



THE TOHONO O'ODHAM NATION OF ARIZONA  
TESTIMONY OF THE HONORABLE VERLON JOSE, CHAIRMAN  
U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON APPROPRIATIONS  
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

May 8, 2024

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### Summary of Funding Requests

1. *Increased funding for BIA Roads Maintenance*
  2. *Funding for Interior's implementation of SAWRSA/AWSA water rights settlement*
  3. *Increased funding for BIA Law Enforcement and Border Security*
  4. *Increased funding for IHS Facilities Construction*
  5. *Increased funding for Bureau of Indian Education and tribally controlled schools*
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### Introduction & Background

Thank you Chairman Simpson, Ranking Member Pingree, and distinguished Members of the Subcommittee for this opportunity to provide testimony on behalf of the Tohono O'odham Nation. The Nation is a federally recognized tribe with more than 35,000 members. Our Reservation in southern Arizona is one of the largest in the United States – approximately 2.8 million acres. We share a 62-mile border with Mexico, the second-longest international border of any Indian tribe in the United States. The Nation appreciates the Subcommittee's commitment to providing critically needed funding for Indian Country. We ask that you prioritize funding for road maintenance, the Nation's water rights settlement, public safety (including law enforcement and border security), health care, and education.

#### I. Roads Funding

The Nation faces overwhelming road maintenance and safety issues on its Reservation. BIA's FY 2025 budget justification acknowledges that there is a "rising deferred maintenance backlog" and *only 13 percent* of BIA roads are in acceptable condition.<sup>1</sup> This is a long-standing problem for the Nation and for tribes throughout the country.

*The Nation's Roads are in Very Poor Condition.* There are 734.8 miles of BIA roads on our Reservation. These roads have large pot holes, sink holes, broken and cracked pavement, and washed-out bridges, making them dangerous for the Nation's members, tribal and federal law

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<sup>1</sup> BIA FY 2025 Budget Justifications and Performance Information at IA-TG-3 and IA-TG-7, available at [https://www.bia.gov/sites/default/files/media\\_document/fy2025-508-bia-greenbook.pdf](https://www.bia.gov/sites/default/files/media_document/fy2025-508-bia-greenbook.pdf).

enforcement, and emergency vehicles. Monsoon flooding can completely wash out the roads, stranding members, including children on school buses, and isolating communities. Tribal members have been killed by the flooding on these roads. The Nation desperately needs additional funding to address these hazardous road conditions. The BIA Road Maintenance Program has been chronically underfunded, receiving only \$39.1 million in the FY 2024 Consolidated Appropriations Act – this barely makes a dent in BIA’s huge maintenance backlog. *At least \$75 million is needed for the BIA Road Maintenance Program in FY 2025.*

*Transfer of funds to BIA for Roads Damaged by Customs and Border Protection (CBP).* CBP heavily uses and damages many of the Nation’s roads as part of its border security duties. Since FY 2018, the DHS appropriations legislation has authorized CBP to transfer funding to BIA for repair of reservation roads damaged by CBP (because BIA lacks adequate roads funding). While that funding has been used to repair some of the Nation’s roads damaged by CBP, it is a very small number. Continued funding for this purpose, and *language allowing BIA to accept funding from CBP must be included in the FY 2025 Interior appropriations bill.* The Nation appreciates the Subcommittee’s leadership and continued support on this issue, which is critical for the safety of the Nation’s members, as well as federal and tribal law enforcement.

## **II. Funding to Implement the Nation’s 1982 Water Rights Settlement**

The Nation was one of the first tribes in the country to enter into a federally-approved water rights settlement, the Southern Arizona Water Rights Settlement Act, Pub. L. 97-293 (1982) (SAWRSA), as amended, Pub. L. 108-451 (2004). SAWRSA settled the Nation’s water rights claims relating to a little over 100,000 acres – less than 1/20th of our Reservation – and provides the Nation with reliable, affordable, and long-term access to Central Arizona Project (CAP) water. Water rights claims associated with most of our remaining  $\pm 2.6$  million acres of land are the subject of ongoing settlement negotiations. Separately, the Nation also holds an entitlement to CAP water for use in the northern portion of its Reservation, but has never been able to put this water to beneficial use due to the presence of unexploded ordnance deposited by the federal government during World War II (Williams Field bomb range).

