facing Midwest Region tribes and tribes across the Country is insufficient recurring BIA funding for staffing and operations of Law Enforcement, including Detention Services. In the Midwest Region, our FY 2019 unfunded obligations are at least \$26.6 million for Law Enforcement, and at least \$3 million for Detention/Corrections.

Recent budget requests for Law Enforcement have been very weak. In fact, since implementation of the Tribal Law and Order Act (TLOA) 5 years ago (which was intended to empower tribal law enforcement with resources to combat crime), recurring BIA funding for tribal law enforcement agencies has not increased – it has decreased. The TLOA has failed tribes in this regard. The BIA recently completed an analysis of Law Enforcement and Detention needs pursuant to the TLOA, and found that the basic need for Law Enforcement and Detention in Indian Country is \$1 billion.

Drug abuse has had a devastating impact on Midwest Region tribes. Drugs of choice cycle from cheap forms of cocaine, methamphetamine, and heroin, and to prescription drug abuse which has reached epidemic proportions in many communities. The BIA has undertaken drug abuse initiatives in the past, including for methamphetamine. We urge the BIA Law enforcement program to work with tribes to strengthen the fight against drugs in tribal communities. Increased funding for tribal law enforcement operations would also enhance tribes' abilities to combat rising gang activity on reservations, which often goes hand in hand with drug activity.

We thank you for providing \$1 million in the FY 2014 Spending Plan for the Conservation Law Enforcement Officer program (CLEOP), which is administered by the Office of Trust Services. Midwest Region tribes have vast natural resources that we must protect through enforcement of tribal laws. In the Midwest Region, there is an unmet need of at least \$2.5 million for Conservation Law Enforcement Officers. The BIA's original FY 2012 justification for CLEOP was \$5 million for 50 officers. We urge you to provide at least \$5 million for Conservation Law Enforcement Officers in FY 2018, and to consider as part of a special initiative boosting the level by \$15 million in FY 2019, including \$5 million for training for new and existing CLEOs.

To begin addressing the \$1 billion need for the Law Enforcement program, we respectfully request that in FY 2018, funding for BIA's Law Enforcement program be increased by \$100 million, with at least \$80 million dedicated to tribal and BIA Law Enforcement base program increases. We further request an additional \$100 million in FY 2019.

Tribal Courts

Funding for Tribal Courts is terribly inadequate, and has consistently been a top priority of tribes. While modest increases in BIA law enforcement funding have had a real positive impact on tribes' abilities to combat crime, tribal court systems have not fared so well. Funding for law enforcement operations increased about 82% in the last 10 years. At the same time, funding for Tribal Courts rose only about

38%. In fact the only significant increase in decades came in FY 2010, with the addition of \$10 million, of which approximately half was used for needed tribal court base increases. In the Midwest Region, our FY 2019 unfunded obligations for Courts is \$21.6 million. We support the BIA FY 2017 requested increase of \$2.6 million for Tribal Courts as part of the Tiwahe Initiative, and request additional funds in FY 2018 and 2019.

As part of the FY 2015 final appropriations process, Congress cited the Indian Law and Order Commission's 2013 report, which notes that federal investment in tribal justice in P.L. 83-280 states has been more limited than elsewhere, and directed the BIA to provide a report within 180 days on the budgetary needs of tribal courts in these states. We agree that public safety and justice funding in P.L. 83-280 states has been very limited, and urge you to carefully consider the needs of Midwest Region tribal courts. We also appreciate the \$10 million provided by Congress in FY 2016 for Tribal Justice Support, which includes support for tribal courts in P.L. 83-280 states. However, very little of this amount has made its way to Midwest tribes, and we request the formula allocation be modified to include a greater distribution to Midwest tribes.

We believe it is critical to focus greater attention on the needs of tribal court programs. With increased funding for law enforcement activities, the needs for tribal court staff to process cases has increased dramatically. The Tribal Law and Order Act also placed additional financial burdens on tribal judicial systems. **We ask that in FY 2018 and FY 2019, you include a request for an additional \$80 million for Tribal Courts base increases, including those courts in P.L. 83-280 jurisdictions.**

Community Fire Protection

We are very concerned with the BIA's lack of attention to the need for community fire protection. The Administration has attempted to eliminate or reduce this program in recent years. The funds tribes currently receive for fire protection for their members is extremely inadequate. In the Midwest Region, our FY 2019 unfunded obligations are at least \$2.5 million. This dramatic funding inequity has created annual funding shortfalls which must be made up by reducing other important services to tribal members. The tribes have had to bear the burden of funding what is an essential government service that should be provided by the BIA. **We ask that attention be focused on this problem, and the BIA and Administration increase funding for Community Fire Protection in FY 2018 and 2019 by at least \$20 million.**

