



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

JUN 26 2018

The Honorable John Hoeven  
Chairman, Committee on Indian Affairs  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Enclosed are responses to questions received by Mr. John Tahsuda, Principal Deputy Assistant Secretary – Indian Affairs, following his April 2018 appearance before your Committee at the hearing on the President's FY 2019 Budget Request for Indian Programs.

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Christopher P. Salotti  
Legislative Counsel  
Office of Congressional  
and Legislative Affairs

Enclosure

cc: The Honorable Tom Udall  
Vice Chairman

Questions from Sen. McCain

Question 1: Colorado River Indian Tribe, Arizona.

Water resources are critically important to western Tribes and my home State of Arizona. I understand that the Colorado River Irrigation Project (CRIP) on the CRIT reservation is operating at 53% efficiency. According to CRIT, the BIA is responsible for conducting priority maintenance in the CRIP system but failed to do so from December 2017, and January and February of this year.

- a. *Can you explain why BIA proceeded with the "dry-up" of the CRIP but did not conduct the maintenance work covered in the irrigation plan?*

**Response:** The BIA Colorado River Agency (CRA) Irrigation Project did complete a significant amount of the maintenance identified in the Tribe's Draft Plan, as submitted. Maintenance activities were conducted on approximately 9 laterals and several sub-laterals, and included inspections; adjusting, repairing, or removing and replacing turnout check gates; cleaning, adjusting or replacing staff gauges; identifying additional gates to replace; repairing canal lining with placement of approximately 400 yards of gunite material; adding headwalls; replacing a major culvert on 6th Avenue; and re-grouting existing turnout rings and placing new turnout rings.

The Tribe's Five Year Plan was submitted to the BIA in final draft as a deliverable for the Irrigation Engineering & Support Services Program, Self-Determination Contract (No. A15AV00449) between the BIA and the Tribe. The attached chart, derived from tables submitted in the draft plan, shows the status of the recommended maintenance items after maintenance work was conducted during the 2017 and 2018 dry ups.

- b. *Were there any BIA staffing shortages associated with the delays in repairing the CRIP system?*

**Response:** The Project is currently operating with 32 staff positions filled out of the total 64 approved positions. We have been moving to fill many of the vacate positions. All Irrigation System Operator (ISO) and Heavy Equipment Operator vacant positions are currently advertised on USAJobs and will continue to be until filled, which is a new approach. Applications will be reviewed every two weeks, and eligible candidates will be referred to the hiring official for consideration until all positions are filled.

- c. *The Tribe has asked BIA to increase its maintenance fees for CRIP. What is the status of those increases?*

**Response:** The Tribe provided a comment on May 26, 2017, in response to 2017 Proposed O&M rate (FRN 82-18774) recommending the O&M rate be increased from \$54/acre to \$60.25/acre. The BIA Irrigation System Manager determined there was adequate project funding for maintenance and rehabilitation work during 2017, and thus made the decision to postpone a Project O&M assessment rate increase for 2018. BIA will evaluate the Tribe's recommended rate increase during the required budget planning process with the project water users, taking

**Senate Committee on Indian Affairs  
FY 2019 Budget Request for Indian Programs  
April 11, 2018**

into consideration additional staff hired in the interim. The Tribe's request will be included for discussion during that rate setting process.

**Question 2: White Mountain Apache Tribe, Arizona.**

**As you may know, the WMAT is on high-risk status for failing to submit audits to the BIA on 638 services. The tribe is currently on a cost-reimbursement basis with BIA. My understanding is that the Tribe is working to provide the needed audits, but is still seeking information from BIA on how to be removed from the agency's high-risk list and avoid re-assumption of services. Please provide a letter to the WMAT indicating what remaining steps the tribe must take to achieve compliance.**