Unfortunately, existing settlements like SAWRSA have never been fully implemented, and suffer from chronic underfunding. Federal agencies also lack the funds necessary to initiate cleanup efforts for the unexploded ordnance. On top of this, climate change and ongoing drought conditions, coupled with historical federal mismanagement of tribal water rights, have made it both more challenging and more expensive for the federal government to secure CAP and alternative supplies to fulfill SAWRSA and future settlements.

The Nation is grateful for Interior’s efforts to address a portion of SAWRSA’s underfunding through the Indian Water Rights Settlement Completion Fund, enacted as part of the Bipartisan Infrastructure Law. But this is only one part of the solution. Given the substantial funding backlogs already faced by the Reclamation Water Settlements Fund, it is critical that Interior and other federal agencies implement water settlements and access to entitlements by using discretionary funding through the annual appropriation process. Without this commitment from Congress and relevant federal agencies, water settlement funding and implementation will remain incomplete and inadequate.

## **III. Law Enforcement and Border Security**

A substantial increase in FY 2025 funding is desperately needed to address the public safety and law enforcement needs facing the Nation and Indian Country.

*The Nation's shared border with Mexico and its large Reservation create Unique Law Enforcement and Public Safety Challenges.* The Nation works with CBP and other federal law enforcement agencies to secure the border, but federal support for border-related law enforcement is extremely limited. Each year, the Nation spends more than \$3 million of its own tribal revenues to help meet the United States' border security responsibilities. The Nation's Police Department (TOPD) spends more than a third of its budget each year on border security.

In 2023, TOPD responded to over 100,000 incidents including drug seizures, illegal immigration, and other criminal activity. TOPD leads the Nation's High Intensity Drug Trafficking Area (HIDTA) Task Force, which combats and interdicts drug smuggling on the Reservation. As of the first quarter of this year, the Nation's HIDTA Task Force has seized or assisted in the seizure of 727.9 pounds of methamphetamine, 97.5 kilograms of heroin, 626,303 illicit Oxycodone pills, 10 kilograms of fentanyl powder, and nearly 2 million dose units of fentanyl.<sup>2</sup> Since 2020, the Nation has witnessed a steady rise in opioid-related deaths, and a dramatic increase in violent crime, including a 200% increase in homicides and a 64.5% increase in assaults.

The Nation also has seen a dramatic increase in migrants seeking asylum, with a concomitant increase in trash and damage to Reservation resources along the border, as well as migrant smuggling where non-tribal suspects are recruited to transport migrants through the Reservation, driving at high speeds and endangering the Nation's members.<sup>3</sup> In 2023, the Nation conducted 87 migrant death investigations, with a total cost of \$339,892 (not including vehicle wear and tear).

TOPD Officers routinely drive close to 3 million miles annually, policing the huge geographic area of the Reservation. Tribal police are often the first and only responders to criminal activity on the Reservation, especially in remote areas, but they lack adequate resources and are seriously understaffed. TOPD communications with other law enforcement and emergency response personnel are hampered by a lack of interoperability throughout the Reservation. TOPD is housed in a converted 1950's-era BIA jail that is not equipped to handle current law enforcement responsibilities. The Nation's BIA-funded detention center is in very poor condition and inadequate to meet public safety needs. An April 2023 report from Interior's Office of Inspector General highlighted immediate health and safety concerns at the facility, including problems with water and sewer, electrical outlets and fire suppression systems that do not work, and a leaking roof. These concerns have not been addressed. Federal funds for correctional facilities are extremely limited – it takes years to advance on the BIA list to receive these funds.

*The Nation urges the Subcommittee to fully fund Tribal Law Enforcement and BIA Detention Centers.* Congress should incrementally increase funding over each of the next five years, beginning with a \$200 million increase in FY 2025. Public safety in Indian Country is a serious issue and has suffered for years from inadequate funding.

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<sup>2</sup> Figures provided by the Tohono O'odham Department of Public Safety, 2015-2024.

