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**Testimony of Bill John Baker, Principal Chief, Cherokee Nation
House Interior Appropriations Subcommittee
May 16, 2017**

Chairman Calvert, Ranking Member McCollum, Vice Chairman Stewart, Chairman Cole, and distinguished members of the subcommittee:

Osiyo.

I am Bill John Baker, and it is my great honor to serve as Principal Chief of our country's largest Native American tribe, the Cherokee Nation. I deeply appreciate the opportunity to testify before you this morning.

To begin, I commend you for your work on the fiscal year 2017 omnibus appropriations measure and thank you for your continued steadfast support of Indian Country. In a very tough spending environment, you were able to secure increases for the Indian Health Service (IHS), the Bureau of Indian Affairs (BIA), and the Bureau of Indian Education (BIE). I wish you continued success as you move into the fiscal year 2018 process.

With more than 350,000 tribal citizens, the Cherokee Nation has long been a driving force of the economy in Oklahoma. Today, we directly employ more than 11,000 men and women and support nearly 18,000 jobs. Our economic impact on northeast Oklahoma exceeds \$2.03 billion.

We are a stabilizing force in our region, especially at a time when our state's budget is shrinking.

But even the Cherokee Nation will find it difficult to brush off funding cuts like those outlined in the President's fiscal year 2018 budget request.

Next week the administration will release its full budget request for FY18—a document that will presumably expound on the March blueprint that called for a 12 percent cut to the Department of the Interior and an 18 percent cut to the Department of Health and Human Services.

Reductions of this magnitude would be devastating. An 18 percent cut to IHS would have a real and lasting impact on Cherokee Nation's Health Services, the country's largest tribally-operated health care system. Hundreds of vacant positions would go unfilled. Jobs would be lost. Patient wait time would increase, and an estimated 91,878 patients (approximately 9 percent of annual patient visits) would go unseen, jeopardizing their health and lives.

A 12 percent cut to Interior programs would cause at least 2,000 students to go unserved and the elimination of the drama, band, and robotics programs at Sequoyah High School, the school operated by Cherokee Nation. It would lead to the closure of daycare centers, reduced staff and hours at nutrition sites, and the establishment of limits on the number of clients that receive assistance.

I sincerely urge you to reject any proposed cuts to these programs.

BIE School Construction

Everyone knows the problems facing BIE schools, especially with regard to school construction and facility repair.

I applaud the subcommittee for highlighting this issue in recent fiscal years and dramatically increasing the construction account in the FY 2016 appropriations measure. I further commend you for continuing robust funding for this purpose in the FY17 omnibus budget.

However, we must be realistic about how far that funding will go. We understand the fiscal challenges you face when putting together your bill. If you were to appropriate the necessary amount to repair or replace every BIE school that needs repair or replacement, every other program under the subcommittee's jurisdiction would face the prospect of flat funding or cuts.

In recent years I have called for the establishment of a BIE equivalent of the IHS Joint Venture Construction Program. I repeat that call today. Congress, the administration, and Indian Country have to come together and embrace innovative solutions for BIE school construction. The status quo is not an option.

We operate Sequoyah High School, a BIE school in Tahlequah, OK. Sequoyah has an enrollment of 360 students from 24 tribes and has a strict focus on academic success. Last year, Sequoyah students earned over \$2.2 million in scholarships including two Gates scholars.

Our students achieve in spite of Sequoyah's aging and generally insufficient facilities. Sequoyah consists of 17 structures, 13 of which are more than 40 years old. The main high school and the science classrooms are 50 years old, and the robotics classroom is 86 years old and located more than a quarter-mile from the main high school. In the face of these challenges, the robotics team recently captured the state championship.

Sequoyah also houses 65 students who live on campus. At present, however, the residential dormitories have been relegated to a temporary dormitory due to the discovery of significant mold deposits throughout the entirety of both the boys and girls dormitories. This has placed a limit on the number of dormitory units available to students, which in turn negatively affects enrollment (about 50 students per year have been denied admission to Sequoyah simply due to a lack of dormitory space). Mold, caused by leakage in roofs and plumbing systems and asbestos, has been discovered in many facilities, requiring extensive abatement.

A key problem at Sequoyah is major plumbing issues campus-wide, resulting in a substantial amount of water leakage incidents. Aged plumbing systems have caused leakage issues in all but one building. This greatly contributes to the mold concerns that require extensive abatement and repair.

In addition, security and safety concerns have become a critical concern for the school. The layout of the current school infrastructure, as well as a lack of space has increased security risks

on campus. Currently, classes are being held in the campus storm shelter, which could lead to a capacity issue in the event of severe weather.

BIE's Operation and Maintenance funding is not enough to meet the needs of the school, and, as such, the buildings continue to degrade, space continues to be an issue, and enrollment continues to fall.