**Response:** The BIA will provide this information to the Tribe in the near future.

Table 1

SCADA	All of the sites have been prepared for SCADA that should occur 2018. New gates, conduit and wire, during the 2018 dry-up. Actuators, hardware and PLC on order.	50%
SCADA MAINTENANCE	Subcontractor on site several times during 2018	100%
ROTORKS TYSON WASH	Solar actuators on order.	50%
RAINER FARMS FLOW MEASUREMENT	This is not a CRIP project.	
L90 MAIN DRAIN CROSSING	New culverts installed and Lateral 90 back in service	100%
SCADA	All of the sites have been prepared for SCADA that should occur 2018. New gates, conduit and wire, during the 2018 dry-up. Actuators, hardware and PLC on order.	50%
ITRC SYSTEM AUTOMATION PLAN STUDY	Not yet completed for review.	10%
SCADA MAINTENANCE	Subcontractor on site several times during 2018	100%
REPLACE ROTORKS WITH LIMITORKS	It was decided to continue with the Rotork actuator	N/A
FLUMES	No flume designs have been prepared by contractor.	0%
REPLACE 6 GATES	Currently completing market research for purchase.	50%
BEAVER REMOVAL	Contract was let and multiple beaver removed.	100%

TABLE 2

L90 GATE 8.5	Check boards were removed and new slide gates installed.	100%
L90 GATE 9.5	Check boards were removed and new slide gates installed.	100%
L90 SPILL @ CHECK 7	Gate was replaced.	100%
27R @ 6TH AVENUE	CULVERTS HAVE BEEN REPLACED AND HEADWALLS PLACED.	100%
73-36 SPILL @ ABANDONED CHECK 2	New boards were installed to reduce leakage. Overshot better water level protection determined.	100%
73 SPILL	Check boards were replaced to reduce leakage.	100%
MC HEADGATE	Stoplogs are currently being procured with assistance of WRO & WIIN.	50%
19L @ LAFOON ROAD CROSSING	Planned for 2019.	0%
19R HEADGATE	Delayed 2018 to survey for new slide gates scheduled for 2019.	50%
27R HEADGATE	Delayed 2018 to survey for new slide gates scheduled for 2019.	50%
27L HEADGATE	Delayed 2018 to survey for new slide gates scheduled for 2019.	50%
19L HEADGATE	Delayed 2018 to survey for new slide gates scheduled for 2019.	50%
73-36 @ 14TH	Planned for 2019.	0%
90-56 PIPE FLUME @ CHECK 4	Planned for 2019 + 2020.	0%

TABLE 3

19R CHECK 3	Riprap planned 2019.	0%
27R CHECK 1	Riprap planned 2019.	0%
27R @ GOULD ROAD	Riprap planned 2019.	0%
73-36 @ 73-19L-1	Riprap planned 2019.	0%

TABLE 4

19R CHECK 3	Cable handrails installed per OSHA agreement.	100%
19R CHECK 6	Cable handrails installed per OSHA agreement.	100%
19R CHECK 4	Cable handrails installed per OSHA agreement.	100%
19R CHECK 5	Cable handrails installed per OSHA agreement.	100%
19R CHECK 7	Cable handrails installed per OSHA agreement.	100%

TABLE 5

SCADA 19R CHECK 1	Gates, conduit, HMI installed waiting on 638 Contract, planned 2018 - 2019.	50%
SCADA 46R HEADING	Gates, conduit, HMI installed waiting on 638 Contract, planned 2018 - 2019.	50%
SCADA 73 CHECK 2	Gates, conduit, HMI installed waiting on 638 Contract, planned 2018 - 2019.	50%
SCADA 73 CHECK 3	Gates, conduit, HMI installed waiting on 638 Contract, planned 2018 - 2019.	50%

TABLE 6

MEASUREMENT 19R-5 HEADING	Electronic device to be installed with SCADA , PLANNED 2018 - 2019	50%
MEASUREMENT 27R-36	No flume designs have been prepared by contractor.	0%
MEASUREMENT 27R-4-2	Flume design submitted but rejected for submergence.	25%
MEASUREMENT 73-19L-1	No flume designs have been prepared by contractor.	0%
MEASUREMENT 27R SPILL	No flume designs have been prepared by contractor.	0%
MEASUREMENT 73-36-34	No flume designs have been prepared by contractor.	0%



