

Capital Reporting Company  
Consultation Session on Contract Support Costs 03-11-2014

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BUREAU OF INDIAN AFFAIRS  
DEPARTMENT OF THE INTERIOR  
INDIAN HEALTH SERVICE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
  
CONSULTATION SESSION ON CONTRACT SUPPORT COSTS

Tuesday,  
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Westin Washington City Center  
Monticello Ballroom  
Washington, DC

Reported by: Christine Allen,  
Capital Reporting Company

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1 P R O C E E D I N G S

2 (9:18 a.m.)

3 MR. WASHBURN: Good morning every one, I  
4 would like to welcome everyone who is here in the  
5 room and those of you who have been waiting  
6 patiently on the phone as well. Thank you so  
7 much.

8 The first way to get started today, I  
9 think, is probably to make sure we get started off  
10 on the right foot, and so, I've asked Joe Garcia  
11 of the Ohkay Owingeh Pueblo, if he would be  
12 willing to get us started in that way.

13 Thank you, Joe.

14 MR. GARCIA: (Speaks Tewa.)  
15 It is appropriate to give a brief translation of  
16 what I said. I called today on the spirits; I  
17 called upon the spirits to bring their guidance to  
18 all of us, that we are here representing our  
19 people, our children, are young ones, our elders.  
20 And that we come here with good hearts, good  
21 thoughts and those good thoughts a good heart  
22 translate into something that we can call resolve

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1 and that we'll provide recommendations  
2 wholeheartedly and with all due respect provide  
3 what we can for our people because it that's what  
4 it's all about.

5           And we thank all the workers for being  
6 here, the federal people, the representatives, as  
7 well as the tribal people and the Great Spirit  
8 will be here to help us. And also, whatever you  
9 learn, take back to your people and report it out.  
10 Report it to your tribal councils, to your  
11 governing bodies, and your workers.

12           And so, that we come here wholeheartedly  
13 to work and that's what we'll do and the  
14 challenges are still there, but with all of our  
15 hearts together let's put our shoulders together.  
16 As they say in Indian Country so we can carry the  
17 load and the burden will be less for each one of  
18 us and that we will become successful, more  
19 successful when we walked away from here with that  
20 success.

21           Kuunda wah. Thank you.

22           MR. WASHBURN: Thank you Joe for that

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1 wonderful blessing. My name is Kevin Washburn,  
2 the Assistant Secretary for Indian Affairs at the  
3 U.S. Department of the Interior. I know many of  
4 you.

5 I'm joined here today by Dr. Yvette  
6 Roubideaux of the Indian Health Service. We both  
7 have several staff in the room and we are grateful  
8 for them for being here as well.

9 This is our first consultation session  
10 to deal with the question of coming up with a plan  
11 for moving forward on funding of contract support  
12 costs in the future and we are very happy to be  
13 here because we know that we've asked you to do a  
14 lot in Indian Country and we know you can do many  
15 of the thing that we do. You can do it as well or  
16 better than we can when we contact with you. But  
17 you can't be fully successful if you don't get  
18 your contract support costs paid. We know that.  
19 And so, we are so happy that we are now at a place  
20 where we are going to be fully funding you for  
21 contract support costs here for 2014.

22 And as many of you know from last week's

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1 call, we have now--the President's budget has  
2 asked for full contract support cost funding for  
3 FY 2015 as well. And we will be asking Congress  
4 to fully fund these costs going forward.

5 In fully funding contract support costs  
6 for FY 14, we got the authority to do that, but we  
7 also got some additional instructions from  
8 Congress and Dr. Roubideaux will talk a little bit  
9 more about that in just a moment. But one of them  
10 is that we consult with you about this issue going  
11 forward and how do we proceed. So this initiates  
12 our formal consultation on that issue and we are  
13 very grateful for all of you being here; so many  
14 of you have been such leaders in this area, so  
15 thank you for that.

16 Today is our first session and I will  
17 turn it over to Dr. Roubideaux to say a few words  
18 and explain how this is going to go.

19 DR. ROUBIDEAUX: Great, well, thank you  
20 and good morning everybody. It is great to see  
21 you here today, I'm glad you are here with us  
22 today for such an important occasion. Again, as

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1 Assistant Secretary Washburn said we are very  
2 pleased to be at this point, to be able to talk  
3 about how to move forward now that the  
4 Administration's position has been to fully fund  
5 contract support costs for 2014 and 2015. And so,  
6 we're grateful that you're here.

7           We sent a letter to try on February 12th  
8 that outlined the direction that we got from  
9 Congress to consult on a more long-term solution  
10 and it was related to the outcome of the 2014  
11 appropriation for both BIA and IHS just today.

12           We really feel like this probably won't  
13 all be resolved today. This is a discussion that  
14 will require more thought and more discussion and  
15 more consultation but we certainly want to resolve  
16 that soon, so we're grateful you were here.

17           So the focus is really working with you  
18 to identify and more long-term solution for  
19 determining contract support costs. And Congress  
20 in its explanatory statement, which we've included  
21 in the handout, directed BIA and IHS to consult  
22 with tribes and work with Congress and OMB to

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1 formulate long-term accounting, budget, and  
2 legislative strategies moving forward.

3           So a work plan is due on May 17th,  
4 that's 120 days from the appropriation and the  
5 work plan is our plan to consult with tribes to  
6 work on this long-term solution. So, while we  
7 don't need to have the actual long-term solution  
8 May 17th, we certainly would want to find a long-  
9 term solution as soon as we can. But we need to  
10 take the time to discuss that with all tribes.

11           So today we want you hear your thoughts  
12 and ideas about this work plan, how we should go  
13 about consulting. We'd also like to get your  
14 ideas about this issue and about long-term  
15 solutions and certainly to be able to answer any  
16 questions, because it's a very complicated area.  
17 I think everybody agrees on that.

18           While we will discuss our next steps  
19 after this session, because we want to first hear  
20 from you about what your ideas are moving forward.  
21 And again, we're just so grateful that you're here  
22 and we're really looking forward to your ideas

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1 about what the long-term solutions might be around  
2 determining contract support costs.

3           I know there's been initial discussions,  
4 I know the CSC work groups for both IHS and BIA  
5 have met. I know that there's been various  
6 discussions and various sessions around the  
7 appropriations issue and around CSC. So I hope  
8 that some of you that have been involved in those  
9 discussions can share the experience that you have  
10 or some of the thoughts that you have.

11           But before we get into the session we  
12 wanted to give Jodi Gillette and Raina Thiele an  
13 opportunity to provide remarks.

14           So, first I'll introduce Jodi Gillette  
15 who's the Senior Policy Advisor for Native  
16 American Affairs with the White House Domestic  
17 Policy Council. So please welcome Jodi Gillette.

18           MS. GILLETTE: Thank you.

19                           (Applause.)