Like so many BIE schools, Sequoyah requires immediate assistance. Yet because of the great need throughout Indian Country, and the great cost to the federal government to replace many of these facilities, last year BIE selected less than a dozen schools to move forward with repairs or replacement. Sequoyah was not one of the schools selected to continue with this process.

And considering the current \$1.3 billion backlog, I find it hard to believe we will be selected any time soon under the current criteria and program guidelines.

The need, however, will still be there.

This is why we need new ideas and solutions. If tribes were able to incur construction costs for these facilities in exchange for fixed operations and maintenance costs—like the IHS joint venture—we might be able to alleviate some of the significant backlog and create new educational opportunities in Indian Country. If we maintain the status quo and wait for BIE to go through the entire list, we'll be in the same place year after year.

We cannot simply wait for funding that is unlikely to come. The challenges are too great, and the consequences of delay are too grave. Therefore, we urge the subcommittee and all of Indian Country to start to rally around new solutions to the problem of school construction, including a new joint venture-like program for BIE.

Contract Support Costs

We continue to support full funding of IHS and BIA contract support costs, and thank this Committee for its work to date to fully fund contract support costs without jeopardizing program funding. We respectfully urge the Committee to continue with its current approach of employing a separate and indefinite appropriation.

As you know, the Cherokee Nation has long been a leader in the self-governance arena. We were among the first tribes to enter into self-governance compacts: our compact with the Department of the Interior was signed in 1991, and we followed that with a compact with Indian Health Service in 1993. As the U.S. Supreme Court has confirmed in several decisions, the federal government has a legal obligation to fully fund contract support costs. *Cherokee Nation et al. v. Leavitt*, *Salazar v. Ramah Navajo Chapter*, and *Arctic Slope Native Association v. Sebelius*. Despite these rulings, the federal government has not always lived up to its obligations. When the United States does not fully pay contract support costs, we must find ways to make up the shortfall. This means possibly realigning our priorities and reducing funds budgeted for critical health care, education, and other tribal services. For every \$1 million that the Cherokee Nation must divert from direct patient care to cover contract support costs, we are forced to forego about 6,000 patient visits. Failure to fully fund these costs impedes our ability to meet the health care needs and the other needs of Cherokee citizens.

An important component of fully funding contract support costs is ensuring that the agencies adopt and implement effective internal guidelines for calculating and reconciling CSC payments so that estimates are accurate and the methodology is not unnecessarily burdensome. The approach developed by BIA to date does this. However, we remain deeply troubled by the approach being used by IHS which is unduly complex and which has led and will lead to substantial errors in estimating CSC requirements. Such errors have direct consequences on Congress's ability to appropriate funds that IHS, tribes and tribal organizations, require for the delivery of health care services. We urge the Committee to continue with its important oversight of the agency's work on these matters, to remind IHS of the need to simplify its process, and to instruct both agencies not to seek to reduce tribal contract support cost entitlements.

Indirect Costs

Two years ago, the House Appropriations Committee included the following in the report accompanying the FY 2016 Interior, Environment, and Related Agencies appropriations bill:

Indirect Costs—The Committee is concerned that a recent Administration policy change with regard to indirect cost reimbursement may not fairly apply to Indian Tribes and tribal organizations. The Secretary is directed to report to the Committee justifying this policy change and in particular its application to tribal enrollment activities.

I would like to update you on this matter. Since the time of the Committee's report, we have engaged in discussions with the Interior Department but the matter is not yet resolved. Interior's longstanding policy properly allowed costs related to citizen enrollment to be included in calculating indirect costs, but in late 2014, Interior staff announced an intent to take a different position. There has been no change in the law to justify such a policy change. To the contrary, the work in verifying tribal citizenship has been, and continues to be critical to determining eligibility for many federally-funded programs that tribes, like the Cherokee Nation, administer. We have provided Interior with detailed information explaining the reasons why this work is necessary for the efficient performance and administration of federal awards, and is therefore properly allocable in the indirect cost pool under the law. The Intertribal Council of the Five Civilized Tribes and NCAI have expressed support for the Cherokee Nation on this issue.

However, we are increasingly concerned that our discussions with Interior are moving in the wrong direction. For example, an important part of our work is creating photo identification cards. These cards provide a cost-effective way to verify eligibility for the federally-funded programs that we administer and were specifically designed to prevent fraud by meeting TSA standards. (The cards are laminated, show the individual's photo, id number, signature and a hologram so they cannot be reproduced). Since the photo id program was established, Interior consistently agreed that its costs were properly treated as indirect costs, but are now questioning this. There is no basis for such arbitrary reversals of position. We welcome any assistance that this Committee can provide to ensure that longstanding past policies which properly allowed such costs remain in effect.

Thank you again for this opportunity to testify.