

Testimony of Angela Barney Nez
Representing the Diné Bi Olta School Board Association, Inc.
Regarding the FY 2015 Federal Budget
April 7, 2014

My name is Angela Barney Nez. I am the Director of the Diné Bi Olta School Board Association (DBOSBA), an organization that represents local community school boards on the Navajo Nation. There are currently **66 federally funded schools on the Navajo Nation, 34 of which are operated by a grant or contract under P.L. 93-638 and / or P.L. 100-297 as amended.** My testimony will relate to the Bureau of Indian Education (BIE) as well as the Bureau of Indian Affairs (BIA), both of which have a role in the Interior Indian Education program. My testimony will focus on a few specific issues, rather than a comprehensive look at the proposed 2015 budget. We expect the Committee is very much aware of the inadequacy of the overall budget, where the Interior is requesting a mere 1.3% in the Bureau of Indian Affairs in a year when we are trying to rebuild after the damaging affects of sequestration.

The **Administrative Cost Grants (ACG)** line item is to the tribal grant and contract schools what Contract Support Costs (CSC) is to the rest of the Bureau; that is it is the funding set up to cover the administrative expenses of the tribal contractor. Congress very appropriately has requested an amount that will pay 100% of the contract support for **non-school** programs. This funding has increased dramatically since the *Salazar vs Ramah Navajo Chapter* decision from the Supreme Court. On the other hand, the Interior request for Administrative Cost Grants remains at \$48,253,000, no increase over 2014! This will maintain funding at a level that is only 67 % of need, by the Bureau's own admission. When such deficits exist, the schools have no choice but to cover cost from the Instructional programs funded by ISEF funding. This creates uncertainty and stress in small vulnerable programs where fully 95 % of ISEF funding might be going to pay salaries.

The Diné Bi Olta School Board Association (DBOSBA) respectfully requests:

- For current contract and grant schools, \$70.3 million would need to be appropriated in FY2015 to fully fund TGSC need. Recognizing that there is little chance of a major increase in the budget, we suggest an increase of at least \$2 million that will begin to address this long standing deficit. It is also critical that the Bureau plan appropriately when BIE schools exercise their option to convert to grant status, since this puts additional stress on this already inadequate fund. Currently, appropriations language limits the amount that can be spent for converting schools at \$500,000. This amount would come off the top of the already inadequate ACG funding. In the event that several schools converted to grant status in 2015, the amount would be woefully inadequate to cover the ACG costs. The failure of the Bureau to request and the Congress to provide adequate funding is in itself a major determiner of whether schools and tribes will choose a "self-determination" option for their schools.

BIE Realignment - For some time now the Bureau has been involved with a realignment designed to address various management weaknesses. In July of 2013, the Bureau moved

forward with a restructuring plan but a later Report by the GAO (GAO-13-774) found that the Interior had not involved key stakeholders in either the planning or implementation of the Plan. The Interior is now putting together another restructuring initiative, this time including some consultation. What is missing in these plans is an acknowledgement that there is a governing statute that is quite clear on what the final management structure is to look like. The failure to implement the statute as written has caused untold difficulties through the years. Since the amendments in 2001, the law (P.L.95-561) has mandated that the Director of Education of BIE is to supervise all administrative and support services for programs that primarily serve education. While the Bureau put together a plan to implement this provision soon after the statute was enacted, the plans were scrapped and the management structure of the Bureau for education programs has been in violation ever since.

The DBOSBA respectfully requests:

- That the Committee instruct the Department of the Interior to ensure that their current and future plans for restructuring the management and support services of the BIA and BIE are consistent with the authorizing statute.

Education Program Enhancements - The Bureau has received \$12 million per year for several years to provide technical assistance to the schools. This has often involved making agreements with profit making companies to provide curriculum materials and programs to large school districts and school systems. After entering into these arrangements, the BIE staffers seem to become emissaries for the companies and believe their job is to “sell” the product or even force the product on the schools. Armed with its status as an “SEA” under No Child Left Behind, the Bureau has quickly abandoned its role to encourage self-determination, to foster local control of schools, and to establish partnerships with tribes.