Education

Two top education programs for Midwest Region tribes include Scholarships and Johnson O'Malley (JOM). Tribal Scholarships are a critical means to enable tribal youth to attend college. The Scholarships program received a \$5 million increase in FY 2010, but funding has since declined steadily. We appreciate your request for an increase of \$6.6 million for Scholarships in FY 2017. **We request a \$10 million increase for Tribal Scholarships in FY 2018 and an additional \$10 million in FY 2019.**

Funding for the JOM program steadily declined in recent years, despite the fact that tribes continually identify it as an important program which provides education services not funded through other sources. We appreciate the increases for JOM of \$1.9 million in FY 2014, and \$.5 million in FY 2015. And we also appreciate the FY 2017 requested increase for JOM of \$3.6 million, for a total of \$18.4 million. This amount would bring the JOM program to about the level of a decade ago. **We request a \$5 million increase to the JOM program in FY 2018 and an additional \$5 million in FY 2019.**

Human Services

Funding for the Social Services program, which provides protective services to children, the elderly, and families, has been flat-funded for nearly two decades for all tribes except a few involved in special

projects. The ICWA program performs a crucial range of services designed to keep Indian children united with their families and is critically underfunded and is at a state of emergency. Due to the limited funding for adequately addressing ICWA needs our workers are over burdened with cases. The lack of adequate funding has resulted in high staff turn-over in an already understaffed program. This funding provides protection for the neediest of the needy, our babies and children that are in very dangerous circumstances, and ensures our Tribal members are able to maintain their family and cultural ties.

We previously expressed support for the Tiwahe Initiative, of which Social Services and ICWA programs are central. Funding increases for these programs under Tiwahe are much appreciated, and are a good start at reducing the funding gap that exists.

Funding for the Welfare Assistance program has declined more than \$11 million since FY 2005. The Midwest Region FY 2016 Needs Based Budget Analysis revealed an unmet need for Welfare Assistance of \$11 million. The recent recession and downturn in the economy have added to the difficulties tribes face in helping their communities to cope. The federal government's major "safety net" during these tough times, Unemployment Compensation, is largely unavailable to reservation residents because high unemployment and a lack of jobs have been a fact of life since long before the recession hit. The Welfare Assistance program is the "safety net" for tribes.

The Road Maintenance program, under Tribal Government, is consistently one of tribes' top priorities, and yet it is frequently targeted for funding reductions, and so remains one of the BIA's most underfunded programs. Currently, the deferred maintenance backlog is more than \$200 million each year (\$14 million for the Midwest Region). However, Road Maintenance is funded at just \$26 million, and very little Road Maintenance funding is actually used for deferred maintenance. Instead it must be used for day to day activities to maintain public safety, such as snow and ice removal. Especially in the Midwest Region, tribes' entire Road Maintenance allocation is quickly consumed by just snow and ice removal on tribal roads.

Human Services programs cannot continue to function effectively when, year after year, funding levels are reduced. **We ask that in FY 2018 and 2019, an additional \$10 million be added for Welfare Assistance, an additional \$10 million (above the FY 2017 Request) be added for ICWA, an additional \$10 million (above the FY 2017 Request) be added for Social Services, and an additional \$30 million be added for Road Maintenance.**

Trust Natural Resources

As stated in the American Indian Trust Fund Management Reform Act of 1994 (P.L. 103-412): "The Secretary's proper discharge of the trust responsibilities of the United States shall include (but are not limited to) the following:

(8) Appropriately managing the natural resources located within the boundaries of Indian reservations and trust lands."

After years of natural resources program cuts under the previous Administration, several meaningful increases were provided in FY 2010, including \$12 million for Rights Protection Implementation, and \$4 million for Fish Hatchery Operations and Maintenance, both important programs for Midwest Region tribes.

We appreciated your request for several important funding increases for Trust Natural Resources in FY 2014. As translated into the FY 2014 BIA Spending Plan, they included \$5.8 million for Rights Protection, \$1.5 million for endangered Species, \$9 million for Cooperative Landscape Conservation, \$3

million for Invasive Species, \$5.9 million for Forestry, \$1 million for Water Resources, and \$3 million for Wildlife and Parks. The President's FY 2015 budget, and Congress' FY 2015 enactment, largely retains these increases. We also appreciate the robust request for a \$48 million increase in Natural Resources in FY 2016, and \$24 million in FY 2017. These funding increases are needed and important.

In the Midwest Region, our FY 2019 unfunded obligations are at least \$29 million for Trust Natural Resources programs. We want to acknowledge that in recent years the Administration has done a much better job in proposing Trust Natural Resources funding increases, than Congress has in enacting them.

Rights Protection Implementation funds are essential for Midwest tribes to exercise treaty reserved hunting, fishing, and gathering rights. The funds are used to implement federal court cases and their federally entered consent decrees which have resolved modern treaty rights disputes between the tribes and states. The Federal government has an obligation and Trust Responsibility to assist tribes in implementing these court orders and decrees. The most recent is the 2007 Inland Consent Decree, which provided a conclusion to the historic *United States v. Michigan* court case. The FY 2013 and 2014 BIA Spending Plans increased Rights Protection by \$.5 million and \$5.8 million respectively, and include the requisite \$1.6 million to CORA and its member tribes for the implementation of the Consent Decree. In addition, the FY 2017 BIA budget request included an additional \$2.5 million, which would bring the total to \$40.1 million. Although these increases are welcome, the actual need is approximately \$52 million.