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

JUN 27 2018

The Honorable Doug LaMalfa  
Chairman  
House Natural Resources Subcommittee  
on Indian, Insular and Alaska Native Affairs  
Washington, DC 20515

Dear Mr. Chairman:

Enclosed are responses to the questions received by Mr. John Tahsuda, Principal Deputy Assistant Secretary – Indian Affairs, following his March 20, 2018, appearance before your Subcommittee at the hearing “Policy Priorities for the Administration’s FY 2019 Budget for Indian Affairs and Insular Affairs.”

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Christopher P. Salotti  
Legislative Counsel  
Office of Congressional  
and Legislative Affairs

Enclosure

cc: The Honorable Ruben Gallego  
Ranking Member

House Natural Resources Committee  
s/c on Indian, Insular and Alaska Native Affairs  
Hearing on FY 2019 Budget for Indian Affairs and Insular Areas  
March 20, 2018

**Questions from Rep. Sablan**

**1. The severely reduced 2019 President's budget for Indian Affairs programs includes \$742 million for the Bureau of Indian Education - a reduction of nearly \$150 million from FY 2017. This decrease in funding for BIE schools is unacceptable especially considering that BIE schools continue to face many unmet needs. Many schools in Indian Country face extreme difficulty with teacher recruitment and retention, lack basic materials, and suffer from crumbling infrastructure. School buildings are in poor condition, many over four decades old, and are in desperate need of repairs. These substandard conditions are not conducive to educational achievement and impact learning opportunities for students.**

**How does the Department of Interior justify these drastic budget cuts with the much-needed support for BIE schools?**

**Response:** The FY 2019 budget request is designed to focus on core mission service delivery. Providing for the direct operation of schools and supporting classroom instruction for Indian students in BIE-funded schools is the primary mission of BIE. Savings proposed for BIE core mission programs are identified from duplicative and/or restricted supplemental programs, and those that divert funds from BIE-funded schools to outside institutions.

**How does the Department plan to bring modern schools that maximize learning opportunities to the BIE?**

**Response:** In addition to refocusing funds to BIE core mission programs that support the direct operation of schools and classroom instruction, the FY 2019 budget request also includes a legislative proposal to create a Public Lands Infrastructure Fund which would provide up to \$18 billion to address needed repairs and improvements in the BIE schools, as well as the national parks and national wildlife refuges. BIE is also actively partnering with Federal and non-Federal partners to improve and expand learning environments and opportunities for Indian students.



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

JUN 27 2018

The Honorable Todd Rokita  
Chairman  
House Education and the Workforce  
Subcommittee on Early Childhood, Elementary,  
And Secondary Education  
Washington, DC 20515

Dear Mr. Chairman:

Enclosed are responses to the questions received by Mr. Tony Dearman, Director, Bureau of Indian Education, following his February 14, 2018, appearance before your Subcommittee at the hearing titled "Examining the Government's Management of Native American Schools."

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Christopher P. Salotti  
Legislative Counsel  
Office of Congressional  
and Legislative Affairs

Enclosure

cc: The Honorable Jared Polis  
Ranking Member

**House Committee on Education and the Workforce  
"Examining the Government's Management of Native American Schools"  
Wednesday February 14, 2018**

**Questions from Chairman Rokita**

- 1. Throughout your testimony, you expressed support and enthusiasm for proposed appropriations for the Bureau of Indian Education (BIE) in the Presidents Fiscal Year (FY) 2019 Budget Request. However, the President's budget proposes to cut nearly \$150 million from the BIE's operating budget from the funding enacted in Fiscal Year 2017 and over \$60 million from the BIE's school construction funds as enacted in FY 17.**

