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DINÉ BI OLTA SCHOOL BOARD ASSOCIATION, INC. Position Statement on the Proposed FY 2017 Federal Budget March 18, 2016

Greetings Honorable Members of the House Sub-Committee on Interior Appropriations, My Name is Angela Barney Nez. I serve as the Executive Director of the Diné Bi Olta School Board Association, Inc. (DBOSBA). Pursuant to Navajo Nation Code 10§301 et.seq. the Navajo Nation established the DBOSBA organization as the only school board association recognized by the Navajo Nation to represent local community school boards to address the views and situations of community controlled schools operated and funded by the Bureau of Indian Education. 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 or P.L. 100-297 as amended.

The Proposed FY 2017 Budget Increases

The FY 2017 budget proposal by the Department of the Interior for BIE Education looks reasonably good when viewed in conjunction with the FY 2016 final appropriations. DBOSBA hereby submits its position on the FY 2017 Budget Request and also provides input and guidance on the overall direction of the BIE Education System going forward.

- **Commitment to Self-determination** - DBOSBA strongly supports the Administration's commitment to self-determination, particularly the proposal to continue funding 100% of the Administrative Cost Grants (\$2.1 million increase). We also support continuation of full funding for the Tribal Education Departments in 2017, but would point out that the authorized level should be increased beyond the current \$2 million level. In addition, the BIE should base the amount of awards on the size of the tribe being awarded. Due to the number of BIE funded schools on Navajo, the planning effort is much greater than tribes with only a handful of schools. On Navajo, in spite of tribal authorization to establish a true educational system, a lack of funding continues to hamper the development activity.
- **Indian School Equalization Program (ISEP)** - DBOSBA supports an increase in this line item for the basic instructional program of BIE funded schools. However, the amount of \$6.5 million seems a very minimal amount, particularly since there was only a minimal increase for ISEP in the FY 2016 budget. The ISEP formula funding is only now getting back to the FY 2010 level. We would like to see an estimate of the funding needed to meet the DOD teacher pay requirement compared to the proposed overall increase. After the DOD pay requirement is met, we expect the increase is very small.
- **Facilities O & M** - DBOSBA strongly supports the increase in Facilities O & M of \$6 million. Combined with the significant increase in FY 2016, this is greatly appreciated and will reduce the problem of schools having to divert instructional dollars to "keep the lights on." The

failure through the years to adequately fund these line items results in minor problems evolving into major repairs.

- **Education Program Enhancements** – The BIE has requested an increase of \$2 million in this program. It is unfortunately not always clear how this funding is used and whether it has been effective. In the past, it appears that large contracts were given to education assistance companies that were springing up in response to the unrealistic demands of NCLBA. The FY2016 budget justification states that the funding would be used for “*capacity building*” for tribal departments of education as well as a discretionary fund to “*drive reforms and spur innovations in the 126 tribally controlled schools operating on 64 reservations.*” Since FY 2008, more than \$100 million has been appropriated for this program. The justifications for the program have been rather vague and the results seem minimal. If indeed this funding is requested for capacity building for tribal education departments, there should be a fair and transparent process established by which the tribes can apply for such funding. Consistent with the opportunity to waive the current accountability plan of the BIE under the new ESSA, and develop its own accountability standards; the Navajo Nation has been developing its own unique option and will need additional funding for implementation of the various functions involved.
- **School Transportation** – DBOSBA strongly supports the \$4 million increase in transportation. Most schools agree that the funding provided historically via this line item has been inadequate to cover the full cost of the transportation program. This shortfall means that the schools must take funding out of their instructional programs just to get the students to school. More actual data seems to be needed to identify the extent of the shortfall.
- **Broadband and IT enhancement** - DBOSBA strongly supports the \$16.8 million for bringing Broadband and digital access to all Bureau schools. BIE received only a \$2.0 million increase for information technology in the FY 2016 appropriations, far less than the \$34 million increase proposed. While this proposal for FY 2017 is not as substantial as the request made in FY 2016, the funding would have a very significant impact on the access and use of technology in the Navajo classrooms. A great many innovative teaching techniques and materials, now including testing materials; are based on digital platforms and cannot be used without such access.
- **BIE school construction** – DBOSBA supports the continuation of the FY 2016 school construction funding level in the FY 2017 budget (\$138 million) but with an increase of \$7.5 million for Employee Housing. We wish to underscore the growing problem of inadequate teacher/staff housing at many school sites and believe that Employee Housing Repair needs special attention. The lack of adequate housing for staff is a significant factor in teacher turnover in our schools. DBOSBA strongly supports the appropriation committees’ suggestion that the Bureau “*model its efforts on the process used by the Department of Defense (DOD)...*”
- **Early Childhood and Family Development** – DBOSBA supports the increase of \$4 million for the FACE program. We believe that this program is successful in strengthening Navajo families and student readiness for school. Along with the appropriations committees, we look forward to the release of the 2013-2014 Study and internal review of the program.
- **BIE Education Program Management** – The FY 2017 budget requests \$8.0 million “to further establish a School Operations Division...” DBOSBA supports this request **if** this funding will be used to finally implement 25 USC 2006 (a) and (b) that vests all education functions in the AS –IA and then states that the AS - IA will “*carry out such functions through the Director of the Office of Indian Education Programs.*” (Now known as BIE) In paragraph (b)(1), it states that “*The Director shall direct and supervise the operations of all personnel directly and*