20           MS. GILLETTE: I'm not going to speak  
21 for too long because, I think, I'm always more  
22 interested in the discussion and the things that

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1 you all are going to bring to the table. One  
2 thing I want to point out is the President I was  
3 very serious this past November when he talked  
4 about finding a solution to the contract support  
5 costs and part of the solution is working with you  
6 and with Congress to figure this out.

7           So, although we have included in our  
8 operating plan full contract support costs funding  
9 and we have included in the President's budget  
10 full contract support costs funding for FY 14 and  
11 FY 15. We all know that the budgets are going to  
12 need a strategy. We are going to have to--  
13 Congress wants us to look at ways to make  
14 decisions. We have found out through this long  
15 journey with tribes, that when we don't talk to  
16 you that things don't go well and it becomes a lot  
17 more painful than it has to be.

18           Also alongside that commitment to  
19 finding a solution to--I think it's not going to  
20 be a perfect solution; there's no solution. It's  
21 just a lot of choices that we're going to have to  
22 make together. And alongside that principle of

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1 looking towards a solution, the President and this  
2 Administration, this entire Administration is very  
3 committed to advancing self-determination.

4           And so, the balancing act; the balancing  
5 of interests, the balancing of budget decisions  
6 are going to be one that we'll need to work  
7 closely with tribes on and I want to say that that  
8 commitment to self-determination is something  
9 that's real and we're going to really lean to you-  
10 - those who are providing the services on the  
11 ground to understand what would be the best path.

12           Part of the reason that we're here,  
13 normally we support the agencies and we watch the  
14 agencies in their consultations, but the reason  
15 we're here is this has been a high level  
16 discussion within the Administration. I want to  
17 thank my OMB colleagues for joining us here today.  
18 If you just want to let folks know who you are;  
19 Melanie, Rachel Brown, and I think I saw Craig  
20 Crutchfield. There's Mary Fischietto in the back  
21 from the Health Branch.

22           Part of what we try to do at the

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1 Executive Office of the President, is try to be  
2 coordinated. And from where I sit there's a law,  
3 it's the Indian Self-Determination and Education  
4 Assistance Act. And it has different titles. Some  
5 are in BIA and some of them are in IHS. I worked  
6 with a lot of folks here today to find ways to  
7 support the self- determination amendments. I  
8 want to thank you guys for your work on that and  
9 thank the Assistant Secretary Washburn for  
10 continuing that Administration's support.

11           But in that whole discussion what I  
12 learned quite well, is that there are two  
13 agencies: Indian Health Service and Bureau of  
14 Indian Affairs. And there are places where they  
15 are going to be the same and there are places  
16 where they are going to be different and where it  
17 makes sense for them to be the same is more  
18 efficient for tribes. So the more that we can  
19 understand each other's work around self-  
20 determination; the better off the end product can  
21 be for the user which is the tribes. The person  
22 who has to go between these agencies, there's

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1 other agencies--the Department of Transportation  
2 and hopefully others that will look at self-  
3 determination contracting, and self- governance  
4 compacting as a means to helping tribes to provide  
5 services for their members.

6           So, that's the reason that I'm here,  
7 from a policy standpoint. I'm really interested  
8 in-- along with my colleagues at OMB, I'm really  
9 interested in finding out how we can be on the  
10 same page as a Federal government to make things  
11 easier for you.

12           As far as the rest of the day, we're  
13 going to be in listening mode. We are going to be  
14 talking to members of Congress, and I know that  
15 you all have discussions with them as well. This  
16 is something that they are really interested in  
17 seeing us do in trying to figure this out for the  
18 long- term.

19           And I want to thank my two colleagues  
20 here from the leadership from the agencies and I  
21 say this all the time, that these are our go-to  
22 people for the Bureau of Indians Affairs and

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1 Indian Affairs at the Department of Interior. And  
2 they've provided tremendous leadership on this  
3 issue and so many others, and it's really my  
4 pleasure and my honor to work with them when we  
5 get a chance to be in the same room. So thank you  
6 for all that you've done.

7 I want to turn it over to my colleague  
8 Raina, who's just joined us. And I say this about  
9 her; she came from OMB so this is a delight.

10 Actually, I will let her tell you a  
11 little bit about herself because I know many of  
12 you don't know her, but she worked in the OMB  
13 since I've been here, for about four years and we  
14 have a lot of fun working together, because she  
15 understands the budget side of the House and I  
16 have the policy side, but mostly we have a lot of  
17 fun.

18 So, thank you for joining the team  
19 Raina.

20 MS. THIELE: Thanks Jodi. So as Jodi  
21 was saying we're really happy that you all are  
22 here today and this is an incredibly important

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1 topic for us and we are just really glad that you  
2 are engaged on it. And just to give you a little  
3 bit of background on myself, my name is Raina  
4 Thiele. I'm Associate Director of  
5 Intergovernmental Affairs at the White House.

6 I came in about two months ago, so I'm  
7 still getting to know my portfolio and all that  
8 stuff, but I'm really excited and I'm just so  
9 happy to be working with Jodi whose worked so hard  
10 on this issue over the past four years, or even  
11 five years. Yeah, for a while. And she's done  
12 such an incredible job and I really appreciate  
13 her.

14 Now as all of you know the road to full  
15 funding of contract support costs has been a very  
16 long one and it's not always been an easy one, but  
17 thanks to the leadership from Dr. Roubideaux and  
18 Assistant Secretary Washburn, I mean, they've been  
19 just so incredible as advocates on this issue and  
20 we're so happy to say that with the help of our  
21 OMB colleagues, and thank you for being here, with  
22 the help of our OMB colleagues we're very happy to

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1 say that we're fully funding contract support  
2 costs in both FY 15 and FY 14.

3           And because the Administration  
4 prioritizes tribal consultation, and your input is  
5 incredibly important to all of us, we're having  
6 this session today and we just really are in  
7 listening mode. We really want to hear your  
8 input, especially going forward with contract  
9 support costs, because this is just an incredibly  
10 important issue for us.

11           And today the agencies, Dr. Roubideaux  
12 and Assistant Secretary Washburn are going to talk  
13 to you about their plans for additional  
14 opportunities for input on contract support costs.  
15 This won't be the only opportunity, but it's a  
16 great starting point and we just want to make sure  
17 that every tribe out there has an opportunity to  
18 provide input on this important topic.

19           So, we welcome your feedback to make  
20 sure that we're honoring the government-to-  
21 government relationship and I would be remiss if I  
22 didn't make a little plug here for the Affordable

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1 Care Act. We do have a deadline coming up on  
2 March 31st. And so, I would just ask everybody  
3 out there, talk to your friends, talk to your  
4 relatives, talk to your neighbors--especially  
5 those who don't have health insurance and really  
6 encourage them to sign up for the Affordable Care  
7 Act before March 31st.

8           So thank you so much, again, for having  
9 us here today and for being engaged on this issue.  
10 We're just so grateful and if you have any  
11 questions whatsoever please feel free to contact  
12 me.