The FY 2014 budget request included an increase of \$2 million for the Tribal Management/Development (TMD) program. This included a much needed increase of \$200,000 for the Interior Partners in Conservation Award-winning Circle of Flight program. Unfortunately, the BIA's FY 2013 Spending Plan provided only \$1.5 million, and no additional amounts were provided in the FY 2014 Spending Plan. The FY 2017 BIA budget request included an increase of \$5 million for TMD, which we strongly support. Additional funds for the TMD program should be provided as described below, and any increases should be shared proportionally with all tribes and intertribal organizations operating TMD programs, including self-governance tribes.

Forests and forestry activities play a significant role to the culture and economies of tribes in the Midwest Region. Over one million acres of forest produce an average of 50 million board feet of wood each year, generating \$5 million in stumpage fees, and producing a \$30-\$40 million economic impact in the Region. But in the Midwest Region, we currently have an unfunded obligation of \$10.5 million for the Forestry program. Tribal forest lands also provide sites for members to gather berries, herbs, firewood, birch bark and collect maple sap. The spiritual, cultural and recreational activities that take place within the forests are less easily enumerated, but of great significance to tribal communities.

Tribal Climate Resilience received a significant boost in FY 2014-2015, to about \$10 million, to assist tribes with planning and adaptation to climate change. The FY 2017 BIA budget request for Tribal Climate Resilience was \$13 million, and we support this increase.

The Natural Resources TPA and Wildlife and Parks TPA programs provide the principal means for many tribes to manage fish and wildlife populations on their reservations. Yet these two critical tribal base programs have not been increased for nearly two decades. In fact, they have been cut through rescissions and sequestration.

We have pointed out in prior years' testimony that tribal base TPA programs, which fund tribes' day-to-day conservation responsibilities, have remained flat or have been cut for many years. This has resulted in tribes being unable to maintain adequate management and conservation of their reservation resources.

Most of the tribal TPA base funds reside under the BIA budget categories of Tribal Management/Development; Natural Resources TPA; Wildlife and Parks TPA; Water Resources TPA; and Forestry TPA. We again urge you to provide an increase to the core tribal base programs within these budget categories by at least \$5 million each in FY 2018, and an additional \$5 million each in FY 2019, above the FY 2017 request level.

Contract support

In FY 2014, Congress included language which paved the way for BIA to provide full funding for Contract Support Costs (CSC). The BIA provided an increase in CSC of \$34.3 million in its FY 2014 Spending Plan. An additional \$4 million was provided for CSC in FY 2015, and an additional \$26 million was provided in FY 2016. The Administration and Congress have proposed methods to reclassify CSC as mandatory, in a manner which would prevent CSC increases coming at the expense of other tribal programs. It is crucial that this goal be achieved in FY 2017 and beyond.

We are extremely concerned that in the FY 2016 Omnibus Appropriations Act, Congress included language that said in effect: Amounts obligated but not expended by a tribe for Contract Support during the current fiscal year shall be applied to Contract Support otherwise due for subsequent fiscal years, and that no amounts made available under this heading shall be available to another budget account. This means CSC become one-year funds, denying tribes the carryover authority in the Indian Self Determination and Education Assistance Act. This means that if tribes haven't expended all of their obligated CSC, our CSC will be reduced the next year. Requiring an offset of CSC in succeeding years from unspent CSC in the current year upsets the IDC rate process & tribal budgets. And the timeliness of CSC payments, and the impacts to Direct Contract Support Costs add further complications. This is very damaging language, and it must be removed for 2017 and beyond!

We greatly appreciate your decision to increase the Direct Contract Support Cost (DCSC) rate from 15% to 18%. Tribes have strongly advocated for this increase to help in paying unavoidable DCSC increases, especially for sharply rising employee health insurance premiums.

Fully Fund Pay Costs and Fixed Costs in FY 2018 and 2019

Tribes and the BIA were forced to absorb nearly 50% of Pay Costs each year for 7 years under the Bush Administration. Due to many across-the-board rescissions and the failure to fully fund Pay Costs, most tribal government core service programs are funded at a lower level today than 19 years ago. Pay Costs represent the only increase these programs receive. *When Pay Costs are not fully funded, tribal programs have no choice but to cut jobs.* From FY 2001 to the present, the Department of Interior, including BIA and tribes, have collectively lost more than \$800 million through the absorption of Pay Costs and other Fixed Costs, and along with it, literally thousands of jobs. For Indian Country, this has meant the loss of an estimated 1,000 full time jobs.

