

**TESTIMONY OF
CHAIRMAN ROBERT MIGUEL
ON BEHALF OF THE
AK-CHIN INDIAN COMMUNITY**

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

May 16, 2017

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

My name is Robert Miguel and I have the honor of serving as the Chairman of the Ak-Chin Indian Community (“Community” or “Ak-Chin”).

First, I would like to thank the Members of this subcommittee for inviting me to testify. I would also like to thank them for their dedication to the trust responsibility of the federal government to Tribes. I understand that a number of federal programs in the recently passed omnibus bill were cut, but this subcommittee increased funding for the Bureau of Indian Affairs (BIA) and Bureau of Indian Education by \$69 million over fiscal year 2016 level funding. We all know that every dollar the BIA receives is important, however one of the items I plan to testify on today is how the BIA can improve working with Tribes on distributing funds for crucial services.

Ak-Chin has always been a farming tribe and our name is directly derived from an O’odham word that refers to a type of farming traditionally practiced by the Ak-Chin people. Throughout our history, we have relied on subsistence and eventually commercial farming for sustenance. Today, we own and operate Ak-Chin Farms, which employs about 85 people and cultivates more than 15,000 acres of farmland and has been a central economic enterprise for the Community since the 1960s. As the communities surrounding the tribe have grown exponentially over the past few decades our other economic entities focused on gaming and hospitality industries have grown into major sources of economic development for the entire area.

We are direct neighbors with the City of Maricopa, Arizona, and lie about 35 miles south of downtown Phoenix, Arizona. In recent years, we have seen a great increase of tribal members returning to the Reservation from around the country and currently close to 80% of our enrolled members live on the Reservation. However, we still remain a small tribe with 1,067 enrolled members and our recent growth pales in comparison to the rampant growth of our neighbor, the City of Maricopa, Arizona. The City’s growth has been overwhelming. It has gone from a population of 1,040 people in the 2000 Census, to approximately 47,442 in 2014. The rapid growth has forced the Community to adapt, as well as plan for continued long term growth in the corridor that connects Phoenix and Tucson, Arizona.

As the city surrounding us continues to grow at one of the fastest rates in the nation, we are committed to being good neighbors while also working hard to build a stronger future for the next generation of Ak-Chin tribal members. As I testified last year before this Subcommittee, to evolve and meet 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 prod the BIA into focusing on the realities facing tribes now and in the future.

Ak-Chin Multi-Purpose Justice Complex

In my testimony last year, I spoke on our \$18 million Ak-Chin Multi-Purpose Justice Complex (“Justice Complex”). The Community completely funded the construction of the \$18 million Justice Complex which was dedicated on June 6, 2014, without any cost to the federal government. To the best of our knowledge, it is the first tribal justice center that was fully funded by a tribe.

The Ak-Chin Justice Complex is a truly state-of-the-art 56,000 square-foot complex. In the beginning of the planning phase for the project, the Community established a planning committee comprised of our police chief, chief judge, detention sergeant, capital projects manager and our contract and grants manager. They worked tirelessly to study and research other tribal justice facilities across the country to learn best practices from other tribes who had been able to benefit from federal appropriations for facilities construction.

Our Justice Complex houses the Community’s police department, public defender’s office, prosecutor’s office, detention and probation center and courts in one building. It uses state-of-the-art water and energy saving technologies throughout and was designed to ensure detainees could practice their religious beliefs, take GED or college courses online, and receiving CPR or food handling certifications. Building this new center was critically important to our Tribe. Our previous tribal justice facilities were extremely limited and could simply not accommodate our detention and law enforcement needs. We had one room in the old facility that was used for multiple purposes, including processing, training, counseling services for inmates and education services. When an individual was arrested and needed to be processed at the facility this would stop whatever activities were taking place and disrupt services. It was very obvious to us that we could not wait for BIA construction funding to build a new facility, so we moved forward on our own.

From the beginning of the construction process, we worked extensively with the BIA to ensure the Justice Center met all BIA construction requirements necessary to qualify for federal Operations and Maintenance Funding (“O&M Funding”) and the facility did receive its Permanent Certificate of Occupancy on September 24, 2014.¹ All of this work to obtain the Certificate of Occupancy, which took place over several years, was done in lockstep with the BIA with the understanding that it was the necessary step Ak-Chin needed to take to be eligible for O&M Funding. Even after all of this, the BIA denied our requests for the O&M Funding the

¹ Prior to receipt of the Permanent Certificate of Occupancy, the facility was also operating in compliance with all BIA regulations under a Temporary Certificate of Occupancy.

tribe would otherwise be eligible for had we waited on the BIA construction process. To this day we have continue to be denied even the funding that we were receiving before building the new facility. It remains unclear if the facility will ever be eligible to receive O&M funding in the future.