13           Thank you.

14           DR. ROUBIDEAUX: Thank you Raina.

15           MS. THIELE: And back to you Dr.  
16 Roubideaux.

17           MR. WASHBURN: All right. And so, what  
18 we would like to first do is a little bit of an  
19 update on our contract support costs  
20 appropriations from each of the agencies and I  
21 will go first with Indian Affairs.

22           As we noted we have fully funded

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1 contract support costs for FY 14. Our operating  
2 plans for this fiscal year, which were just  
3 finalized a couple of weeks ago are providing full  
4 contract support costs funding. As you know these  
5 are tight fiscal times. We are dealing with the  
6 Murray-Ryan budget caps and the Administration is  
7 living within those caps and has respected that  
8 cap going forward. It's not easy to do that, it's  
9 really difficult. We don't get to ask for  
10 everything that we might want in a perfect world,  
11 because we are living in trying fiscal times, but  
12 as I noted earlier for FY 15 the Administration  
13 has asked to fully fund contract support costs  
14 going forward.

15           And we are trying to do it in a way that  
16 is not harmful to any other programs either.  
17 Going forward for the President's request for FY  
18 14 we have approximately a \$2.6 billion budget  
19 request for the Indian Affairs at Interior, which  
20 includes the \$33.6 million increase to our budget  
21 at the President's request level and that's  
22 important because many federal agencies for next

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1 year will be flat or actually declining.

2           The President has made a real commitment  
3 to Indian Affairs and Indian programs and we are  
4 really grateful to the Administration for making  
5 that a commitment. And it's a commitment across  
6 agencies, frankly. It's not just at Bureau of  
7 Indian Affairs or Bureau of Indian Education, but  
8 there's been a real commitment.

9           And in addition to the request for a  
10 budget with an increase of \$33.6 million, the  
11 President has also created an opportunity, growth,  
12 and security initiative that will allow us if we  
13 get greater revenues in our budget is, the  
14 President has telegraphed to people where those  
15 revenues will go. And one of those places those  
16 revenues will go will be to Indian education and  
17 public safety in Indian Country. And so, we are  
18 hoping that Congress will provide us greater  
19 revenues through taxes or other sources and that  
20 we can take advantage of even more than the \$33.6  
21 million increase.

22           We've got a lot more to talk about with

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1 regard to contract support costs, but another  
2 initiative that I want to let you know about in  
3 the Bureau of Indian Affairs budget is the so-  
4 called Tiwahe Initiative. Tiwahe is a Lakota word  
5 meaning family and we've been inspired by the  
6 Lakota tribes to improve our social services that  
7 we are providing in Indian Country. And so, among  
8 that \$33.6 million increase is \$11.6 million to  
9 increase social services and Indian child welfare  
10 programs.

11           Largely what this will do is to fund  
12 more social workers. Our social workers function  
13 in almost every day in crisis mode in Indian  
14 Country, we need to have more of them so that they  
15 can actually do some planning and look ahead and  
16 not just be reactive, but also be proactive. And  
17 I like to think that the Tiwahe Initiative is a  
18 sort of double entendre, because we want to help  
19 families but we also need to behave more like a  
20 family within Indian Affairs. We need our  
21 programs to be talking to one another and social  
22 workers can be the link between several programs.

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1           So as part of this we are maintaining  
2 funding for the Housing Improvement Program, for  
3 HIP. We heard from a lot of people, when we  
4 talked about zeroing out HIP, that people were  
5 upset about that. And so, we're maintaining the  
6 Tiwahe Initiative going forward, we have asked for  
7 funding for housing as part of the Tiwahe  
8 Initiative. We've also asked for some programming  
9 of law enforcement funds to support the Tiwahe  
10 Initiative, to support alternatives to  
11 incarceration. So that we're not just locking  
12 people up, we're talking about how to reduce  
13 recidivism and introduce some alternatives to  
14 locking people up in detention.

15           So, we don't get any of that unless we  
16 get our budget through Congress and so we know  
17 that we will have the support of many of you, but  
18 we're trying to move forward in very tight fiscal  
19 times and we are modestly successful and modestly  
20 hopeful about our budget going forward and we  
21 thank all of you for your support in funding for  
22 all of our programs.

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1 Dr. Roubideaux, I will turn it over to  
2 you.

3 DR. ROUBIDEAUX: Thank you. And for the  
4 Indian Health Service budget I think we feel so  
5 grateful that the Indian health service is a  
6 budget priority of the Administration as well.  
7 And also, our Secretary fights for us to have as  
8 much of an increase each year as possible. And  
9 for fiscal year 2014 we were grateful that we got  
10 \$304 million increase overall from the Congress  
11 which is a 7.4 increase from the 2013 final level.  
12 So that got our budget back up to \$4.4 billion.

13 The good news is that we got, you know,  
14 for facilities there was a \$33 million increase  
15 that got us back up to some of the levels from the  
16 sequester and that helps us continue the  
17 construction.

18 For the services part of our budget it  
19 was also great news, Congress told us that there  
20 were three priorities for the increase in that  
21 section; one, a big increase for purchased and  
22 referred care, which is what we are now calling

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1 Contract Health Service or how we pay for  
2 referrals; new staffing for joint venture and  
3 newly constructed facilities that were due to open  
4 in 2014 and the priority to fully fund contract  
5 support costs. And we know that that is so  
6 important to tribes and we are so grateful for  
7 that. For the Indian Health Service there are  
8 three components of that that make up \$140 million  
9 in the 2014 budget going towards paying off the  
10 past shortfall of \$110 million; paying off the  
11 contract support costs that are generated by the  
12 new staffing, that's another \$20 million.

13           And then, we had to figure out how to  
14 estimate the amount of new and expanded contract  
15 support costs in 2014. We know some, but we don't  
16 know all and it can range anywhere from \$5 to \$20  
17 million a year. So tribes advised us to pick a  
18 lower amount if possible, and we looked at the  
19 total amount of the increase and to include a \$10  
20 million estimate for new and expanded, we actually  
21 had to make that amount of an offset on the rest  
22 of the budget.

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1           And so, the increase that was  
2 appropriated wasn't quite enough to cover all of  
3 it. But our goal really was to fully fund  
4 contract support costs and we think that is really  
5 a wonderful outcome of this budget.

6           We did talk to tribes quite a bit about  
7 well, what do we do about that offset? And we got  
8 lots of input; tribes wanted us to avoid direct  
9 services. Tribes wanted us to avoid tribal shares  
10 for both self-governance and direct service  
11 tribes. And so, when you look at the IHS budget  
12 there is only a teeny tiny piece of it that has  
13 things that are otherwise appropriated.

14           And so, we ended up based on tribal  
15 feedback reducing our director's emergency fund,  
16 Indian health professions, tribal management  
17 grants, and self-governance projects.