Congress has laid the blame for the failure to fully fund Fixed Costs on the Administration. Under both George W. Bush and Barack Obama, the Interior Appropriations Committees repeatedly expressed concern over the Administration's failure to request full Fixed Cost funding, and requested that the Administration include full funding for Fixed Costs in the Administration's budget requests. However, since passage of the Budget Control Act and Sequestration, Congress has become strangely silent on this issue.

The problem of not fully funding Fixed Costs has been exacerbated by recent Administration understatements of actual Fixed Costs needs, as revealed in the following figures from Interior and BIA budget documents. For instance, from FY 2000 – FY 2009, the average Fixed Cost computation for the BIA was \$31.2 million. More recently, from FY 2007 – FY 2009, the average Fixed Cost computation

for the BIA was \$36.7 million. However, for FY 2011 and FY 2012, BIA was forced to use an estimate of less than \$20 million both years. In FY 2015, the understatement of Fixed Costs was even more severe, at only \$9.7 million. And in FY 2016, Fixed Costs were stated as only \$18 million. And for FY 2017, Fixed Costs were stated at an all-time low of \$5.3 million. Consider this: the FY 2017 Fixed Cost request for the *entire* Department of Interior is only \$33.9 million. This is \$8 million less than the \$41.3 million requested for *just* BIA back in FY 2008! There is no question about it, there has been an active effort on the part of OMB and two Administrations to constrain Fixed Costs including Pay Costs. And it adds insult to injury for the Administration to describe these costs as “fully funded”.

In FY 2011 - 2013 there was a pay freeze in effect for federal workers. We greatly appreciate your efforts to persuade the Department and Administration that tribal workers should not be considered federal for purposes of Pay Costs. This resulted in a small addition of \$2 million in tribal Pay Costs in FY 2011, approximately \$6 million in FY 2012, and approximately \$5.4 million in FY 2013.

It is absolutely vital that in the FY 2018 and 2019 BIA budgets, Pay Costs be *fully funded*, at a rate that reflects the true cost of inflation and need.

Housing Improvement Program

Housing is one of the most basic needs of every American. Funding for the BIA’s Housing Improvement Program (HIP) is woefully inadequate, and yet has been cut by the Administration and Congress from a historical level of about \$20 million, down to its current level of about \$8 million. The National American Indian Housing Council has determined the minimum funding needed for HIP is \$32 million. Administrations past and present justified cuts by claiming they were commensurate with tribal priorities, that HIP was not a national program, and that there was overlap with HUD Native American Housing programs. All of these statements are wrong, and frankly, intended to deceive. First, ask any tribal leader in the country about their funding priorities, and we guarantee that housing will be near the top of everyone’s list. Second, HIP is in fact a national, formula-driven program. Third, there is no eligibility overlap between HIP and HUD programs, the HIP program targets only the neediest of the needy – the elderly, the disabled including veterans, and the lowest income individuals who have fallen through the cracks in eligibility for other programs. We greatly appreciate the \$1.7 million increase requested in FY 2017 as part of the Tiwahe Initiative, and request additional investments in FY 2018 and 2019. **The total FY 2018 and 2019 budgets for the HIP program should be no less than \$40 million.**

Real Estate Services

The Helping Expedite and Advance Responsible Tribal Home Ownership Act (HEARTH Act) of 2012, 25 U.S.C. § 415, as amended, was signed into law on July 30, 2012. The HEARTH Act restores the authority of Federally Recognized Tribes to develop and implement their own regulations governing leasing of tribal lands, provided that the regulations are approved by the Assistant Secretary – Indian Affairs. The intent of the HEARTH Act is to ensure that Tribes can exercise their inherent sovereignty in drafting leasing regulations to meet the particular needs and to expedite the leasing process. Further, the BIA is required to provide technical assistance to tribes in developing an environmental review process.

Should all 36 Tribes in the Midwest Region enact HEARTH Act regulations for all leasing activities on tribal trust land the tribes’ leasing caseloads will increase considerably, with no associated increase in Federal funding to the tribes. In addition, during the implementation of the HEARTH Act there will be increased associated costs to the BIA due to the additional regulatory approval requirements, as well as TAAMS access set up for each tribe that submits proposed HEARTH Act regulations for approval.

Funding at the Regional and tribal levels for Real Estate Services TPA and Real Estate Services Projects has declined significantly in the last five years. **In order to carry out requirements of the HEARTH**

Act, as well as ongoing responsibilities, we recommend an additional increase of \$5 million each for these two programs in FY 2018.

Indian Land Consolidation Program (ILCP)

Midwest tribes greatly appreciate your decision last November to remove liens from thousands of acres of tribal lands acquired under the Indian Land Consolidation Program. The return of revenues generated from these liens will be returned to tribal communities for reacquiring tribal homelands.

Although the revenues have yet to be released to tribal communities, we anticipate that they will be soon, so that affected tribes can administer their land acquisition programs.

