

**Committee on Natural Resources**  
**Subcommittee on Oversight and Investigations Oversight Hearing**  
**1334 Longworth House Office Building**  
**February 12, 2025**  
**2:00 PM**

**Oversight Hearing titled “*Leaving Indian Children Behind: Reviewing the State of BIE Schools*”**

**Questions from Rep. Gosar for Ms. Cecilia Fire Thunder, President, Oglala Lakota Nation Education Coalition, Martin, SD**

**Cecilia Fire Thunder Response;**

**1. Processes Necessary to Improve the Working Relationship with the Bureau of Indian Education (BIE)**

First, it is important to acknowledge that our tribally controlled school maintains a strong working relationship with the BIE. Under Director Dearman’s leadership, BIE has made progress by addressing 16 out of the 32 recommendations from the Inspector General (IG) and Government Accountability Office (GAO). However, a significant number of issues remain unresolved. Many of these cannot be effectively addressed unless the BIE receives consistent, sustainable funding and modernized systems. Only with a fully staffed and well-funded BIE can we begin to correct the systematic failures that have persisted for over 150 years and work toward meaningful improvements for Native students.

**A. Increase Funding for Critical BIE Positions**

The Bureau of Indian Education remains critically understaffed. The recent termination of civil service employees dedicated to improving Indian education was not only unnecessary but also detrimental to BIE’s mission. These terminations burden BIE’s ability to function effectively and prevent it from fulfilling its core purpose: providing high-quality, culturally relevant education to Native students.

By the end of the last administration, BIE was nearing full staffing levels—an achievement that tribal schools, including ours, strongly advocated for to increase the bureau’s efficiency. However, these recent staffing reductions have reversed much of that progress. Without adequate staffing, BIE cannot efficiently administer programs, oversee school operations, or implement long-overdue reforms.

**B. Grant BIE Schools Exemptions from Layoffs and Sequestration**

For over two decades, shifting federal priorities have resulted in inconsistent funding and support for Indian education. While these fluctuations are not solely BIE’s fault, recent

government-wide transitions have disproportionately impacted BIE, making it harder for tribal schools to maintain educational quality and continuity.

Unlike many other federally funded education programs, BIE schools are uniquely vulnerable to government cuts, layoffs, and sequestration. Given that the federal government has a trust responsibility to Native students, BIE schools should be exempt from indiscriminate budget cuts that hinder their ability to serve students effectively. These schools cannot improve their educational outcomes if they are constantly forced to fight for stable funding.

Move tribal school construction and deferred maintenance funding to forward funding.

### **C. Strengthen Tribal School Consultations with DFMC and BIE**

Although federal consultation processes can be slow and bureaucratic, they have proven to be a valuable tool for improving collaboration between BIE, the Division of Facilities Management and Construction (DFMC), and tribal schools.

However, DFMC currently operates in a silo, leading to delays, miscommunications, and inefficiencies. A more integrated approach—one where DFMC communicates directly and consistently with other BIE programs—would significantly improve the speed and quality of decision-making. Increased coordination between these agencies would help ensure that tribal schools receive timely support for facility repairs, construction, and operational needs.

## **2. What systems are needed to improve the operations of the Bureau of Indian Education?**

### **A. Fix the Maximo System**

Repeated IG and GAO reports have identified systemic problems in BIE's facilities management, yet little progress has been made to resolve them.

Eight years ago, the BIE transitioned from the FIMIS system to Maximo without advance notice or consultation with tribal schools. Since then, the system has been plagued by persistent issues, including:

- Frequent closures of the work order submission system
- Malfunctions that prevent completed projects from being logged correctly
- A fixed-cost funding model that does not account for the actual maintenance needs of tribal schools

Even the Bureau of Indian Affairs (BIA) acknowledges that Maximo is underfunded and inefficient. Further compounding the problem, the Indian Affairs (IA) regional system lacks the staff needed to oversee renovation projects effectively. As a result, projects are frequently

outsourced to contractors who have no expertise in Indian Affairs. This leads to delays, budget overruns, and excessive change orders—ultimately wasting federal resources and failing to meet the needs of Native students.

### **Recommended Fixes:**

- **Hire permanent federal employees** dedicated exclusively to Indian Affairs projects instead of relying on external contractors who lack experience with tribal education infrastructure.
- **Require DFMC to provide annual, mandatory training** for BIE-funded schools on how to use the Maximo system properly.
- **Implement a real-time tracking system** that provides both schools and BIE personnel with up-to-date information on work order statuses and funding allocations.