In exercising our inherent right to self-government, the Community decided to construct the Justice Complex as an exercise of tribal sovereignty and we hope it will serve as a model for other Indian communities well into the future. In doing so, we also want to ensure that other tribes choosing to exercise their sovereignty in a similar matter can access O&M Funding without the bureaucratic roadblocks we have been forced to address. Again, this year we ask the Subcommittee to include Bill language that would require the BIA to work in consultation with tribal governments to develop a framework and policy that incentivizes tribes to exercise their sovereignty by taking on cost of projects that should otherwise be a federal trust responsibility. While we still have much work to do with the BIA on this issue, we will continue to emphasize the importance of eligibility for O&M Funding to Ak-Chin and, likely to the many other tribes that will inevitably take on similar projects in the future.

Tribal Self-Funding of Federal Trust Responsibilities

The federal government should be encouraging tribes with the resources to do so to invest in their communities and take on such projects to reduce a backlog that will never be completed based on the current appropriations cycle. Indeed, our experience working with the BIA on the process for obtaining our Certificate of Occupancy was productive and relatively straightforward as we bore all of the costs of constructing the facility to BIA requirements. However, our experience working with the BIA following the completion of the project when we began to seek eligibility for O&M Funding has become a maze for the Community to navigate back and forth between local, regional and national BIA officials.

Tribal government facilities and infrastructure continue to age and deteriorate far faster than appropriations for facilities construction, so it is reasonable to expect many other tribes to also take on major government construction projects in the future. We made the decision to fund the construction of our own facility based on the lack of federal appropriations for tribal facilities construction and the backlog of justice construction needs that already exist in Indian Country. 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.

I am not the first, and won't be the last tribal leader to share bureaucratic challenges of working with the BIA to this Subcommittee. There are long standing challenges that cannot be changed with the flip of a switch and I commend you all for work to address the systemic issues. Our work with the BIA is ongoing and we are determined to see it through to the end regardless of the setbacks and roadblocks thrown up in the bureaucratic process.

If tribes ultimately cannot receive O&M Funding after the expense and years of work put into building a completely OFMC health and safety code compliant Justice Complex, there would be

little incentive to follow these regulations in the future. Tribal innovation needs to be embraced and encouraged by our federal partners, especially the BIA. We will continue our work to obtain O&M Funding for the Ak-Chin Justice Complex and 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.

Other Funding Priorities for the Ak-Chin Indian Community

Environmental Protection Agency (EPA) - A number of EPA grant programs are critically important to the Community. We urge the Subcommittee to ensure level funding from fiscal year 2017 for the following programs of importance to our Community and Indian Country: The Indian Environmental General Assistance grant program and the Performance Partnership grant program

BIA Road Maintenance Fund – We urge the Committee to increase the funding for this program 10% in fiscal year 2018 to \$33.3 million. This fund is crucial to maintaining the Community's infrastructure and it is underfunded every year.

Indian Community Development Grants – An increase of funding from \$41,844,000 to \$50,000,000 in fiscal year 2018. This grant assisted the Community in the completion of our Library, Recreation, Education, Community Centers, as well as parks for youth. This program is important to many Tribes and the need for additional funding is great.

The Johnson O'Malley Grant Program ("JOM") – an increase in funding from \$14.7 million to \$20 million for fiscal year 2018. Ak-Chin, like other tribes, has used this funding to meet the unique education needs of our youth. This has been a highly successful program and with our growing population, more funding is needed.

Conclusion

Thank you again for holding this hearing and the invitation to testify. We hope this Committee will continue its good work to address the challenges tribes face from population growth, bureaucratic hurdles and in exercising the opportunities and promises of expanded tribal self-governance. Congress can and should push the BIA to be more flexible and responsive to growth and how tribes are forced to work within the environment that continues to change around us. It is always an honor to represent my Community in Washington, DC and I would invite all of you to come visit the Ak-Chin Indian Community in the next year so you can see firsthand the work we are doing to build a better community for our future generations.