

Written Testimony of the Ramah Navajo Chapter-Ramah Band of Navajos

**FY 2021 FEDERAL BUDGET REQUEST SUPPORT AND CONCERNS FOR DEPARTMENT OF
INTERIOR (DOI)--BUREAU OF INDIAN AFFAIRS (BIA) SUBMITTED TO U.S. HOUSE
APPROPRIATIONS SUBCOMMITTEE ON INTERIOR, ENVIRONMENTAL AND RELATED AGENCIES
February 3, 2020**

HONORABLE CHAIRMAN AND COMMITTEE MEMBERS:

I, Jamie Henio, Navajo Nation Council Delegate for the Ramah Navajo Chapter, hereby submit this written testimony regarding the DOI-BIA FY 2020 Budget. This testimony focuses on four priority concerns: (1) **Inadequate and Untimely 638 Funding (25% or approximately \$762,000 increase requested); (2) Late Distribution of Funds; (3) Lack of Funding for Basic Police Operations and Fair Market Value Officer Salaries (\$390,000 increase requested); and (4) Unmet Needs for Roads Maintenance (\$350,000 maintenance and \$5.25 million long-range planning increases requested).**

The Chapter thanks you for holding these hearings on an annual basis. We sincerely appreciate the **U.S. House Appropriations Subcommittee on Interior, Environmental and Related Agencies** for restoring the appropriations in FY 2019. More work, however, remains to be done. We have identified four (4) priority issues for this year. We respectfully request your sincere consideration and advocacy with appropriate Agencies to address the following issues:

1) Inadequate Funding of Tribes' 638 Contract Programs as Compared to BIA Programs

Under P.L. 93-638, tribes directly operate many of the Federal programs that were formally operated by either BIA or Indian Health Services. Tribes decide which programs to operate, not the BIA. Federal law requires that these programs be funded at the same level they would have been funded had the Secretary operated these programs directly. This includes funding for facilities, operations, maintenance, and replacement of buildings, equipment, and vehicles. These programs, however, continue to be woefully underfunded. BIA continues to improperly impose its policies to control budgets and implementation of services using prior-year numbers; year after year, tribes see no increase in program funding. Yet, every year, the BIA puts tribes through an "exercise" to prioritize unmet needs and budget requests. Our priorities reach national recognition, but we rarely receive an increase in program funds.

The Chapter has continued to receive its program funds at the same levels with minor increases or decreases. We have been operating at a 25% deficiency for years. Similar programs operated directly by the BIA, however, repeatedly see substantial increases. The BIA programs enjoy the newest vehicles, equipment, and technology. At the same time, our Chapter's programs continue to scrape by with old equipment, in antiquated buildings (which are under BIA inventory replacement), and with limited technology. We demand that the funding not be reduced, but rather, we request an increase of the financing for all P.L. 93-638 tribally operated programs to a level equivalent to that provided for BIA programs, as required by law.

The table below shows over seven (7) years what funds Chapter has received:

| Contracts | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
|-----------|---------|---------|---------|---------|---------|---------|---------|
| CTGP | 784,103 | 764,290 | 764,290 | 764,290 | 776,038 | 776,056 | 899,541 |
| Fac. O&M | 135,978 | 106,259 | 99,138 | 108,968 | 93,259 | 55,685 | 51,454 |
| Detention | 0 | 0 | 0 | 0 | 0 | 55,407 | 62,056 |

| | | | | | | | |
|-----------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Law Enforcement | 674,906 | 650,868 | 673,323 | 650,868 | 685,672 | 697,138 | 703,848 |
| Correction | 377,500 | 361,295 | 363,903 | 361,295 | 369,242 | 1,032,998 | 1,042,927 |
| Roads | | | | 301,380 | 239,362 | 235,056 | 287,680 |
| Total: | 1,972,487 | 1,882,712 | 1,900,654 | 2,186,801 | 2,163,573 | 2,852,341 | 3,047,506 |

We request that the Chapter's P. L. 93-638 funds be increased by 25% across the board. This increase is necessary to even to begin to meet the needs of the Chapter's existing contract programs.