Meanwhile, the local schools, particularly those which are in grant status, have often independently formed their own arrangements for curriculum and technical assistance. **They do not necessarily believe that the “Bureau knows best.”** They do not quickly abandon decisions they have made in the past in favor of the latest directives from “Washington.” Meanwhile the Bureau complains that the local schools are not cooperative and even report that the school boards and local school officials are part of the problem.

This situation comes from a failure of the Bureau to understand or perhaps believe in their mission. In the Indian Affairs General Statement found in the beginning of the Bureau’s Budget Justification (Green Book) for 2014, the following statement is found:

“In 1970, President Nixon called for self-determination of Indian people without the threat of termination of the trust relationship over Indian lands. Since that date, self-determination has been the basis of Federal Indian policy as more operational aspects of Federal programs are transferred to tribal management.”

Also in the General Statement, following a description of the problems facing Indian people, this statement appears:

“The key to overcoming these challenges is strong and stable tribal governments built through self-determination. Indian Affairs plays a critical role in removing obstacles to building and promoting tribal self-determination, strong and stable governing institutions, economic development, and human capital development.”

With such a strong, clear mission, would it not be reasonable for the Bureau to seek education partnerships with tribes and tribal organizations. Many tribes have formed departments of education in anticipation of such partnerships. Yet when the Bureau pursued this Enhancement funding, they did so with NO mention of tribes, school boards, self-determination, government – to-government relationship, etc. Instead, it was filled with Department of Education bureaucratic language.

The point is that the Bureau has abandoned its statutory and historical mission and instead fashioned itself as a *faux* state, content with jumping through the hoops set by another Federal agency. This is a shame!

The DBOSBA respectfully requests:

- That the Committee specify that no less than \$5 million of the funding for Education Program Enhancements be set aside for contracting with tribes and tribal organizations for the establishment of Federal/tribal partnerships. These partnerships would be for the purpose of establishing a shared responsibility between the Bureau and the tribes, and might include:
 - to plan for self-determination contracting of non-inherently Federal functions currently provided to the tribes
 - to explore successful educational programs serving Native students and consider the possibilities of expanding such programs.
 - to conduct a needs assessment to determine the actual needs of the students being served as well as the community.
 - to conduct a thorough examination of the language fluency of the students being served and explore curriculum options for students based on their mastery of the language.
 - Other matters that the specific tribal leaders and educators feel would enhance the educational program.

Education Program Evaluation - The Bureau is requesting \$1 million in 2015 for an evaluation of the Bureau education program. We have no information at this time concerning the focus of this evaluation. There have been many evaluations of Bureau education and these have usually focused on the failure of Bureau schools and students to keep pace with non-Indian schools and students. The No Child Left Behind Act,(NCLBA) viewed in a certain way, simply came up with a new and authoritative label for schools and teachers, while pretending not to notice that it was the students who were taking the tests. A lot of money was spent (wasted) on the development of new assessments, but it is unclear that any of them were superior to the old Iowa Test of Basic Skills that many of a previous generation were taking 50 years ago. What surely happened was the misuse of tests in labeling schools and therefore students as failures. This was a particular problem in Indian Country due to the large incidence of failure in NCLBA terms and

limited understanding of the proper use of standardized tests as tools for schools to improve programs and inform parents and students of their relative standing among other students, both locally and nationwide. Instead, failing to “meet AYP” has been cited as a reason for punishment and even banishment.

DBOSBA respectfully requests:

- That the evaluation requested be in two parts. First, that it be a review of the literature and current and past programs to identify and **focus on successes in Indian education**. Second, and in a different vein entirely, that it be a **review of compliance** with the Bureau’s implementation of the applicable statutes. We are of the belief that the Bureau is in many respects in violation of both the letter and spirit of the law. We further believe that getting by with such violations in the past has created an environment where the Bureau is emboldened to expand the violations in the future.

We thank you for this opportunity to testify and stand ready to respond to questions.