

**TESTIMONY OF
CHAIRMAN LOUIS MANUEL
ON BEHALF OF THE
AK-CHIN INDIAN COMMUNITY**

**BEFORE THE
U.S. HOUSE OF REPRESENTATIVES
APPROPRIATIONS SUBCOMMITTEE ON
INTERIOR, ENVIRONMENT AND RELATED AGENCIES**

March 25, 2015
Rayburn House Office Building B-308

Mr. Chairman, Madam Ranking Member, and Members of the Subcommittee;

I am Louis Manuel and I currently serve as the Chairman of the Ak-Chin Indian Community (“Community” or “Ak-Chin”). Our Reservation was established in 1912 and is located adjacent to the City of Maricopa, Arizona, approximately 35 miles south of downtown Phoenix, Arizona. Maricopa has experienced rapid growth in recent years, making it one of the fastest growing suburbs in the greater Phoenix metropolitan area. The effects of this growth have brought new opportunities to the Community, as well as new challenges to which we are continuing to adapt.

We have always been a farming Community. Indeed, Ak-Chin is an O’odham word meaning “people of the wash,” which refers to the wash runoff that our ancestors used to irrigate beans, corn and squash. Today, the Community owns and runs Ak-Chin Farms, which employs 84 people and cultivates 16,000 acres of farmland. Gaming and hospitality have emerged as major sources of economic development for the Community and we continue to look to diversify our economic ventures as Maricopa continues to grow at a rapid pace.

We are a small tribe with currently just over 1,020 enrolled members, of which 78% live on the Reservation. Meanwhile, our neighbor, the City of Maricopa, Arizona has grown astronomically, from a population of 1,040 people in the 2000 Census, to approximately 45,500 in 2013. Such growth has brought several new “big-city” problems to the Community, such as addressing traffic and crime in ways not seen before. This growth is only expected to continue well into the future and the Community is working hard to plan accordingly.

Throughout these changing circumstances, we remain committed to protecting the future of our Community for the next generation while continuing to be good neighbors to the surrounding communities. Indeed, these most basic objectives are shared among tribes universally, but felt most directly by the many tribes who are navigating the opportunities and challenges created by nearby growth. To best respond to these challenges, we need a Bureau of Indian Affairs (BIA) that is flexible and willing to break free from the institutional and bureaucratic practices of a bygone era. We hope Congress will continue to push and challenge the BIA to modernize and adapt to the realities facing tribes in the 21st Century.

Operations and Maintenance Funding for the Ak-Chin Justice Complex

In recognition of the changes and growth in the broader community, the Community made the decision nearly a decade ago to construct the Ak-Chin Multi-Purpose Justice Complex (“Justice Complex”). The Community saw the need and funded the planning and construction entirely on our own, without the federal government, at a cost of over \$18 million. To the best of our knowledge, it is the first tribal justice center that was fully funded by a tribe.

We believed self-funding the project was necessary due to the lack of federal appropriations for tribal facilities construction and the backlog of justice construction needs that already exist in Indian Country. As tribal government facilities and infrastructure continue to age and deteriorate far faster than the funds being appropriated for facilities construction we expect many tribes in the future will also decide to self-fund major government construction projects. This will apply far beyond justice related projects, but also to schools, roads, sewage plants, hospitals and other infrastructure projects as tribes continue to exercise greater degrees of self-governance. Indeed, the Community has also self-funded our Central Plant, Waste Water Treatment Plant, Surface Water Treatment Plant, as well as roads and infrastructure projects.

When tribes have the resources and make the decision to take on these projects themselves, we should not be penalized for working outside the standard bureaucratic process. Our Justice Complex was completed and dedicated on June 6, 2014, yet we remain in limbo with the BIA about whether or not we will be eligible to receive Operations & Maintenance funding for the future operation of the facility.

Our Justice Complex is a truly state-of-the-art 56,000 square-foot complex. When the Community committed to funding the project through to completion we established a planning committee that was made up of our police chief, chief judge, detention sergeant, capital projects manager and our contract and grants manager. They traveled across the country to research other tribal justice facilities and learn best practices from other tribes who had been able to benefit from federal appropriations for facilities construction.

Through this process we realized the benefits and efficiencies of housing all aspects of the judicial system under one roof. Accordingly, our Justice Complex houses the Community’s police department, public defender’s office, prosecutor’s office, detention and probation center and courts. It was designed to use modern water and energy saving technologies throughout. Further, the design will ensure that detainees have the opportunity to practice their religious beliefs, while also taking GED or college courses online, and receiving CPR or food handling certifications.