18           The other thing we've heard loud and  
19 clear from tribes is that they didn't like the  
20 fact that the increases in the budget weren't  
21 enough to restore the cuts from the sequestration  
22 in 2013. And so, we know that's also another issue

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1 that we need to address with the budget  
2 formulation.

3           So the 2014 budget, I think has a lot of  
4 great news and really points to the need for the  
5 long-term solution related to contract support  
6 costs and we will talk more about that in a  
7 minute, but we are very grateful for that funding.

8           For those of you waiting for the funds,  
9 we got our OMB apportionment approved on Friday.  
10 So, that means we have already allotted funding  
11 out to the areas so you should be receiving your  
12 recurring base funds if you have a 638 contract  
13 for compact with us, any day now. And then, the  
14 other allocations we are working on and trying to  
15 get this out as soon as we can. And we are  
16 working with our contract support costs work group  
17 on the allocation of the contract support costs  
18 funds as well.

19           And so, we are trying to do that as soon  
20 as we can. But that's a more complicated  
21 discussion for that group to help us resolve.

22           Today it is really about this issue of

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1 how do we ensure that we can fully fund contract  
2 support costs moving forward and we want to do  
3 that and we want to find a more long-term solution  
4 to do that.

5           Four 2015, for the Indian Health  
6 Service, again the President is proposing a \$228  
7 million increase. And it reflects tribal  
8 priorities because in the request it has medical  
9 inflation, partial pay costs, new staffing,  
10 partial costs for new tribes, purchased and  
11 referred care--a big increase, and an estimate to  
12 fully fund contract support costs. It's  
13 challenging because we don't know which tribes  
14 will actually enter into new contracts and  
15 compacts in 2015, so we put in the budget and  
16 estimate for that now.

17           And that again, is all a part of this  
18 issue of appropriations and estimating amounts so  
19 that we can achieve the goal of full funding. And  
20 I want to emphasize again that that's not a  
21 question today, we do want to achieve that goal  
22 for full funding; the issue is what is the long-

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1 term solution to make sure we can do that over  
2 time.

3 Thank you Raina.

4 There are other good things in the IHS  
5 budget; including health facilities construction  
6 and restoring the cuts we made in 2014, to fully  
7 fund contract support costs, and the opportunity,  
8 growth, and security initiative has \$200 million  
9 for health facilities construction projects.  
10 We're also wanting reauthorization for the special  
11 diabetes program for Indians, which is really  
12 important and we need action on that as soon as  
13 possible and we appreciate your partnership.

14 So, really overall wonderful news for  
15 the

16 Indian Health Service: an increase in  
17 '14 and a proposed increase in '15. Again, the  
18 President's budget is a proposal so we all need to  
19 work together to make sure we can see increases in  
20 our budget.

21 And I want to close with, we just  
22 finished our IHS budget formulation and the tribes

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1 came up with their estimate of the total need for  
2 the Indian Health Service, which is \$28.7 billion  
3 and our current budget is \$4.6 billion, and that  
4 just gives you an idea of the enormous amount of  
5 need that's there and, you know, our commitment to  
6 working with you on these budget issues. And  
7 we're again, glad to see you here and really  
8 interested in talking about how we find a long-  
9 term solution that Congress wants us to work  
10 together to find.

11           So, thank you I will turn it back over  
12 to Kevin.

13           MR. WASHBURN: Thank you Dr. Roubideaux.

14           This is a historic moment, we have  
15 worked for very long time to try and find what are  
16 the solutions for contract support costs, and I  
17 don't think we have fully funded contract support  
18 costs for decades and we never really came up with  
19 a good solution.

20           We started contracting with tribes and  
21 tribes do a great job, but we've never come up  
22 with the solution of how do we pay for all of

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1 this. And so, there's almost always been a gap  
2 between what we are trying to fund under the  
3 contracts or what we agreed to fund and what we're  
4 actually funding. And so, this is a historic  
5 moment. Just in the past two weeks, we've turned  
6 the corner where we will be fully funding contract  
7 support costs and that should not be missed  
8 because that is an important component for you  
9 running these contracts.

10 (Applause.)

11 DR. ROUBIDEAUX: It's good news.

12 MR. WASHBURN: It is good news.

13 So that said, these are difficult issues  
14 and, you know, the Administration rolled out this  
15 caps idea last year and it was something that we  
16 did not consult well with tribes on, at all,  
17 really. But it recognized that there is a problem  
18 here, and so, we do need to figure out how to go  
19 forward and Congress knows what the problem is.  
20 And Congress remanded, I think that was the term,  
21 back to the agencies, you know, the finding of the  
22 solution for this long-term challenge, which is

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1 the fact that we need to be fully funding contract  
2 support costs but we also need to be meeting all  
3 of our other responsibilities and obligations.

4           So this is that conversation and I don't  
5 want to talk too much longer, because I think it's  
6 time to start hearing from you and that's really  
7 what we need to do most, especially at a  
8 consultation. But it is important to recognize  
9 that we have been given this task not just by, you  
10 know, by the President but also by Congress.

11 Congress expects us to come up with a solution,  
12 and only you can help us provide that solution.

13           And I want to underscore something Jodi  
14 said earlier, OMB--we often get asked that OMB be  
15 at these meetings and we are so grateful that OMB  
16 has turned up and is here listening and going to  
17 be here listening to your comments. They are  
18 certainly part of working through the solution and  
19 they are at the table.

20           Jodi, did you want to add something?

21           MS. GILLETTE: Yeah, just to tee up sort  
22 of the discussion that, you know, I think would be

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1 valuable for our time here is to understand that  
2 we are committed to fully funding contract support  
3 costs. And we always throw on the estimates  
4 because of what Dr. Roubideaux pointed out that we  
5 can't predict the future in terms of how many new  
6 tribes are going to be compacting or contracting,  
7 so that's one thing. If there is any discussions  
8 or anything that you can do to highlight ways that  
9 we can better predict the future, that's really  
10 what this is about.

11           We know that there's growth on contract  
12 support costs every year and we also know that  
13 just like medical inflation and cost-of-living  
14 allowances, which tribes often provide even though  
15 the federal government's been at a standstill with  
16 our budget, with our salaries, we know that there  
17 is growth. And so, the budgets don't always grow  
18 with any growth.

19           So we need to understand what is a good  
20 way to predict contract support costs if there is  
21 growth that isn't happening and this is what I've  
22 heard from other people, is that: "Well, just

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1 find the money from someplace else. It shouldn't  
2 come from our budgets." That's what I've heard.

3           So I know that is something that tribes  
4 would like but what are some other things that we  
5 can think about, because that is--is I'm sure  
6 we'll hear from more people with that sense that  
7 we should find the money from other budgets. But  
8 we need to understand how to predict the costs  
9 better; we need to understand how do we look for  
10 keeping this at full funding levels.