Grants Versus Recurring Funding

Tribes are very concerned that BIA program awards administered from Washington, D.C. are increasingly issued through “grants”. Grants are very time-consuming to prepare and administer. Tribes have always viewed the process of funds distribution through the BIA as preferable to grant programs such as DOJ, ANA, SAMHSA, etc.

There has been much discussion at TIBC recently about BIA “grants” versus recurring funding needs. This stems largely from the fact that in its FY 2014 Spending Plan, BIA implemented a number of program increases which were part of the President’s FY 2014 budget request. Some examples include Climate Resilience, Invasive Species (aka Invasive Wildlife), Forestry Projects, and Fish Hatchery Maintenance. As identified in the FY 2014 Greenbook, many of these funding increases have and will be made available to tribes via competitive proposals. Most of these programmatic increases have recurred in FY 2015 and 2016. The term “grants” is a misnomer. The Greenbook does not call them grants, and the distribution methodology is really no different than for many decades-old BIA programs which distribute funds based on competitive or formula or data-driven methods. Examples of these include Water Management Planning and Pre-Development, and the existing Invasive Species, Forestry Projects, and Fish Hatchery Maintenance programs. So it does not make sense to us to pick and choose some programs and call them grants, and then move them to grants.gov for processing. These are all BIA programs which provide funding to assist tribes on a one-time basis, based on some sort of application process.

Moving the process of applying for some BIA funds to grants.gov is unnecessary, burdensome, and circumvents self-governance and self-determination. Tribes would have to learn a new process (adding another layer of complexity), and many tribes simply do not have the capacities to undertake another process and therefore may be dissuaded from applying for funds. Most critically, we’re concerned that the grants.gov process may hinder or preclude tribes from receiving full Contract Support Costs including Direct Contract Support Costs.

The essential government services tribes provide to their members operate on recurring funding from the BIA. These recurring funding sources must gradually increase to address inflation, the cost of living, and increasing service needs of Indian people. Grants are not the answer to addressing the needs of tribes, recurring funding increases are the answer. Moving ANY BIA funds to Grants.Gov is unacceptable.

Other Issues

We support the FY 2017 proposed \$4 million to establish a Native One-Stop Tribal Support Center to make it easier for tribes to access and find federal services. As you know, though tribes appreciate your efforts in promoting the Native American Crosscut Budget, there have been many questions and concerns raised about the Crosscut budget, including what those reported budget numbers really mean. Although some of the budget numbers no doubt represent grants that tribes could apply for, some portions of the

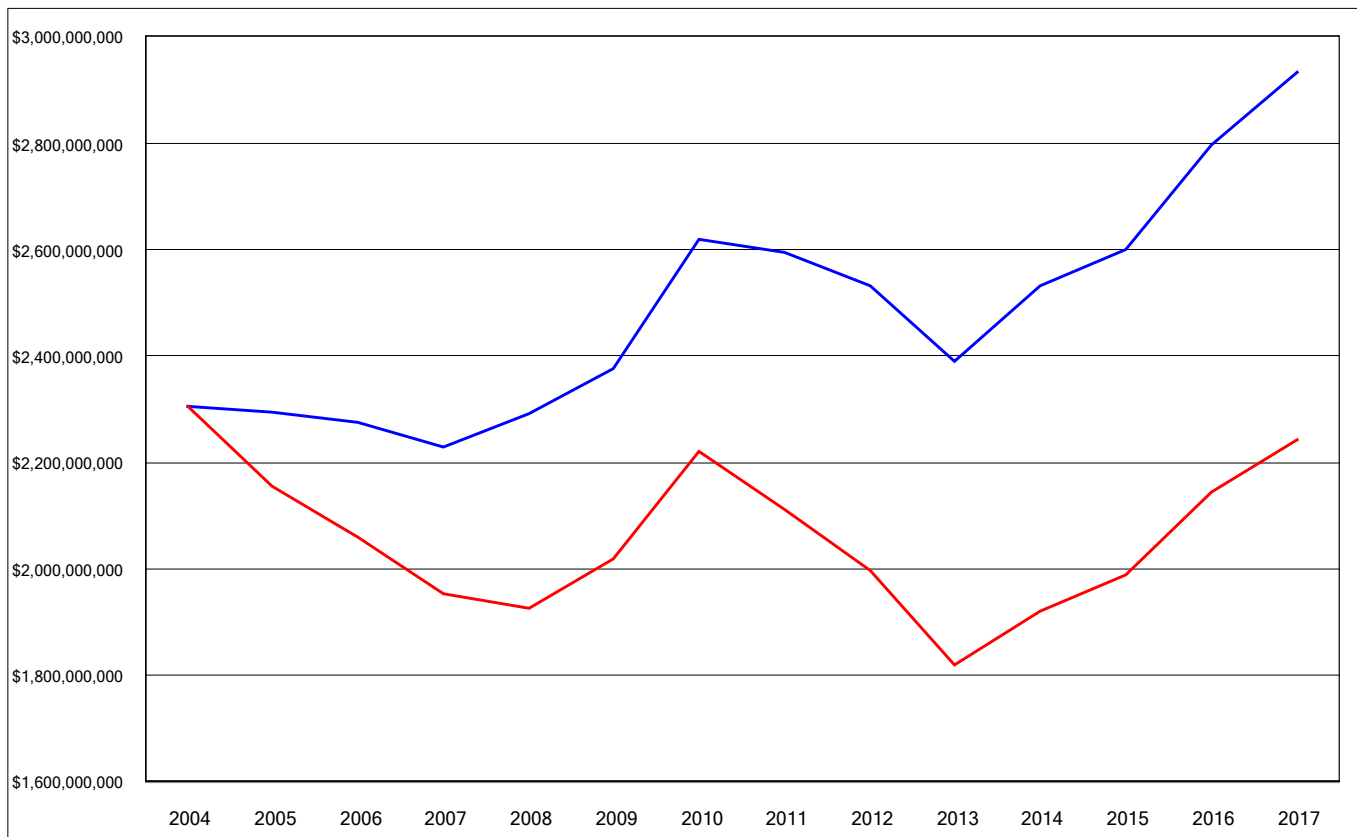
Crosscut budget are probably not accessible, such as salaries of federal employees who may provide some type of tribal support. Currently, the Native One-Stop website provides very little useful information for tribal governments on the Native American Crosscut Budget and how tribes can access services. So the \$4 million investment to make the Native One-Stop Tribal Support Center beneficial to tribal governments is needed.