The Justice Complex is a symbol of our inherent right to exercise our tribal sovereignty through self-governance and we hope it will serve as a model for other Indian communities well into the future. In addition to funding the project ourselves, the Community and the planning committee worked diligently to ensure that the Justice Complex would be fully compliant with all BIA code requirements for the health and safety of everyone who would be associated with the facility. After several intensive examinations by the BIA Office of Facilities Management and Construction (OFMC), our Justice Complex was issued a Permanent Certificate of Occupancy.

Despite meeting all of the code requirements and obtaining a Permanent Certificate of Occupancy, it remains unclear if our Justice Complex will be eligible for Operations and Maintenance Funding (“O&M Funding.”) The Community and BIA still have more work to do on this issue, but we must emphasize the importance of eligibility for O&M Funding to Ak-Chin and, likely to many tribes taking on similar projects in the future.

Indeed, there is nothing in federal law or Department of Interior Regulations that would call into question O&M Funding eligibility for a tribe that funded its own construction project. The Operations and Maintenance Program is explained in Part 80, Chapter 3 of the Indian Affairs Manual and provides;

O&M funding shall be provided to Locations or facilities approved by the Deputy Director, OFMC after meeting these prerequisites:

- (a) Approved Agreement for Ownership and Title of facilities
- (b) Approved Plan for Demolition or Transfer of facilities
- (c) Approved Request for Space Expansion, Chapter 2.3.B(4), applicable to permanent facilities as well as portables, modulars, trailers, and towers
- (d) Approved Inventory
- (e) Final Acceptance
- (f) Certificate of Competency

While meeting these requirements should be a straight forward process, it has become a maze for the Community to navigate back and forth between local, regional and national BIA officials. As tribal leaders have often illustrated to this Subcommittee, there seems to be little, if any, coordination or consistency in the information we receive from one BIA office to another. Clearly, our process remains ongoing and we appreciate the assistance of the many dedicated employees throughout the BIA.

Just as we hope that our Justice Complex will serve as an example for other tribes, we also hope our experience navigating the bureaucratic process with the BIA can help make that process more user friendly and workable for other tribes who are certain to face the same situation in the future. As the Members of the Subcommittee are well aware, tribes often come to Congress when frustrated with roadblocks or delays in seemingly straightforward matters are passed back and forth among various officials within the federal agencies. In that way, our issue is not new.

It is a relatively new development, however, that tribes are both capable and willing to exercise self-determination through significant construction investments in our own communities. This should be recognized and encouraged. More and more tribes, who are able, will choose to invest in their communities outside of the BIA construction process and the system should have the flexibility and understanding to work as smoothly with such tribes as with those following the traditional construction process.

Indeed, as more tribes decide to invest in facilities on their own there is a greater incentive for the BIA to ensure a system that incentivizes following the health and safety codes required to be eligible for O&M Funding. If Ak-Chin ultimately cannot receive O&M Funding after the expense and years of work we put into building a completely OFMC health and safety code compliant Justice Complex, there would be little incentive for any tribe financing their own facility to follow these regulations in the future.

Tribal Governments are the leading innovators developing new and creative ways to build our communities and better serve the needs of our people. This innovation should be embraced and encouraged by our federal partners, especially the BIA. As we continue to work to obtain O&M Funding for the Ak-Chin Justice Complex we look forward to working with our delegation and the BIA to ensure the Community's eligibility. Furthermore, we hope Congress will continue to work with the BIA to build a bureaucracy that is more flexible and responsive to the ever changing needs and capabilities of tribal governments.

Tribal Self-Governance

As we have taken some significant steps forward to protect our community for future generations by investing in the Ak-Chin Justice Complex, we also recognize the need to invest beyond brick and mortar community projects. To ensure a healthy community for our children, we need to ensure that we are building the human capital necessary to ensure a stable and effective tribal government for generations to come. By taking on more responsibility for governing ourselves, we are building not just the Community, but also our future leaders.

Self-governance enables tribes, not the BIA, to run our own programs and ensure that these programs conform to our history and traditions to best serve our people. By running our own programs we are also building the capacity of our people to effectively operate programs and our government far into the future. Indeed, self-governance benefits our community well beyond the people served by our programs.

Accordingly, we need more opportunities to run our programs, not just those at BIA or IHS, but throughout the federal government. We need the information sharing necessary to make our governmental decisions and we need the technical assistance to build up our people and ensure that we are a valuable and effective governmental partner to the United States, our state, our county, and our neighboring communities.

Conclusion

In conclusion, Mr. Chairman, Madam Ranking Member, and Members of the Subcommittee, I would like to thank all of you for your willingness to listen directly to the challenges facing tribal governments. Our Community has high hopes that this Committee will continue to work to address the challenges tribes face from population growth, bureaucratic hurdles and in exercising the opportunities and promises of expanded tribal self-governance. We look forward to working with you all toward building healthier tribal communities for our future generations.