Testimony of Bill John Baker, Principal Chief, Cherokee Nation
House Interior Appropriations Subcommittee
March 18, 2016

Chairman Calvert, Ranking member McCollum, Chairman Cole, and distinguished members of the subcommittee:

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My name is Bill John Baker, and it is my deep honor to serve as Principal Chief of our country's largest Native American tribe, the Cherokee Nation. Thank you for granting me an opportunity to speak with you today.

The state of Oklahoma held its presidential primary earlier this month, and in the days and weeks leading up to Election Day the good people of Oklahoma were inundated with a host of television and radio ads that said Washington is broken. Congress doesn't work for the benefit of the people, the President doesn't listen to Congress—Washington just can't get things done.

About the same time these ads were airing, the Cherokee Nation was in the process of finalizing an historic agreement with the Indian Health Service that will dramatically increase the capabilities of Indian Country's largest tribal health care system and usher in a new era of health care in northeast Oklahoma.

Washington isn't irreparably broken—as our story shows, it can get things done.

A few years ago I sat before this subcommittee and asked you to urge IHS to receive a round of new applications for the Joint Venture Construction Program. Many of you then signed onto a bipartisan letter led by Chairman Cole and Ranking member McCollum that called on IHS to reopen the program. This subcommittee pushed the full committee to include language in its committee report stressing the program's importance. Members of both parties augmented this effort with calls and letters to IHS and the administration.

Last year, IHS reopened the Joint Venture Construction Program and we submitted an application.

And later this year, the Cherokee Nation will break ground on what will be the largest facility ever built under the JV program. This 450,000 square foot facility will be constructed in our capital city of Tahlequah at an estimated cost of more than $150 million. Per our agreement with IHS, we will provide the upfront construction costs, alleviating IHS of its trust responsibility for health care facility construction and saving valuable federal resources. Once the facility is completed, IHS will provide annual funding packages to cover staffing and operations costs. This agreement—approximately $80 million a year for a minimum of 20 years—is the largest ever struck between IHS and a tribe.

This health care facility, which we expect to complete in late 2019, will be absolutely transformative for the entire Cherokee Nation and future generations of tribal citizens in

northeast Oklahoma. It will expand our ability to deliver world-class health care and allow for the introduction of specialty services in the fields of surgery and endocrinology. The facility will also house many additional new upgrades to our ambulatory care, podiatry, audiology, dental care, eye care, primary care, specialty care, behavioral health, health education, nutrition, and diagnostic imaging capabilities.

During my tenure as Principal Chief, no issue has been more important to me than the continued expansion of our health care services. It has been my mission to help drive down the extreme health disparities that plague our region and the entirety of Indian Country. Over the past five years we have wisely invested more than $100 million of our business profits in clinic construction, expansion, and renovation in an aggressive effort to improve the wellness of our citizens, both individually and collectively.

The new state-of-the-art health center will be the cornerstone of this effort and the crown jewel of our health care system. When we envisioned an expansion of the W.W. Hastings complex, we planned to take a big step forward—instead, we're taking a giant leap.

This is a monumental undertaking. This facility is far and away the largest project IHS has ever approved. It will be twice as large as the next largest IHS joint venture facility. In three short years, when we dedicate this new complex, we will know that future generations will live better and healthier lives.

But there is far more work to be done.

Everyone in this room knows the dire need for facility construction and facility repair in Indian Country goes far beyond the health care sector.

For instance, the construction and rehabilitation backlog for BIE schools is an estimated $1.3 billion, and considering that estimation was based on just 68 schools, not the 78 that recently applied for school construction and rehabilitation funding, the figure may be somewhat conservative. Fifty-five of those 78 schools are deemed to be in "poor" condition, and the other schools were at least five decades old and educating the vast majority of their students in portable buildings.

We applaud the subcommittee for highlighting this issue and dramatically increasing the education construction account in the FY 2016 appropriations measure, and **urge you to continue that momentum with additional funding for this purpose in FY 2017.**

That said, we also need to be realistic about how far that funding will go. The schools that applied for education construction funds last year are in need of immediate repair—or in some cases, total replacement. BIE, however, is still working to complete a priority list created over a decade ago. If today 55 schools are considered to be in "poor" condition, how bad will they be in a decade or two or three when BIE has worked through enough priority lists to finally reach all of them?

We further understand the fiscal challenges you face when putting together your bill. If you were to appropriate the necessary amount to repair or replace all of these schools, every other program under the subcommittee's jurisdiction would face the prospect of flat funding or cuts.