11           MR. GARCIA: I have a question.

12           Well, good morning. Joe Garcia, Sokuwa  
13 Owing Ta' from Ohkay Owingeh. That means Mark of  
14 the Misty Lake. That's who I am. My name is Joe  
15 Garcia, but a simple question.

16           Two questions. The first one is who  
17 defines 100 percent and full contract support  
18 payment? It's a matter of mathematics. If we  
19 have an undefined 100 percent then any number will  
20 suffice or not suffice. And in this case 100  
21 percent doesn't really mean 100 percent, depending  
22 on which number and which definition of what 100

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1 percent means. And we don't know that unless  
2 we've done assessments on all of the programs that  
3 are funded via BIA and other related programs and  
4 the same with IHS.

5 So, unless we know where we are it's a  
6 sliding scale and so somewhere we need to really  
7 define that. And so, the 100 percent probably is  
8 not a proper--appropriate number if you will.

9 The other one is that since this is  
10 starting the consultation sessions, I just got  
11 word about our Head Start consultation and I  
12 talked to my brother and he said, "Brother I will  
13 send you a copy of what we submitted for the past  
14 three, four years regarding Head Start." And I  
15 would hope this would not be the same thing, that  
16 it's the same issues over and over and the list is  
17 not getting any longer; not by a whole lot, but  
18 it's the same issues over and over. So unless we  
19 get a really good log of those factors having to  
20 do with this consultation and get appropriate  
21 response to those, then it's not a waste of time,  
22 we're actually progressing. If we don't do that

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1 it's a repeat, repeat, repeat and we will never  
2 get to the real solution.

3           So, I offer that is a suggestion that  
4 somewhere we need to start a database that takes  
5 care of all the input and look for the solutions,  
6 sort of the status on the other end of the table  
7 looking at what we've accomplished and how close  
8 are we to a real solution.

9           And then, finally is that we're in a  
10 transition. So, I think from the old concept of  
11 contract support to the new concept of 100 percent  
12 payment, we're still in that transition so it's  
13 not a done deal until we show progress towards  
14 that longer term and so, I would hope we would  
15 consider that as the planning part. I don't say  
16 strategic plan, because strategic plan includes  
17 the implementation part and if we don't include  
18 the implement part, then we'll still be left  
19 behind.

20           So, we need to look at the longer term  
21 and we need to incorporate some implementation  
22 along the way.

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1           So, thank you.

2           DR. ROUBIDEAUX: Thank you.

3           MR. WASHBURN: Thank you. Ed.

4           MR. THOMAS: Good morning. My name is  
5 Ed Thomas. I'm President of Tlingit-Haida Central  
6 Council out of Juneau, Alaska. First, I want to  
7 thank you for being here. I really appreciate  
8 this session. I really think it is important for  
9 us to have this dialogue.

10           I was very fortunate to be able to  
11 attend the first four meetings the President had  
12 with tribes and in those meetings what resonated  
13 to me was that he stated that he was going to  
14 strengthen tribal communities and he was not going  
15 to balance this nation's budget on the backs of  
16 the less fortunate. But yet, we see that is  
17 happening. I really do appreciate the full  
18 funding of indirect cost because right now the  
19 government owes Tlingit- Haida just about a  
20 million dollars in back payments.

21           And in my comments today I am focusing  
22 only on the Department of Interior, BIA.

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1           When you look at the funding within the  
2 Department of Interior from 2004 to 2012, which is  
3 the first graph that is being shared with you.  
4 You can see that the increases to the BIA is the  
5 smallest of all of the major agencies where we  
6 have an accumulative eight percent for the BIA.  
7 Yet we have a plus 30 percent for Fish and  
8 Wildlife.

9           Now we can say part of that is under the  
10 Bush Administration, but half of this is under  
11 this Administration. And if you zero in on 2012,  
12 which is the next graph, you'll see that we had a  
13 cut in the BIA of \$120 million and an increase to  
14 the National Park Service is \$140 million. Now I  
15 bring that up because this is before sequestration  
16 and this is the President's request. And all the  
17 time we're saying, "Well, gee whiz, the budgets  
18 are tight and we really have no place to go."

19           Now the final table I share with you is  
20 this fiscal year 2015 budget and Kevin in your  
21 comments you said, "Well, gee whiz, other  
22 departments are getting cut." But if you look at

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1 this table, you will see only two major agencies  
2 are getting cut less than the BIA in the rollout  
3 of the 2015 budget.

4           Now about 11 months ago I had the  
5 opportunity and pleasure of meeting with the new  
6 Secretary. And at that meeting I did share with  
7 her the disparities within the Department and she  
8 said to the effect, and you were there Kevin, she  
9 said to the effect, "Well, I can't do anything  
10 about 2014. That's out of my hands, but we  
11 certainly can work on 2015."

12           Well, in 2014 we had an increase of 1.8  
13 percent and now this year we have an increase of  
14 1.47 percent increase. And so, while it really  
15 does sound good when we get 100 percent funding.  
16 If it comes out the programs that are already  
17 stretched to the limit, it just isn't going to  
18 work.

19           And that's why I bring this up here,  
20 because even if you look at the Secretary's Office  
21 budget alone. She has an eight percent increase  
22 in these tight budget times and that's

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1 administration. That's not dealing with the  
2 program that's going out to the people. So those  
3 are the kinds of things that are somewhat  
4 irritating.

5           Now I understand the Park Service, you  
6 know, we're building all kinds of stuff on the  
7 Mall here. So that's probably going to be a 20  
8 percent increase every year for a while. But the  
9 rest of it is really hard for a person that has  
10 been tracking these for years, to just keep seeing  
11 that while we are told that the times are tough  
12 and everybody's committed to us, they love us to  
13 death, we're not getting the money for it. And  
14 the problems in our Indian Country, as the higher  
15 cost of living and the remoteness of the  
16 communities in Alaska are there, we have a  
17 difficult time trying to play the balancing act  
18 within this very limited budget that you are  
19 dealing with.

20           Now on consultation, if you look at the  
21 consultation policies it's a Department of  
22 Interior consultation. The Secretary needs to be

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1 here and talk to us about this kind of stuff. Now  
2 I really respect what you are doing on behalf of  
3 the Secretary, but the consultation policy also  
4 has a clause in saying things have to be  
5 achievable and you are not going to achieve full  
6 funding of indirect costs and the services to our  
7 people out of the limited budget that you have for  
8 BIA.

9           That's just not going to work. This is  
10 not even inflation-proofing. This is going  
11 backwards. And then, we're taking contract  
12 support out of there.

13           So in conclusion, on the one hand I very  
14 much appreciate all you've done on the contract  
15 support side. I truly wish the Secretary would be  
16 here to answer why after her year in office when  
17 she promised that she was going to do something  
18 better than the 1.8 percent, we're going backwards  
19 instead of forward.

20           That's all have to say today and thank  
21 you very much for your attention. And I hope we  
22 can work on the long-term solution. Thanks.

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1 MR. WASHBURN: Thank you Chairman  
2 Thomas.