- What would the cut in the construction line mean to the schools already on the list? Which schools on the list would not get built?**

**Response:** As proposed in the FY 2019 President's Budget Request, the Department's focus is on maintenance and repair rather than replacement. However, the Budget Request would still ensure the construction of the three remaining 2004 replacement schools (Beatrice Rafferty, Cove Day School, and Little Singer Community School) and the first three 2016 replacement list schools (Laguna, Quileute, and Blackwater), which are already in design or construction utilizing prior-year appropriated funds. The Bug-O-Nay-Ge-Shig High School facility replacement will also complete construction as the funding line has already been obligated from prior-year funding, separately from the other ten schools on the replacement index.

The President's budget also includes a legislative proposal to create a Public Lands Infrastructure Fund, which would provide up to \$18 billion to address needed repairs and improvements in the BIE schools, as well as the national parks and national wildlife refuges. As the Department works to expand its energy program on federal lands and waters, this initiative has the potential to generate much-needed infrastructure and maintenance funding for BIE schools.

- How could BIE implement the strategic plan with these cuts?**

**Response:** Implementation of the Strategic Plan is not contingent on funding. The work in regards to strategic performance management and increasing accountability to more effectively serve BIE schools will continue, regardless of the amount of funding available. BIE is focused on utilizing annual appropriations, as effectively and efficiently as possible.

- You have stated that the BIE is only 50 percent staffed. How would these cuts effect staffing in the schools?**

**Response:** The number of BIE administrative staff positions filled does not reflect local school staff positions. Providing for the direct operation of schools and supporting classroom instruction for Indian students in BIE-funded schools is the primary mission of BIE. Savings proposed for BIE core mission programs are identified from duplicative and/or restricted supplemental programs, and those that divert funds from BIE-funded schools to outside institutions.

- 2. During your testimony, you stated that the BIE has begun consideration of naming**



**House Committee on Education and the Workforce**  
**"Examining the Government's Management of Native American Schools"**  
**Wednesday February 14, 2018**

**representatives for the negotiated rulemaking committee that will provide guidance on the BIE's Standards, Assessments, and Accountability System under the Every Student Succeeds Act (ESSA). However, the BIE has provided limited information regarding the selection process and timeline over the past 18 months. What is your selection process for representatives that will serve on the negotiated rulemaking committee? How will you ensure that the representatives reflect the students they are selected to represent? What is the current timeline for the selection of the representatives and when can Bureau-funded schools expect a final state plan to be submitted under ESSA?**

**Response:** To meet its obligations under the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESSA), the BIE will amend its existing standards, assessments, and accountability regulations through Negotiated Rulemaking (NRM); and solicit stakeholder and tribal input through consultation regarding the BIE State Plan. At a December 8, 2016 meeting between BIE and ED, Education officials expressed a view that the State Plan under ESEA was optional for the BIE. BIE Director Dearman announced that the BIE would move forward with developing a State Plan, , that includes the content for Title I, part A developed through the NRM, as a means to facilitate a transition to the ESSA amendment and ensure the development of a coherent federal education system across the 23 states in which BIE facilities operate. The BIE notified ED via email on January 7, 2017 that it would submit a State Plan.

To meet its ESEA obligations the BIE will amend its existing standards, assessments, and accountability regulations through NRM. , On November 9, 2015, the BIE published a notice of intent (80 FR 69161) requesting comments and nominations for tribal representatives for the NRM to recommend revisions to the existing regulations for BIE's accountability system. Upon transition between Administrations, the initial formulation of the NRM was postponed in order to provide incoming Department staff adequate time to review prior work. As of August 2017, the BIE was provided clearance to move forward with re-initiating the Committee and working and consulting with stakeholders to determine membership and subsequent steps.