We also agree there is a need for improved access to quality data for tribal leaders and other decision makers. So we are interested in the proposal to establish an Office of Indian Affairs Policy, Program Evaluation, and data, which would help the Department and the Census Bureau to collect, analyze, and utilize evidence to support effective policy making and program implementation. One critical statistic that tribes need, but have difficulty in determining, is the Reservation Service Population – how many people reside on the reservation and access Indian services such as health, housing, public safety, and roads/transportation. We also think a critical function of this office should be to work with the tribes in developing a process which would lead to development of an accurate BIA Unmet Needs Budget, to be prepared annually similar to what IHS and tribes prepare.

Thank you for allowing us to present, on behalf of tribes in the Midwest Region, some of our most immediate needs in FY 2018 and 2019, and for your consideration of these needs. At your request, we would be pleased to provide further documentation regarding the needs we've discussed today.

Attachments

Figure 1: BIA Budget FY 2004 – 2017 (enacted amounts except FY 2017, which is the President’s request)



Note: the top blue line is Actual dollars, and the bottom red line is dollars Adjusted for Inflation

Figure 2: President's Requested Budget Increases: All of Interior (except BIA) vs Just BIA

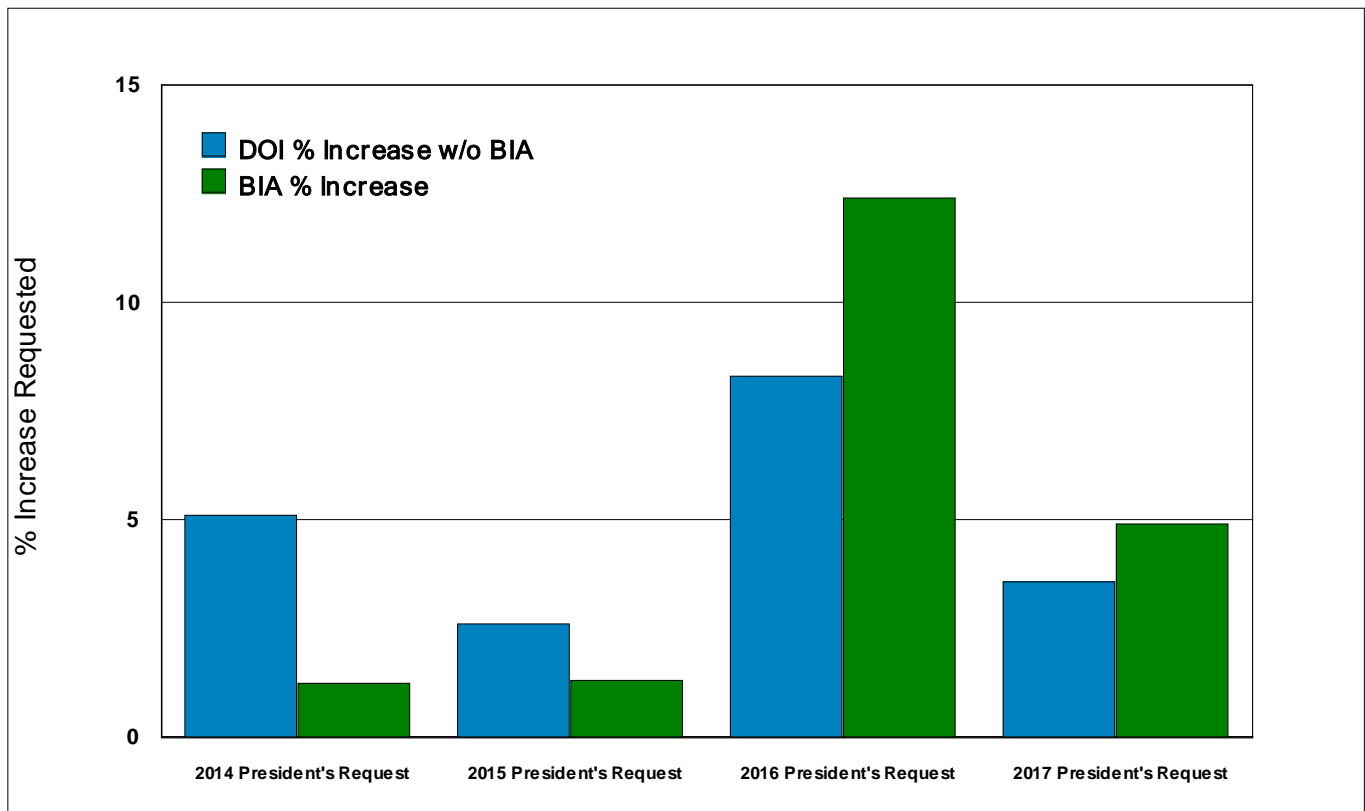
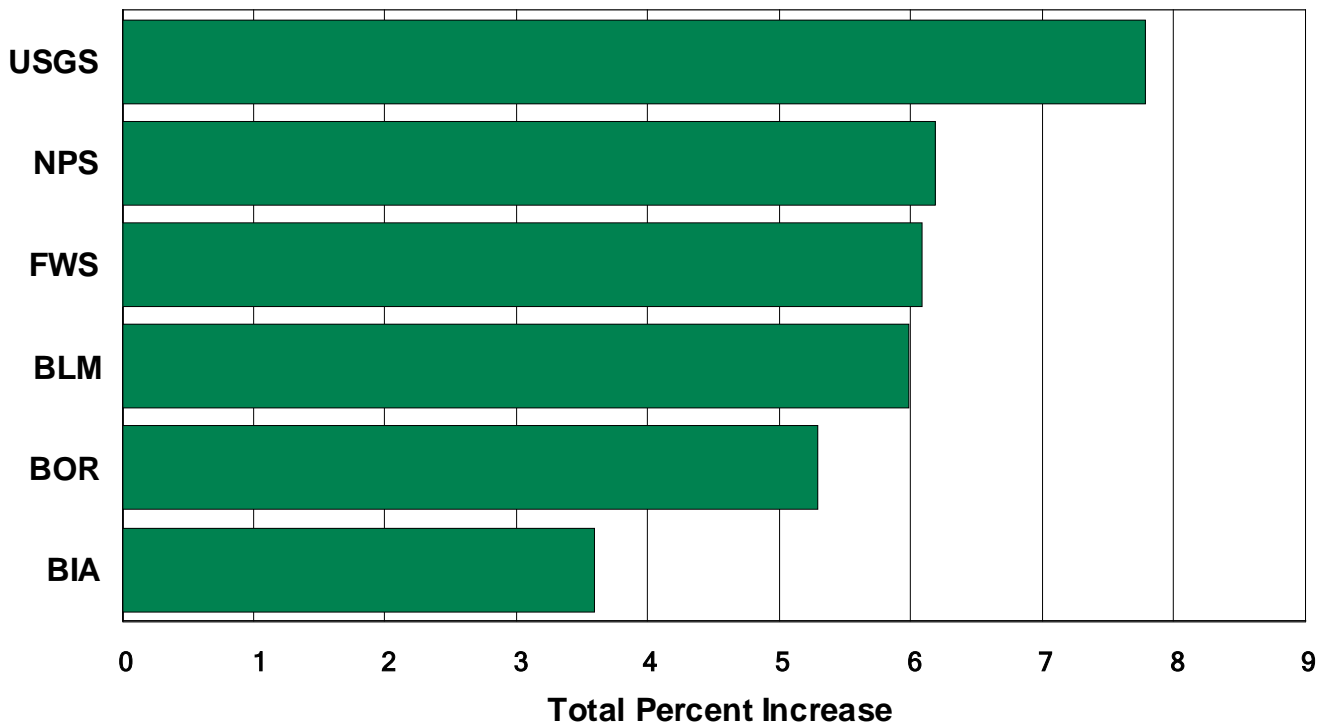


Figure 3: Budget Increases for the 6 Largest Interior Agencies

FY 2004 -2013 Enacted (After Sequestration):



FY 2004 -2016 Enacted:

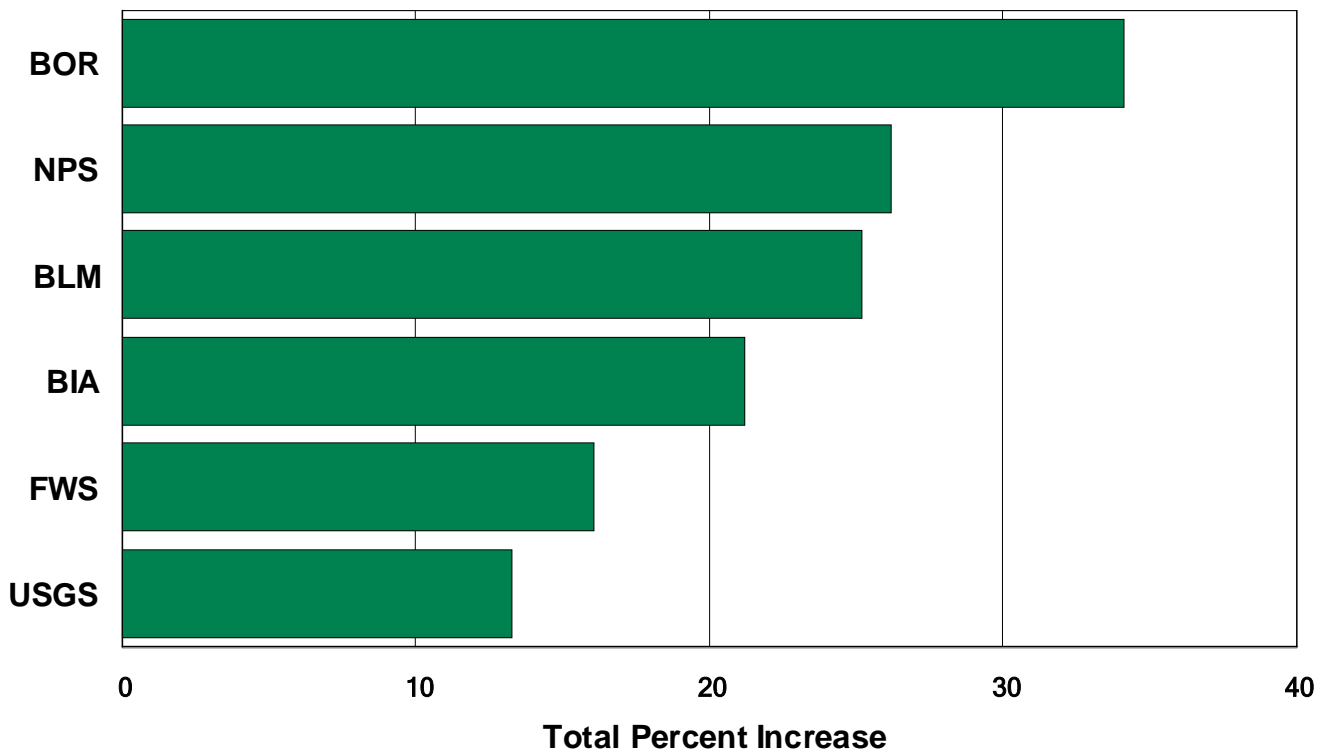


Figure 4: List of Across the Board Rescissions and Other Permanent Reductions Imposed on BIA and Tribes, FY 2000-2016 (Shown as Percentage Cut).

Year	Description	Individual	Total
2000	General Reduction	0.4685	0.4685
2001	ATB	0.22	0.22
2002	No Rescission	0	0
2003	ACB	0.65	0.65
2004	BIA-IT	0.24	
2004	Omnibus ATB	0.59	
2004	ATB	0.646	1.476
2005	Omnibus ATB	0.8	
2005	Interior ATB	0.594	1.394
2006	ATB	0.476	
2006	ATB Hurricane & Other	1	1.476
2007	No Rescission	0	0
2008	ATB	1.56	1.56
2009	No Rescission	0	0
2010	No Rescission	0	0
2011	ATB	0.2	0.2
2012	ATB	0.16	0.16
2013	ATB	0.2	0.2
	Rescissions Subtotal	7.8045	7.8045
2013	Sequester	5.04	5.04
	Total	12.8445	12.8445
2014	Rescissions & Sequester	12.8445	12.8445
2015	Rescissions & Sequester	12.8445	12.8445
2016	Rescissions & Sequester	12.8445	12.8445

* Language and acronyms for rescissions in appropriations bills have varied by year and bill type. Terms used included General Reduction and Across the Board Rescission (ATB & ACB). There have been specialized rescissions for things like hurricanes & war, and ones unique to Interior and BIA. But all of the above Rescissions represent permanent cuts to tribal Base programs. The FY 2013 Sequestration cuts stayed in place in FY 2014 to 2016, but it should be noted that the BIA Office of Justice Services did provide additional funding beginning in FY 2014 to soften the blow of Sequestration to tribal and BIA law enforcement.

Figure 5: Cumulative Effect of Rescissions on Tribal Program Funding, FY 2000-2016, Shown as Total Percentage Cuts Each Year from Rescissions (Includes the FY 2013 Sequester cuts)