<sup>3</sup> Despite the significant border and migrant-related expenses incurred by the Nation, it is not eligible for grant funding provided through FEMA's Shelter and Services Program (SSP). SSP provides grants to non-profits and local and tribal governments to provide humanitarian services to noncitizen migrants – but funding may only be used for costs associated with those migrants “who have been encountered and released by DHS.” The grant funding is limited to food, shelter, and other services provided for migrants within 45 days of release, and does not cover the types of costs incurred by the Nation, including migrant death investigations, autopsies, trash removal, and other expenses. The Nation recognizes that this is a Homeland Security program, but requests that the Subcommittee coordinate with the Homeland Security Subcommittee to expand the services eligible for grant funding under the SSP program.

#### IV. Health Care Facilities

Chronic underfunding of Indian Health Service (IHS) facilities contributes to the poor quality of care across Indian Country. The current reported backlog of essential maintenance, alteration, and repair is \$1 billion (an increase of \$233 million from FY 2024).<sup>4</sup>

The Nation's 50-year old Hospital in Sells, Arizona is one of the oldest IHS facilities. Due to its aging equipment and facilities, the Sells Hospital can only handle minor medical issues. It is entirely inadequate to serve the healthcare needs of the Nation's members. *The Sells Replacement Hospital has been on the IHS facilities construction priority list for over thirty years, since 1993.* In FY 2018, the Nation received some initial funding for the Replacement Hospital, but construction has not yet begun and it will be several years before construction of the new facility will be complete (assuming funding continues at current projected levels). More funding must be appropriated for Indian health care facilities, which are urgently needed to provide better quality health care for tribal members.

Another example is the Phoenix Indian Medical Center, which closed its labor and delivery services in August 2020. They have not resumed. PIMC labor and delivery services were closed due to aging infrastructure and inadequate labor and delivery equipment. This closure affects the ability of many Native American women, including some of our members, to receive adequate healthcare. The Nation's Sells Hospital and PIMC are just two of many examples across Indian Country of aging, deficient IHS facilities. *Congress must do better, and provide additional funding<sup>5</sup> to address these failing IHS facilities that are putting the health and welfare of Native Americans at risk.*

#### V. Education Facilities

Substantially more funding is needed to ensure that BIE school facilities provide an adequate learning environment for Native American students. Two out of the five BIE-funded schools on the Nation's reservation are listed in poor condition in BIE's Facility Condition Index (FCI) report from July 1, 2023 (Santa Rosa Ranch School and the Tohono O'odham High School). Ninety-four BIE-funded schools on this list are awaiting repairs and ultimate replacement (this number has increased from last year). In 2018, BIE was forced to close the Santa Rosa Ranch School due to significant safety issues (no working fire suppression system; electrical, heating and cooling issues; asbestos in two buildings; structural cracks; and extensive leaks and water damage). In 2019 BIE reopened the school with five temporary modular units, which are still in use. Completion of a replacement school is not expected until 2025. The Santa Rosa Day School, another BIE school on the Reservation, is first on BIE's 2020 Site Assessment and Capital Investment program list for replacement, but will not be fully funded until 2028 – because funding only supports one school replacement per year. The poor conditions at so many BIE schools put Native students at a significant and unfair educational disadvantage, and in many cases create unsafe learning and working environments for students and staff. *The Nation requests that the Subcommittee provide \$1 billion for BIE facility construction so that more BIE schools can be renovated and replaced sooner, to provide a safe, modern, and supportive place for Native American students to learn.*

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<sup>4</sup> Indian Health Service FY 2025 Budget Justification at CJ-147, available at [https://www.ihs.gov/sites/budgetformulation/themes/responsive2017/display\\_objects/documents/FY-2025-IHS-CJ030824.pdf](https://www.ihs.gov/sites/budgetformulation/themes/responsive2017/display_objects/documents/FY-2025-IHS-CJ030824.pdf).

<sup>5</sup> See NIHB FY 2025 Budget Request at 14, requesting \$100 million over FY23 enacted level (\$958 million), available at <https://www.nihb.org/resources/FY2025%20IHS%20National%20Tribal%20Budget%20Formulation%20Workgroup%20Requests.pdf>.