2) Untimely Distribution of 638 Contract Funds

Another pressing problem for the Chapter is the timing of its access to award funds. Indeed, even after inadequate funds have been awarded, the funds are untimely distributed to the programs. Tribally-contracted programs often wait for months after awards have been made to receive the funding, causing additional and unnecessary difficulty in delivering essential services.

We ask that the BIA be directed to distribute 638 funds immediately following the contract awards, and before services are rendered, not by continuing resolutions and not at year-end.

3) Lack of Funding for Basic Police Operations and Fair Market Value Officer Salaries

Under 25 CFR §12.34, police officers operating under a 638 contract should be paid the same wages as a BIA OJS police officer. However, BIA does not fund this mandate even though the BIA OJS has received \$23 million more in annual funding since 2009. Despite an additional \$22.5 million in FY 2019 alone, none of the almost \$50 million in increases since 2009 has come to Ramah Navajo Police, except for congressional inflation adjustments. We receive funds at less than 40% of our overall annual operational needs.

BIA OJS leadership reports that all extra money goes to identified priorities, or additional funding goes to jurisdictions with high crime. BIA OJS, however, fails to consult with tribal police agencies on what our needs are, and they fail to assess data provided to them that show violent crime against citizens and officers alike is rising. Notwithstanding rising violence, we have not received any additional funding to hire more officers or to provide our officers better training in officer safety. Eighty-nine percent of our current annual funding award goes salary and fringe; this leaves little to no funding for operational expenses of the department.

The BIA's Annual Funding Award Matrix is antiquated and fails to address the needs of tribes that have no exterior funds coming in to assist. Adequate funding is desperately needed to provide essential services currently, and the cost of delivering services is going up each year. The Chapter has lost many officers to other jurisdictions that offer better wages and a safer working environment, which creates an additional burden for the Chapter. The Chapter spends approximately \$75,000 to train and certify each new officer. We lose that much every time an officer leaves because of poor pay, lack of current equipment, and lack of back up due to unmet staffing needs. There has been, and currently still is, a "feeding frenzy" from larger agencies, specifically Albuquerque Police Department, Bernalillo County Sheriffs, and recently, the New Mexico State Police. These agencies can offer generous compensation packages and benefits to personnel from smaller agencies, like the Ramah Navajo Police Department, after those officers have been certified and trained.

The lack of funds is exacerbated by BIA's Law Enforcement Program Management. The Indian Affairs FY 2017 Budget Justification displays a FY 2015 appropriation of \$6,250,000 for "Law Enforcement Program Management." However, the real OJS administration budget for FY 2015 was \$30,716,000 (the OJS kept \$24,451,567 (12.4%) of the Criminal Investigation and Police Services budget for Administration and kept \$6,264,496 (6.5%) of the Detention and Corrections budget for Administration). The budget should be restructured to reflect the real administrative cost of the BIA OJS and to direct more funds directly to tribal programs. These funds are badly needed to meet the staffing and operating costs of tribal facilities and programs.

Most importantly, our officers should be salaried at the same rate as Federal/Bureau Police Officers. The chart below reflects annual funding awards from 2016 and 2020, specifically, the award disparity between our agency and local BIA OJS police districts and Zuni Tribal Police. The Zuni Tribal Police is our neighboring tribal police agency and has a similar population, similar UCR crime data, and the same landmass. As you see, Ramah Navajo's funds are drastically inadequate, and the DOI / BIA OJS funding matrix is deficient in identifying adequate annual funding to provide full public safety and dispatch services.

| Police Agency Name | Annual Funding Award 2020: | % of share | Annual Funding Award 2016: | Increase Amount 2016-2020: | % of increase |
|------------------------|----------------------------|------------|----------------------------|----------------------------|---------------|
| Ramah Navajo Police | \$706,562 | 9.1 | \$673,323 | \$33,239 | 1.8 |
| BIA OJS Police D4 | \$1,207,905 | 15.6 | \$825,606 | \$382,299 | 20.9 |
| BIA Northern Agency D4 | \$1,169,371 | 15.2 | \$1,167,841 | \$1,530 | .1 |
| BIA Southern Agency D4 | \$2,485,855 | 32.2 | \$1,170,763 | \$1,315,092 | 72.1 |
| Zuni Tribal Police | \$2,152,537 | 27.9 | \$2,059,183 | \$93,354 | 5.1 |
| Totals | \$7,722,230 | 100.0 | \$5,896,716 | \$1,825,514 | 100.0 |