3 MR. JOSEPH, JR.: (Speaks Colville-  
4 Okanagan.)

5 Good morning. My name is Badger, I'm Andy Joseph,  
6 Jr., I chair the Veterans and health Committee for  
7 the Confederate Tribes if Colville and I also  
8 chair the Northwest Portland Area Indian Health  
9 Board. I sit on the National Indian Health Board,  
10 co-chair the IHS budget and contract support costs  
11 for IHS and I'm really glad to hear OMB's here. I  
12 sure wish they had come to our meetings when we're  
13 talking about people's lives.

14 You know, a big issue in contract  
15 support costs for IHS that I believe our tribes  
16 really need to push and this Administration needs  
17 to push for us as well.

18 To kick start it off you got to have  
19 medical-like inflation rates. You can't be going  
20 with non-medical inflation rates, because IHS does  
21 medical work that normally save lives if we were  
22 fully funded. Sequestration cut us back and put

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1 us back into Priority 1. We once had a beautiful  
2 leader that said, "Don't get sick until after  
3 June." We're back at that again. This  
4 Administration is bringing us backwards, OMB's  
5 bringing us backwards. Our people are dying.

6 And, you know, I'm tired of burying my  
7 people. You know, we're averaging probably four a  
8 week at home now, since New Year's. It's tough.

9 OMB don't come to my reservation and  
10 bury my people with me. I have to face them, my  
11 people elected me to come here and talk for them.  
12 I want our President to hear the cry of our  
13 people.

14 Our budget, Dr. Roubideaux, talked to  
15 28.1 billion dollars is what we really need and  
16 OMB cuts it every year. I don't think the real  
17 word gets to the President. You know, I want to  
18 see full funding for IHS as well.

19 I want to see our people to be able to  
20 be educated. I'm grateful that, you know, the  
21 extra money is going to go towards education. But  
22 I really encourage OMB to come to my reservation

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1 and see what we have to deal with.

2 My tribe's just about 10,000 members.

3 But we're only funded probably to about 1,000 for  
4 staffing. Affordable Healthcare Act would be  
5 really something, I would sign as many people as  
6 we can up and they are going to go across the  
7 river, they won't come to our clinics because we  
8 don't have enough doctors. We had to declare a  
9 state of emergency for our doctors and my tribe  
10 takes that really serious.

11 Until all the tribes across the Nation  
12 are fully staffed with the providers that are  
13 needed, you know, we won't really be able to  
14 benefit.

15 believe me if I had enough staff we  
16 would take it all over, but until we do, we hold  
17 the government responsible and that is a part of  
18 exercising our right to self-governance as well.

19 You know, I want our tribes that do rely  
20 on the government to be able to expand as well.  
21 That's all I have to say.

22 (Speaks Colville-Okanagan.)

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1 MR. WASHBURN: Chairman Payment?

2 MR. PAYMENT: Okay. My name's Aaron  
3 Payment. I'm the chairperson of the Sault Ste.  
4 Marie Tribe of Chippewa Indians. I'm also on  
5 STAC. That's the Health and Human Services  
6 Secretary Tribal Advisory Council, which created  
7 that idea, and also on the contract support cost  
8 work group.

9 I'm also a regional VP for the National  
10 Congress of American Indians, and so I would be  
11 remiss if I didn't use Brian, our president's,  
12 shtick and ask you, are you our trustee?

13 MR. WASHBURN: Yes.

14 MR. PAYMENT: All right. You get a  
15 bonus for that.

16 (Laughter.)

17 MR. PAYMENT: You get a button. We've  
18 created a new button that says, "Proudly serving  
19 as your American Indian/Alaska Native Trustee."

20 MR. WASHBURN: Thank you, Chairman.

21 MR. PAYMENT: Okay. I want to start off  
22 by saying, you know, a message, a theme, is don't

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1 kill the messenger. At the STAC--no, I'm not  
2 afraid about me getting killed, by the way.

3 (Laughter.)

4 MR. PAYMENT: I get the arrows back  
5 home. But Secretary Sebelius at our last STAC  
6 meeting clarified that the cap for contract  
7 support did not originate in IHS. It did not  
8 originate with Dr. Roubideaux.

9 We still don't quite understand how it  
10 happened, but I think it happened with a little  
11 bit of a disconnect with the OMB and the Office of  
12 the President because the President is committed  
13 and has stated his commitment to upholding the  
14 trust obligation.

15 But somehow, something gets lost in the  
16 translation. And we're talking about a big  
17 administration. But Secretary Sebelius that the  
18 cap for contract support did not originate from  
19 Dr. Roubideaux. So I want to make that part real  
20 clear.

21 But there is this disconnect. And, you  
22 know, I wear this button and it's kind of become a

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1 little kitschy, but "It's a trust thing." And I  
2 have extra buttons for us during this conference.  
3 And what that theme is is that the federal  
4 government owes us.

5           You know, we've paid--what we receive  
6 from the federal government is not charity. It's  
7 not based on--it's not welfare. It's not based on  
8 the atrocities of the past. The federal  
9 government never could pay for the atrocities that  
10 happened to our people in the past. It is an  
11 obligation that the federal government entered  
12 into.

13           But its continued support is dependent  
14 upon everybody in the pike understanding the  
15 message. And the disconnect that I believe  
16 happens with OMB--now, you mentioned they're here  
17 today, and I don't--I don't think they should  
18 probably raise their hand because I want to talk  
19 to them. How does this stuff happen?

20           But we need advanced funding. We need  
21 for our--to fully honor our trust obligation. We  
22 need mandatory funding. We need the funding that

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1 comes to us through this trust obligation to be  
2 nondiscretionary.

3           When we were fighting this fight on  
4 sequestration, we were having to explain to the  
5 federal government why our funding should not be  
6 discretionary. We don't have the discretion to  
7 take the land back. So our funding should not be  
8 discretionary.

9           And whatever we can do as a team with  
10 the advocates that we have, we need to formulate a  
11 plan while we have the opportunity. We're on the  
12 precipice. We've got about three years left of  
13 this President's administration. He has been the  
14 best President that we have ever had.

15           We are on the precipice of his legacy.  
16 It's time for us to develop and formulate a plan  
17 so that we can solidify some of this funding and  
18 empower those people who are our advocates. Their  
19 job is to administer for the federal government.  
20 But clearly, they're our advocates. Our job is to  
21 empower them so they don't have to make the kind  
22 of tough decisions.

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1 I look at--Ed made a really good point  
2 with his budget thing here, and I was going to  
3 make the same point. With Interior, the increase  
4 is 4.63 percent, and the BIA increase is 1.4  
5 percent. There's a disconnect between what  
6 Interior is getting--Park Services is getting 22  
7 percent. And the obligation to us, that doesn't  
8 match the President's sentiment and commitment to  
9 the trust obligation and fully funding.

