



BIA Budget Formulation Process

Self-Governance Conference -- April 25th

Kitcki A Carroll (Citizen of Cheyenne and Arapaho Tribes) -- Eastern Region TIBC rep

- Necessary due to BIA Trust and Treaty Obligations being addressed in a yearly discretionary manner
- Inconsistently applied formulation process applied across regions = challenging national roll up
- BIA budgets reflect multiple (11) issue areas, ie: Tribal government, Social Services, Economic Development, Transportation, Housing, Law Enforcement, Education, etc. (125+ line items)
 - Prioritization budget process -- challenging to say the least.
 - Many Tribal leaders have expressed principled opposition to this approach.

- Current process based on investment/performance vs mandatory/entitlement (grant driven methodology vs fulfillment of an obligation) creating constant pressure to “justify” Indian Country appropriations.
- Reporting to justify the investment runs contrary to the intent of the Self-Governance law.
 - **Mandatory reporting provisions are not included in Self-Governance regulations (25 CFR § 1000)**
 - Self-Governance Tribes are required to report only when it is mandated by statute or regulations that have not been waived
- Many challenges across Indian Country result from insufficient funding. Present need to measure and report on unfulfilled trust and treaty obligations.
 - Need for a yearly report card on how Congress and the Administration is meeting its obligations.

- Indian Country has 2 choices -- must push for change or accept yearly discretionary model/process falling short of meeting our Trust and Treaty Obligation fulfillment expectations.
- U.S. Foreign Aid: comprised of MILITARY and ECONOMIC assistance. Given to -- developing countries, countries of strategic importance to the United States, countries recovering from war, etc.
 - FY2012: \$48.4 billion dollars (Military Assistance: \$17.2b, Economic Assistance: \$31.2b); FY2013: \$50.6 billion dollars (accounting for private U.S. contributions, figure well over \$100b annually)

U.S. Commission on Civil Rights/"A Quiet Crisis: Federal Funding & Unmet Need in Indian Country, 2003":

This study reveals that federal funding directed to Native Americans through programs at these agencies has not been sufficient to address the basic and very urgent needs of indigenous peoples. Among the myriad unmet needs are: health care, education, public safety, housing, and rural development. The Commission finds that significant disparities in federal funding exist between Native Americans and other groups in our nation, as well as the general population. Among immediate requirements for increased funding are: infrastructure development, without which tribal governments cannot properly deliver services; tribal courts, which preserve order in tribal communities, provide for restitution of wrongs, and lend strength and validity to other tribal institutions; and tribal priority allocations, which permit tribes to pursue their own priorities and allow tribal governments to respond to the needs of their citizens.

- DOI Secretarial Order 33335: “The United States' trust responsibility is a well-established legal obligation that originates from the unique, historical relationship between the United States and Indian tribes. The Constitution recognized Indian tribes as entities distinct from states and foreign nations. Dating back as early as 1831, the United States formally recognized the existence of the Federal trust relationship toward Indian tribes. As Chief Justice John Marshall observed, “[t]he condition of the Indians in relation to the United States is perhaps unlike that of any other two people in existence ... marked by peculiar and cardinal distinctions which exist nowhere else.” *Cherokee Nation v. Georgia*, 30 U.S. 1, 16 (1831). **The trust responsibility consists of the highest moral obligations that the United States must meet to ensure the protection of tribal and individual Indian lands, assets, resources, and treaty and similarly recognized rights.** *See generally* Cohen's Handbook of Federal Indian Law § 5.04[3] (Nell Newton ed., 2012); *Seminole Nation v. United States*, 316 U.S. 286, 296-97 (1942).”