### **B. The Removing Barriers to Local Control Allow Tribal Schools to Access Infrastructure Financing**

Unlike public school districts that can issue bonds or take out loans for school improvements, tribal schools are prohibited from leveraging federal funds for infrastructure projects. This restriction forces tribal schools to rely entirely on unpredictable congressional appropriations, preventing them from making timely improvements.

The **Native American Tax Parity and Relief Act of 2022** introduced several provisions that could help address this issue, including:

- **SEC. 3:** Treating Indian Tribes as states for bond issuance purposes (vital for school construction and community development).
- **SEC. 4:** Allowing tribal foundations and charities to receive the same tax treatment as those funded by other government sponsors (tribal schools, although government operated are not granted the same charity status)
- **SEC. 7:** Designating Indian areas as “Difficult Development Areas” to qualify for additional funding
- **SEC. 9:** Extending the New Markets Tax Credit to tribal statistical areas (vital for teacher housing)

Additionally, while Impact Aid-funded schools are allowed to use federal funding as leverage for financing, BIE-funded schools are prohibited from doing the same—even though both funding sources originate from Congress. Fixing this disparity would allow tribal schools to modernize facilities and infrastructure without constantly waiting on congressional action.

### **3. What systems are needed to improve the processes by which the Bureau of Indian Education to fulfill the deferred maintenance requests?**

#### **A. Grant BIE More Autonomy Over Projects Exceeding \$5 Million**

Currently, BIE is only authorized to manage construction and deferred maintenance projects up to \$5 million. Any projects exceeding this threshold must be managed by DFMC, which often leads to bureaucratic delays and mismanagement. This \$5 million cap is not a regulation in the Code of Federal Regulations (CFR), but rather an internal policy within DFMC that should be changed.

Allowing BIE to oversee larger projects—especially those that directly impact tribal schools—would improve efficiency and accountability. These projects should be managed by permanent BIE civil servants who understand the unique needs of Native students, rather than by external federal contractors.

## **B. Increase Transparency in Deferred Maintenance Funding**

The current deferred maintenance system lacks clear accountability and tracking mechanisms. Schools have no way of monitoring the status of their requests, leading to confusion and delays.

### **Recommended Fixes:**

- Implement a **centralized digital tracking system** with automated notifications for work orders, outstanding requests, and pending approvals.
- Require a **workforce capacity review** to address staff shortages in BIE facilities management.
- **Freeze all staff firings within BIE** to prevent further disruption to school construction and maintenance programs.

## **C. Address the Facility Condition Index (FCI) Scoring Flaws**

A school's FCI score determines its ranking on the school replacement list. However, many Tribal Grant Schools lack the technical assistance needed to navigate the federal construction work order system. Since DFMC and BIE do not provide adequate training on this process, many backlogged projects remain unaddressed which leads to further delays.

Tribes have the capability to manage their own school construction projects, but existing federal regulations and funding barriers make it nearly impossible for them to do so efficiently.

### **Additional Recommendations**

1. **Establish a Mandatory, Recurring Operations & Maintenance (O&M) Fund**
  - Current O&M funding is discretionary and covers only 60% of actual needs. A mandatory funding model—similar to the one used by the Indian Health Service (IHS)—would provide stability.
2. **Reform BIE's School Construction Funding Model**
  - The current school replacement program is failing. A multi-year, mandatory construction appropriation model would prevent funding gaps and delays.
3. **Decentralize DFMC and Increase Tribal Oversight**

- DFMC's regional structure has proven ineffective. Establishing **Tribal Infrastructure Boards** to oversee school projects would improve efficiency and reduce costs.
4. **Modernize BIE's Facilities Management System**
- The Maximo system has failed to meet the needs of tribal schools. A modern, AI-driven facilities management system should be implemented to improve tracking and accountability.

## **Conclusion**

For decades, BIE schools have suffered from inadequate funding, bureaucratic inefficiencies, and lack of control over their own infrastructure. Without urgent policy changes, these problems will persist, continuing to deprive Native students of the educational environment they deserve. Immediate legislative and administrative reforms are necessary to fulfill the federal government's trust responsibility and secure a sustainable future for tribal education.