It is time for Congress, the administration, and Indian Country to consider new ways of tackling this vital issue and new solutions for school construction. Otherwise, we will never be able to address all of the needs. We applaud the subcommittee for urging the administration to "consider alternative funding mechanisms appropriations for replacing schools and facilities, including the use of bonds" in last year's House committee report.

One possible solution could be a BIE equivalent of the IHS Joint Venture Construction Program.

We operate Sequoyah High School, a BIE school in Tahlequah, OK. Sequoyah has an enrollment of 367 students from 24 tribes and has a strict focus on academic success. Last year, Sequoyah ranked fourth nationally in the number of Gates Millennium Scholars per capita, and the 2014-15 graduating class earned over $3.7 million in college scholarships. Additionally, Sequoyah High School has a 100% graduation rate.

Our students achieve in spite of Sequoyah's aging and generally insufficient facilities. Sequoyah consists of 17 structures, 13 of which are more than 40 years old. The main high school and the science classrooms are 49 years old, and the robotics classroom is 85 years old and located more than a quarter-mile from the main high school. In the face of these challenges, the robotics team recently captured the state championship.

Approximately a third of Sequoyah students live on campus. At present, however, the residential dormitories have been relegated to a temporary dormitory due to the discovery of significant mold deposits throughout the entirety of both the boys and girls dormitories. This has placed a limit on the number of dormitory units available to students, which in turn negatively impacts enrollment (about 50 students per year have been denied admission to Sequoyah simply due to a lack of dormitory space). Mold has been caused by leakage in roofs and plumbing systems and asbestos has been discovered in many facilities, requiring extensive abatement.

A key problem at Sequoyah is major plumbing issues virtually campus-wide, resulting in a substantial amount of water leakage incidents. Aged plumbing systems have caused leakage issues in all but one building. This greatly contributes to the mold concerns that require extensive abatement and repair.

BIE's Operation and Maintenance funding is not enough to meet the needs of the school, and, as such, the buildings continue to degrade, space continues to be an issue, and enrollment continues to fall.

Like so many BIE schools, Sequoyah requires immediate assistance. Yet because of the great need throughout Indian Country, and the great cost to the federal government to replace many of these facilities, earlier this year BIE selected just 10 schools to move forward with the

application process for school construction funding, and eventually will select just five to move forward with repairs. Sequoyah was not one of the schools selected to continue with this process.

And considering the backlog, I find it hard to believe we will be selected any time soon under the current criteria and program guidelines. The need for repair, however, will still be there.

This is why we need new ideas and solutions. If tribes were able to incur construction costs for these facilities in exchange for fixed operations and maintenance costs—like the IHS joint venture—we might be able to begin to alleviate some of the significant backlog and create new educational opportunities in Indian Country. If we maintain the status quo and wait for BIE to go through the entire list, we'll be in the same place year after year.

We cannot simply wait for funding that is unlikely to come. The challenges are too great, and the consequences of delay are too much. Therefore, we urge the subcommittee and all of Indian Country to rally around new solutions to the problem of school construction, including a new joint venture-like program for BIE.

Finally, we continue to support full funding of IHS and BIA contract support costs, and continue to call for acceptance of the proposal to reclassify CSCs as mandatory appropriations. As you know, the Cherokee Nation has long been a leader in the self-governance arena. We were among the first tribes to enter into self-governance compacts: our compact with the Department of the Interior was signed in 1991, and we followed that with a compact with Indian Health Service in 1993.

We filed our first claim for contract support costs in 1994. For more than 20 years, the Cherokee Nation and other tribes have been litigating contract support cost issues to establish that the federal government's legal obligation to fully fund these costs is necessary to fulfill the policy of tribal self-determination. The U.S. Supreme Court has, on three occasions, confirmed this principle through rulings in *Cherokee Nation et al. v. Leavitt, Salazar v. Ramah Navajo Chapter,* and *Arctic Slope Native Association v. Sebelius*.

Despite these rulings, the federal government has not always lived up to its obligations. When the United States does not fully pay contract support costs, we must find ways to make up the shortfall. This means realigning our priorities and reducing funds budgeted for critical health care, education, and other tribal services. For every $1 million that the Cherokee Nation must divert from direct patient care to cover contract support costs, we are forced to forego about 6,000 patient visits. Failure to fully fund these costs impedes our ability to meet the tribal health care needs and the other needs of Cherokee citizens.

Thank you again for this opportunity to testify.

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