



Oglala Sioux Tribe

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Office of the President
Kevin Killer

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Question for the Record - Response
Kevin Killer, President of the Oglala Sioux Tribe
House Indigenous Peoples of the United States Subcommittee
"Infrastructure in Indian Country: Priorities for the American Jobs Plan"
Oversight Hearing – April 21, 2021

Questions from Rep. Leger Fernández for the Honorable Kevin Killer, President, Oglala Sioux Tribe.

1. *Has the Oglala Sioux Tribe been able to devote CARES Act or American Rescue Plan Act funds towards roads maintenance?*
 - a. *These funds are, of course, temporary and largely COVID-19-related. What are the top long-term funding solutions that tribal nations like the Oglala Sioux Tribe need to fully address their infrastructure needs?*

Our Tribe has not been able to expend American Rescue Plan Act (ARPA) funds to alleviate our pressing roads maintenance and construction needs. Allocations from the ARPA Fiscal Recovery Fund have not been made to Tribal Nations yet. Furthermore, we will review the parameters for using such funds closely before expending any of them. As Congress well knows, the CARES Act was not meant to be a panacea for all of the Tribe's needs and problems. The Act is clear that CARES Act monies are to be used for necessary expenditures incurred due to the public health emergency with respect to COVID-19. Thus, while our Tribe was able to put nominal amounts of CARES Act monies toward a couple of specific road-related needs in our effort to ensure accessibility to tribal members for emergency medical services and other services during this pandemic, we did not widely use our CARES Act monies for roads maintenance and we did not fund our road maintenance program with our CARES Act monies. We have focused our attention and our CARES Act monies on addressing the direct public health emergency needs arising from COVID-19, protecting our citizens from COVID-19, and responding to incidents of the disease.

As you rightly acknowledge, long-term funding solutions are the key to attaining any meaningful progress in addressing unmet tribal infrastructure needs. Short-term funds, while they can be temporarily impactful, contribute over time to program uncertainties that impair planning, limit staff retention and recruitment, and ultimately lead to the growth of unmet needs. Long-term and,

where appropriate, permanent funding that adequately reflect tribal needs are the gold standard for federal appropriations serving tribal communities and populations.

Regrettably, securing adequate long-term funding is a monumental task due to the effects of the historic under-resourcing of the vast majority, if not all, federal accounts targeting Indian Country. The needs far outstrip available monies in areas as diverse as the Indian Health Service (funded at approximately 59% of need); the Division of Indian and Native American Programs at the Department of Labor (stagnant at \$54 million annually with at least twice that amount needed); BIA Roads Maintenance (over \$300 million backlog); and BIE system school facilities construction and maintenance (over \$639 million in deferred costs), among many other accounts.

The investment packages proposed by the President through the American Rescue Plan Act, the American Jobs Plan, and the American Families Plan provide the critically needed boosts to begin to close these resource gaps. Indian Country needs these dollars to climb up to the baseline funding that other Americans have come to expect for healthcare, education, workforce development, and other social services. Once these funding gaps are partially closed, Congress can begin the hard work of bringing our annual appropriations into alignment with demonstrated need.

For instance, in FY 2021 the BIA received \$36.79 million for the Roads Maintenance program. The unmet need is nearly *eight times* this amount. To begin to work towards full-funding of the program, we recommend that Congress provide \$75 million in FY 2022 with substantial incremental increases each fiscal cycle thereafter until the backlog has been addressed. Once that is achieved, we think that Congress should reassess tribal roads and bridges needs (as both are currently serviced by this account) in active collaboration with tribal leaders through the BIA and then fund the account accordingly. Periodic reassessment would be needed to ensure that federal funding levels continue to address on-the-ground needs thereafter. We would recommend that this type of incremental funding growth and tribal feedback loop be implemented with to all other major Indian Country accounts that are significantly under-resourced at this time.

Additionally, due to the depth of unmet need in Indian Country, it is key for Congress to provide funding with an eye towards innovation and the leveraging of existing resources. Too often the bureaucratic silos in which the federal government operates prevent tribal governments from effectively tailoring the use of federal funds to their communities. To the greatest extent possible, this red tape should be cut so that we can maximize the use of available resources to carry-out a project in the way that best serves our peoples' needs. Federal funding guidelines must support, not stifle, innovation and efficient fiscal practices rooted in the expression of tribal sovereignty.

Further, we recommend that Congress consider incorporating the following generally applicable recommendations for effectively appropriating federal funds to address roads maintenance (as well as other accounts serving tribal communities). Namely:

- Maximum Flexibility: We firmly believe that the federal funds must be allocated with maximum flexibility to ensure that funds can be expended by tribal governments to address local needs. With the vast differences among tribal nations on their internal capacities, accessible local resources, and geographic locations (with the myriad ancillary challenges

that arise for rural and remote communities like ours), flexibility is an absolute necessity. We *all* need federal funds. But we all need them in *different* ways.

- Use of Existing Funding Mechanisms: Where appropriate, Congress should direct federal funds out to tribal nations either through existing program structures, including existing Indian Self-Determination and Education Assistance Act contracts and compacts, or through direct allocations to tribal nations where such structures are not in place or are not inclusive of all tribal governments.
- Needs-Based Distributions: Administering federal dollars through grants is an arduous task. It pits tribal nations against one another to compete for funds from a limited pot of funding. Further, large land-based and rurally situated tribal nations are often placed at an unfair advantage when we must compete with professional grant writers employed by more economically well-off tribal nations. Distribution of funds on a needs-based approach would more efficiently and effectively distribute federal funds to areas where they can make the greatest difference in this pandemic. It would also respect the diversity of internal capacities and COVID-19 response and recovery conditions that exist across the 574 distinct tribal governments operating in Indian Country.
- Minimal Streamlined Reporting: As you are aware, our tribal governments and programs are overburdened and understaffed, especially as we continue to work to respond to the pandemic. We recommend that Congress direct agencies administering federal funds serving tribal communities to maximize the use of streamlined reporting to the greatest extent possible. The use of duplicative or burdensome reporting requirements forces our governments to divert limited staff time to administrative matters rather than to services. Any new reporting that is absolutely necessary should be subsumed into reporting we already provide to the relevant agency. Furthermore, agencies should focus on tribal data, which accurately paints the picture of how programs are functioning on-the-ground and what our actual needs are.