We are requesting an additional \$390,000.00 per year of re-occurring annual funding. This increase is necessary to allow the program to start to comply with applicable regulations; to have operational funds to purchase and repair police fleet vehicles; to provide needed training to police officers, and to keep the program sufficiently staffed so that our hard-working officers DO NOT have to work by themselves and face assaults weekly.

4) **Unmet Needs for the Roads Maintenance Department.**

Roads Maintenance: We operate a road maintenance contract through the BIA. Our annual recurring budget for staff, material, fuel, and maintenance is \$235,000. The agreement identifies general road maintenance functions required to maintain a safe and sustainable roadway without a capacity increase. Funding barely supports three staff members. Currently, we have four permanent staff members in Roads Maintenance. We need an additional staff of two highway maintenance workers. Our Road Inventory Field Data System (RIFDS) transportation network consists of 505 miles of varying driving surface types. The unmet needs shown below for paved and base courses are a result of deferred maintenance. The earth road surface modifications to the base course are a result of the Long-Range Transportation Plan (LRTP) data and Chapter growth or need. The LRTP identifies road projects, road assets & inventory, cost estimates for road improvements, and a strategic safety plan for 20 years.

We are requesting an increase to \$585,000 to meet these identified needs.

Tribal Transportation Program (TTP): The TTP funds are program-based and fiscally constrained for five years. The current TTP allocations are \$1.25 million dollars. Our Federal partners expect that we operate and function as a small Department of Transportation (DOT). Essential functions to work as a small DOT are Programming, Planning, Design, Construction, Construction Management, and Fleet Management Services. We utilize a significant portion of our TTP funds to address the lack of funding for essential maintenance needs identified above. This limits our ability to function in the Planning, Design, and Construction TTP program responsibility areas. Our general responsibility for this effort includes the following road network breakdown:

| Surface Type or need | Miles | Reconstruction | Rejuvenation | New Surface (improved) | Unmet funding need |
|----------------------|-------|----------------|--------------|------------------------|--------------------|
| Paved | 47.5 | 18 | | | \$32,400,000 |
| Base Course | 60.5 | | 24.5 | | \$2,500,000 |
| Earth | 388 | | | 50 | \$30,600,000 |
| Trails | 9 | | | | |
| Equipment | | | | | \$935,000 |
| Summary | 505 | 18 | 24.5 | 50 | \$66,350,000 |

We are lacking sufficient funding for salaries to support the staff positions required to operate as a DOT. Indeed, our salaries are underfunded by 35% as follows:

| Position | Classification | Codes/grades | Underfunded (based on BIA Equivalent) |
|---------------------------------|----------------|--------------|---------------------------------------|
| Civil Engineer/Program Director | 0810 | 92,93,94 | 35% |
| Roads Foreman/Supervisor | 5716 | 11 | 35% |
| Transportation Specialist | 2101 | 7 | 35% |
| Office Manager/Administrator | 0344 | 7 | 35% |
| Heavy Equipment Operator | 5716 | 10, 9, 8 | 35% |
| Highway Maintenance Worker | 5716 | 4 | 35% |

We are requesting an annual increase in our TTP Program allocation to equal \$ 6.5 million per year to work toward improvement of our community roads programs as set forth in the LRTP.

In closing, the Chapter has been a successful and diligent steward in operating programs under P.L. 93-638 for many decades and has had "clean" audits from the outset. The historical appropriations by Congress for the Chapter have made a positive difference in the lives of our people. The Chapter appreciates the continued support of Congress as it strives to make funding available for Indian Nations and their organizations to provide services to their people. We would be happy to provide you with further information on any of the foregoing projects. Thank you.

Jamie Henio

Jamie Henio, Navajo Nation Council Delegate for the Ramah Navajo Chapter,
Chairman of the Navajo Nation Budget and Finance Committee.