substantially involved in the provision of education program services by the Bureau, including school or institution custodial or maintenance personnel, and personnel responsible for contracting, procurement and finance connected with school operation programs.” True implementation of this statute would almost certainly involve a transfer of functions, personnel, and funding, from the BIA to the BIE as well as provide new funding for BIE. Paragraph (b) (2) requires the AS –IA “to coordinate the transfer of functions relating to procurements for, contracts of, operation of, and maintenance of schools and other support functions to the Director.” DBOSBA believes there is absolutely no confusion about the meaning of these provisions of the statute! Furthermore, these statutory provisions are consistent with the GAO recommendations.

Recommendations for BIE Education System

- **Budget Analysis Division** – 25 USC 2009 requires that BIE establish a Division of Budget Analysis not later than one year after enactment of NCLBA. It would have been a tremendous help through the years if such a division were in existence and providing the type of information called for in the statute. In addition, 25 USC 2001 (h) requires the Comptroller General to conduct a study “to determine the adequacy of funding, and formulas used by the Bureau to determine funding, for programs operated by Bureau-funded schools...” The long standing failure of the Bureau to implement these provisions has created a void of information where it has become increasingly difficult to justify funding based upon objective data. As part of the reform measures called for by the appropriation committees, DBOSBA believes these two statutory mandates should be specifically mentioned for implementation.
- **BIE Reorganization** - DBOSBA has actively opposed portions of the BIE reorganization. The problem has been that the Department has treated the existing statute as though it is somehow optional and proceeded to ignore the structure of the system mandated in the statute. The Department has received a conditional approval of its reorganization contingent on its consistency with the GAO Report 13-774. The Committee Report states: “As the Department takes steps to reform the system, the Secretary is reminded that future support from Congress will continue to be based in large part upon successful implementation of GAO report recommendations. In particular, consistent with GAO report 13-774, the Secretary is urged to reorganize Indian affairs so that control and accountability of the BIE system is consolidated within the BIE, to present such reorganization proposal in the fiscal year 2017 budget request...” Specifically named are problems related to the “organizational structure, accountability, finance, health and safety, and ultimately student performance.” The Department’s original reorganization plan ignored the GAO report, as well as the applicable statute (25 USC 2006). DBOSBA believes that going forward with the Department’s original reorganization plan does not address the GAO’s recommendations, is not in compliance with applicable statutes, and would make matters worse in the field. Our reading of the FY 2017 budget justification leaves questions concerning the BIE’s compliance with the appropriation committees’ determination. (See comments on Education Program management above) We have submitted written testimony/correspondence on numerous occasions to no avail. We now urge the appropriations committees to review this matter carefully.

- **Relationship with Department of Education**

Shift to Department of Defense (DOD) budget model

As the Committee is aware, the Department of the Interior has been involved with developing a major initiative for BIE Education. One of the suggested options that came out of those discussions/consultations was an idea to utilize the Department of Defense budget model as it relates to the flow through funding from the Department of Education. Currently the BIE receives about \$200 million from the Department of Education via a set aside in the authorizing legislation (now ESSA). Conversely, the Department of Defense Education System, receives its total funding *through its own DOD appropriation*. It is therefore free to develop its educational program to meet the special needs of the students it serves. This is a fundamental difference between the two education systems operated by the Federal government. In our estimation, there is no question that the Department of Defense model is superior to the Bureau of Indian Education model.

Memoranda of agreement have been reached through the years whereby the BIE is supposed to function as an SEA (State Education Agency) in order to receive the Department of Education funds and administer the various programs to the LEAs (Local Education Agencies). Rather than work with tribes and local BIE funded schools in designing its curriculum and ensuring that the needs of its students are met, the Bureau is forced to comply with Department of Education rules devised for the states.

Following the passage of NCLB, these rules and procedures became much more detrimental to BIE school programs. The Bureau began neglecting its own statutory authorizations in favor of its clearer SEA role as the enforcer of NCLB rules. The result was that the BIE Education System, set up to meet the special needs of Indian children, was forced instead to try to set up the same education system that was in the process of failing in most of the rest of the country. Of course, the failures in Indian country have been more significant since the BIE was ignoring the very principles that have been developed through the years based on numerous studies and years of experience. Increases in BIE funding were funneled into NCLB implementation. Genuine initiatives toward self-determination, including at least two on Navajo, were squelched due to lack of funding.

We believe that it is time for a major change in the structure. We recommend that the BIE set aside funding from the Department of Education in ESSA be transferred to the Interior Budget for BIE. The BIE should then be required to have substantive consultations with the tribes, school staff and BIE funded school boards to further develop a unique education system, based on self-determination and deemed to be the most beneficial and effective for Indian youth. We believe that this change would require a statutory change and were disappointed that the new ESSA did not deal in any substantial way with Indian Education. We believe the statutory change to be minor but believe the benefits could be significant.

We thank you for the opportunity to testify.