10 When we say fully funding contract  
11 support, I almost felt like when we had to go  
12 fight for it and then the House, of course,  
13 grabbed onto it because they wanted to beat up the  
14 President. And they said, fully fund, but then  
15 remanded it back to the agencies to figure out how  
16 to do this. All right? Anybody who's balanced a  
17 budget, fully fund meant then we had to take it  
18 from someplace else.

19 And I'm on the contract support work  
20 group. In IHS, we are able to find the savings  
21 without impacting services, this year. BIA, I  
22 don't think, is going to be as lucky and fortunate

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1 because they've been cutting into services already  
2 to balance things out.

3 So the impact is going to be felt.

4 Kevin mentioned earlier the impact on HIP. But  
5 fortunately, we're finding another way to fund  
6 that. But these cuts are going to continue to be  
7 deep.

8 So the last thing I want to say is, the  
9 message that I hope that can be brought back up to  
10 the President, whether it's you guys as the  
11 messengers back to the Secretary level or directly  
12 to the President, if you have a direct connection  
13 to the President, is that this move to cap  
14 contract support really threatened the President's  
15 legacy.

16 And I've been saying that all along  
17 because back home, I've got Tea Party people that  
18 are on my board that are saying, there. The  
19 President, I told you he was going to get you.  
20 And it's not consistent with what I believe him to  
21 be as a person and his stated commitment to us.  
22 But it really threatened his legacy.

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1           But I think it's time for us to take  
2 this and turn it around and use the opportunity  
3 that we have, because we did get full funding for  
4 contract support. But now we need to make sure  
5 that we're not harmed, that we're not punished for  
6 having asked for that.

7           And so I'm here to pledge my support to  
8 work with our advocates, with our trustees, to  
9 carry that message. Thank you.

10           MR. WASHBURN: Thank you, Chairman  
11 Payment.

12           Chairman Moffett?

13           MR. MOFFETT: Ta'c meeywi. Good  
14 morning. Joel Moffett, Nez Perce Tribe.  
15 Appreciate this opportunity. Thank you for being  
16 here. It's been a long time coming, I think.

17           Raina mentioned a long and bumpy road on  
18 this issue, and there has been some unfortunate  
19 surprises, as was mentioned earlier, like the  
20 capping language. And so we needed to have these  
21 consultations a long time ago, and so I appreciate  
22 the opportunity now.

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1           And it's just the beginning, as was  
2 stated. I think this long-term solution isn't  
3 going to be resolved today, but I think we can get  
4 started in brainstorming on this, on those  
5 solutions.

6           But when we talk about how this impacts,  
7 you know, our tribal members back home, because  
8 these terms, contract support, you know, some of  
9 these concepts are high-level. And we've got to  
10 get back to like what Andrew's talking about, how  
11 it impacts our tribal members back home on the  
12 ground.

13           And, you know, I appreciate the  
14 administration finally stepping up to their legal  
15 obligation of fully funding their end of the  
16 bargain as contract support costs because it was  
17 really negatively impacting our tribal members  
18 back home, the necessary services they received.  
19 Because we were fronting that cost. The tribes  
20 were fronting that cost.

21           And so I was really disappointed to hear  
22 about some new language floating around there

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1 regarding a 2015 end, 2014. It kind of seems like  
2 it's once again, you know, no consultation.

3           And what I'm speaking about is the  
4 restrictions on '14 and '15 contract support costs  
5 not being--may not be used for repayment of prior  
6 years' contract support claims or for repayments  
7 of payments for settlements or judgments awarding  
8 support contract support costs from prior years.

9           So that's new language to me. I don't  
10 know if it's new language to anybody here in this  
11 room. We really needed to be consulted on before  
12 that language was crafted and included in the new  
13 bill. And I don't want to keep going over, you  
14 know, these problems again and again. We need to  
15 be consulted with prior to when these bills get  
16 drafted.

17           But I don't want to beat you up, you  
18 know, because I think we are working together as a  
19 team, moving forward so that the administration  
20 can honor their words, you know, the President can  
21 honor his words of fully funding the trust  
22 obligation to tribes. But I just don't want us to

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1 fall in those ruts again.

2           So I don't know if you have any comments  
3 on that new language, and maybe you can explain  
4 the formulation of that. Thanks.

5           DR. ROUBIDEAUX: Thank you for bringing  
6 that up. One of the useful things about  
7 consultation is it helps us clarify questions that  
8 you might have that might get in the way of our  
9 conversation. And I can understand how you would  
10 be concerned.

11           The language I think you're talking  
12 about is language that has been in the  
13 appropriations since the 1990s. It's general  
14 provision language that limits the use of the  
15 current year's appropriation for claims. And the  
16 thing that was removed in '14 was any kind of cap  
17 on contract support costs so that it could be  
18 fully funded.

19           And so I want to reassure. It's not  
20 new. It's something that has been in the budget  
21 the entire time. The claims right now are due and  
22 being paid out of the Judgment Fund, and that's

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1 what the law requires, at least for the IHS, under  
2 the Contract Disputes Act. So, you know, we're  
3 happy to hear your input on that particular  
4 provision. I just want to clarify that's not new.

5           We've got two issues here. We want to  
6 pay the current year's contract support cost need,  
7 and we also want to resolve the claims. And we're  
8 not really going to get into the claims today  
9 because we want to focus on this long-term  
10 solution related to appropriations.

11           But that general provisions language is  
12 not new. It's been in there for many, many years.  
13 And it just keeps the claims on a different plane  
14 in discussion. And I think we really do need to--  
15 but right now, the language in '14 and '15 has no  
16 cap on contract support costs at all.

17           And so, therefore, we're able to fully  
18 fund it. But as you've heard before, the issue is  
19 without any other limits, if Congress doesn't  
20 appropriate us enough funding, we have to dig into  
21 the rest of the budget for that.

22           That's not as much of a problem right

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1 now because we're getting increases. But what if  
2 we have another administration down the road that  
3 does not give us increases? That means we might  
4 have to cut into the budget deeper to fully fund  
5 contract support costs, and we don't want to do  
6 that.

7 That's why we really want to sincerely  
8 work with you on finding a long-term solution so  
9 that, as you're saying, we don't have to cut into  
10 the rest of the budget and that we can fully fund  
11 the contract support costs.

12 And it's also a challenge because we're  
13 dealing with estimates during the appropriations  
14 year. But I think our contract support cost work  
15 groups are working on solutions there. But yeah,  
16 I definitely want to reassure you, that's old  
17 language and it's just meant to put the claims in  
18 another discussion and have the appropriations be  
19 about the current need this year. So thank you  
20 for raising that.

21 MS. GILLETTE: Yeah. That's a really  
22 good question. But I also wanted to clarify that

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1 the consultation is going to really--we really  
2 want to focus on the present year, '14, and future  
3 years, '15 going forward after that. Past years'  
4 claims and litigation is not what we want to cover  
5 here.