The negotiated rulemaking committee was re-advertised in a Federal Register notice (82 FR 43199) soliciting nominations on September 14, 2017, with a deadline for submission of nominations by October 16, 2017. The nominations received were reviewed by Department and BIE officials and a Notice of Proposed membership of Committee was published in the Federal Register (83 FR 16806) on April 17, 2018. A subsequent Federal Register Notice will announce the final NRM members and initial meeting dates.

Ultimately, the NRM will recommend revisions to existing regulations (25 CFR Part 30), replace the No Child Left Behind Act (NCLB) Adequate Yearly Progress regulatory language, and implement the Secretary's statutory responsibility to define the standards, assessments, and accountability system, consistent with the ESEA. The BIE and ED consult and work together on a range of Indian education- related issues, through the departments' interagency work group that meets bi-weekly and through direct communication.

**House Committee on Education and the Workforce**  
**"Examining the Government's Management of Native American Schools"**  
**Wednesday February 14, 2018**

- 3. Data on student progress, school improvement, and accountability for schools in the BIE system remains scarce and outdated. In your testimony, you stated that the BIE does not provide internal guidance to schools on data collection and reporting practices and discussed efforts to improve data collection and analysis across schools. As the BIE updates reporting practices and analysis, how will you work to improve transparency and accountability regarding data to Tribes, parents, and community members?**

**Response:** During the hearing, the intent of the statement was to communicate BIE's historic lack of formal training and guidance to schools regarding data collection and reporting. However, that is not to say that the BIE does not provide such technical assistance. Because such assistance has been inadequate for years, the Bureau is actively working to update data collection and reporting practices.

Under this Administration, BIE leadership has refocused attention to increasing data-driven decisions across the Bureau through improved data collection, management, and reporting.

Available data has been reported to ED's EDFacts data collection system. The Bureau is working to update and post additional, required public reporting on school accountability. However, most information has not yet been aggregated and remains partially incomplete. Recently, leadership has refocused attention on increasing data-driven decision-making across the Bureau through improved data collection.

In addition, as of 2018, the Bureau has hired an Accountability and Assessment Supervisor as well as several Education Research Analysts and has filled six Native American School Information Specialists (NASIS) positions. These personnel are specifically focused on data by expanding technical assistance to schools as well as improving the Bureau's collection and use of key data metrics critical to supporting the needs of students attending BIE-funded schools.

The BIE has also formed a bureau-wide working group to improve its data collection, management, and reporting. The working group was formed in early 2017 and was initially tasked with bringing outdated EdFacts data up-to-date. The working group is performing a bureau-wide data audit and is in the early stages of creating policies and procedures to improve the Bureau's collection, management, and reporting of data.

**House Committee on Education and the Workforce  
"Examining the Government's Management of Native American Schools"  
Wednesday February 14, 2018**

**Questions from Rep. Scott**

- 1. Are students with disabilities typically served by teachers with credentials to teach special education? If not, what challenges has BIE faced in recruiting and retaining high quality special education teachers? What can Congress do to ensure BIE is able to recruit and retain teachers that can meet the needs of students with disabilities?**

**Response:** Yes. The BIE operates schools in 23 states and in each school the BIE ensures that students with disabilities are served by teachers who are credentialed in special education. With regard to recruitment of highly effective special education teachers, while the BIE faces a number of unique challenges, identifying adequate housing for highly-effective educators is a particular challenge to recruitment. Many of the BIE's schools are located in rural, geographically isolated Indian reservations with a limited number of educator quarters that are in a state of good repair.

The BIE is committed to recruiting, developing, retaining, and empowering a highly effective workforce in order to provide BIE-funded schools with the opportunity for high achievement. To that end, the BIE Strategic Direction identifies specific strategies, milestones, and actions designed to address its unique educator recruitment challenges.

- 2. Do students with disabilities attending BIE schools have access to related services providers such as occupational therapists, physical therapists, counselors, and speech language pathologists? If not, what can Congress do to support BIE in recruiting and retaining high-quality related services providers? How has the procurement and contracting process for related services impeded the delivery of these services?**

**Response:** While many of the BIE's schools face challenges associated with being located in rural, geographically isolated areas, BIE staff consistently work to ensure that all identified services in a student's Individualized Education Program (IEP) are provided for in accordance with the IEP. BIE is improving oversight and utilizes incentives as practical to ensure services and specialized supports, such as access to the necessary faculty and mental and behavioral health support staff, are available to each student. However, similar to rural schools in general, recruitment and retention of such staff is a common issue in the most isolated schools.

Additionally, the federal procurement process and its impact on the timely delivery of special education and related services to students with disabilities can create challenges. It is slower than processes utilized by state public schools, which can result in service providers opting to work for public schools rather than BIE-funded schools. However, as part of the BIE reorganization, the bureau for the first time will have direct control over its own contracting personnel. This resource will provide the BIE the ability to provide necessary and related services more quickly to the field..

**House Committee on Education and the Workforce**  
**"Examining the Government's Management of Native American Schools"**  
**Wednesday February 14, 2018**

- 3. How is BIE meeting its obligations under IDEA to identify students with disabilities known as Child Find? What is BIE doing to ensure all students with disabilities are identified, properly evaluated, and provided a meaningful educational benefit? Is BIE evaluating policies related to special education to meet the new standard of meaningful educational benefit identified in the recent Supreme Court case?**

**Response:** The BIE actively monitors Child Find activities through its fiscal and programmatic monitoring program. The BIE also reviews all narrative justifications in a school's line accounting for Part B Application Spending Plans, ensuring that such activities are appropriate.

Additionally, the BIE's Division of Performance and Accountability (DPA) conducts comprehensive annual audits and evaluations of all initial IEPs, as well as randomized annual audits of secondary transition IEPs. In the previous year, DPA has also executed 16 school on-site monitoring visits and 20 IEP school reviews.

Finally, DPA is actively reviewing recent judicial decisions, including *Andrew F. v. Douglas County School District*, and conducting an analysis of existing policy in order to identify any necessary policy changes or additions.

- 4. How is BIE supporting teachers in addressing and meeting the behavioral needs of students with disabilities? Are policies related to suspension, expulsion, seclusion, and restraint being evaluated and updated to ensure students with disabilities are served in the least restrictive environment and not exposed to aversive and exclusionary behavioral interventions at higher rates than students without disabilities?**

**Response:** The BIE is committed to providing its teachers and staff with high-quality training and technical assistance in implementing successful Positive Behavioral Intervention and Supports (PBIS) frameworks in their schools. It is critical that teachers are equipped with the necessary tools to support students in meeting their academic and behavioral goals. BIE actively and regularly monitors the suspension and/or expulsion of students with disabilities, ensuring that such students are not subject to adverse or exclusionary interventions and are being served in the least restrictive environment. BIE also reports special education suspension and expulsion data through EdFacts as part of its data submission under section 618 of the IDEA, as well as under indicator 4a of its IDEA Part B State Performance Plan/Annual Performance Report (SPP/APR).

- 5. How is BIE supporting parent participation in the education of students with disabilities? Is BIE meeting the OSEP indicators for parent participation? What steps are being taken to support parents of students with disabilities in understanding their rights under IDEA? Are parents satisfied with the support provided?**

**Response:** The BIE actively monitors school-level parental engagement activities through its

**House Committee on Education and the Workforce**  
**"Examining the Government's Management of Native American Schools"**  
**Wednesday February 14, 2018**

fiscal and programmatic monitoring activities, as well as through the Part B Application parent training line of accounting. Historically, BIE has generally met the annual targets it has established for Indicator 8 of the IDEA Part B SPP/APR, which is the percentage of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities. The BIE's targets for this indicator from 2006 through 2016 ranged from 33 percent to 48 percent, and, of those reporting years, the BIE met its target in 2009-2013 and again in 2015. The BIE is working to improve its ability to consistently meet its indicated targets.