6 If we do start talking about that, we're  
7 going to have to lawyer up. You're going to have  
8 to lawyer up. And it's just not going to be a  
9 real consultation.

10 (Laughter.)

11 MS. GILLETTE: So you have them, I'm  
12 sure, but I don't think you want ours here. I  
13 think some of them might be here, but you really  
14 don't want ours. We want to have a policy  
15 discussion about the present and the future. As  
16 soon as we start talking about the past  
17 litigation, it becomes a different conversation.  
18 So I just want to clarify that.

19 MR. WASHBURN: Okay. And I just want to  
20 clarify how this is going to go. I want to  
21 appreciate--thank everybody who's signed up. I  
22 don't want you to have to stand in line. And I

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1 will call you.

2           What I'm going to do is I'm going to  
3 call the next person in the line and then tell  
4 who's up on deck so that they'll know that when  
5 this person finishes, they can come up. No one  
6 has to stand.

7           If you do want to be added to the list,  
8 just come up and we'll put you on the--at the  
9 bottom of the list, and you'll come up eventually.  
10 We've got about 12 names here.

11           So the next person is Martha Garcia from  
12 the Ramah Band of Navajo. Welcome, Madam Garcia.

13           MS. GARCIA: Thank you very much. My  
14 name is Martha Garcia. I come from a small  
15 community called the Ramah Navajo Community. And  
16 you probably heard that name for the last 24  
17 years. And I was a president of our little  
18 community at the time that we initiate a lawsuit  
19 because we weren't getting the full contract  
20 support costs, and the Bureau of Indian Affairs  
21 just told us, sue us.

22           They didn't really what was going to

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1 happen down the road. We didn't. I didn't. But  
2 everybody, we all had similar issues. We found  
3 out that there were many tribes across the nation  
4 that wasn't getting its full contract support  
5 service. And we finally, after 23 years, got a  
6 decision here in April 2012.

7           And since then, we've again gone through  
8 a different scenario about how do we address this  
9 how. And of course, that portion is still  
10 ongoing. But at the same time, the contract  
11 support costs issue and direct contract support  
12 issue has never been settled. We still haven't  
13 arrived at a solution, and that's why we're here.  
14 And I would like to see a solution before I retire  
15 in three months.

16                           (Laughter.)

17           MS. GARCIA: Because it's been a long 24  
18 years.

19           And I've been in tribal government.  
20 I've always said that I'm just a public servant.  
21 But somebody told me, no. Every time you open  
22 your mouth, you're making a political statement.

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1           But doing that--I'm now working as a  
2 development officer. I do the annual contract,  
3 the negotiation. There's no negotiation in this  
4 whole system any more. It used to be that we  
5 would sit down and talk about our service and what  
6 we need to do with the Bureau of Indian Affairs  
7 and Indian Health Service.

8           But now we're just given a format and  
9 tell us, this is your funding for this year, and  
10 that's all you're going to get. And it's always  
11 based on the previous year. The previous year was  
12 the year before that, the year before. It's the  
13 same, so you never see the increases anywhere. We  
14 continue --we have been found out that we've been  
15 working with the same budget for a number of  
16 years.

17           But in the meantime, we see some  
18 increases in what we call the Green Book, and then  
19 we get explanation where the increases are going.  
20 It never comes down to our level, where we  
21 actually provide the services to our people.

22           And then on top of that, when you don't

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1 get your full contract support service, you're  
2 taking what little bit of money you have to try to  
3 cover the service that you need to take care of  
4 your program. And there has to be a solution.

5           It seems like we're not providing the  
6 service that's expected of us; instead, we're  
7 addressing, trying to find out how we're--how  
8 we're going to get our money. And lately it has  
9 also been the same with direct program services.

10           Last year Office of Justice Service did  
11 not give us a contract until August. We were--we  
12 were hurting by then because our contract does not  
13 run on a fiscal year. It runs on a calendar year.  
14 By the time November came around, we were in the  
15 red because we had to spend money that wasn't  
16 there until it came.

17           But by that time, you didn't know how  
18 much it was until it finally came because of all  
19 the continuing resolutions that were implemented,  
20 the sequestration. So it was--it's been a really  
21 rough year last year.

22           And then our regular--we're under a

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1 tribal--or consolidated tribal government  
2 programs. That agreement didn't come through until  
3 November. So we see these monies that are not--  
4 that's supposed to come to us January 1st doesn't  
5 come to us in a timely manner any more. So we  
6 suffer from that also. So those are the--some of  
7 the issues I want you to be aware of.

8           The contract support service throughout  
9 the years has gone through many different systems  
10 and different methods. But we never have arrived  
11 at long-term solutions. And the long-term  
12 solution, I think, finally is coming about because  
13 we have to honor the decision of Salazar v. Ramah.

14           And within that, we feel--when you're  
15 looking from this side, we feel that the  
16 government tried to find a way around that  
17 decision by putting a cap on funding the contract  
18 support costs, whereas the decision said you have  
19 to fund the contract support costs based on that.

20           But now we're back to finding a  
21 solution, and I would like to see everybody in  
22 this room to have an input and work together. On

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1 top of that, as federal government, you represent  
2 the federal government now, that you take this  
3 very sincerely, that you would just really make it  
4 a priority and make it so that we find a solution.

5 I've been to tribal consultation  
6 sessions, and sometimes we don't see anything. We  
7 don't see any results. I don't want to see this  
8 go in that same direction. We have to find one.

9 And in order to do that, we would like  
10 to see what type of service that the federal  
11 government uses to take care of their personnel,  
12 their finance, their property, their procurement.  
13 And everything that they do, we have to take that  
14 as 638 or contractors. And how do we fund that?  
15 How do you fund your program? How do you--and how  
16 do you expect us to fund ours? It should be at  
17 the same level.

18 We should have that same opportunity to  
19 provide that service at a 100 percent level.  
20 We're talking about 100 percent. We get a rate,  
21 and we expect that to be honored and to be  
22 implemented. But we still have to find solutions.

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1 And with this many people involved, there's no way  
2 that we can fail if we really are sincere going  
3 forward and finding those solutions.

4 And I urge everyone here to work  
5 together and do whatever they can because once we--  
6 --once we find a solution, we don't--it becomes a  
7 routine and we don't have to worry about it. We  
8 don't have to worry about whether we're going to  
9 get full funding or not. But it should be there.

10 Right now we're waiting for our contract  
11 support service. They're telling us that at the  
12 lower level, at the regional office, that they're  
13 telling us, we can't put in a contract support  
14 service for you until all the tribes have  
15 submitted their documents.

16 But for this year, it shouldn't be like  
17 that. It should be that we submit our documents  
18 and it should be a stand-alone because now you are  
19 required to fund it at a 100 percent level. And  
20 that's what we don't understand.

21 That's what we--we are now forced to  
22 wait until somebody finally--one of our tribal

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1 members somewhere needs to submit those documents.  
2 And we can't afford to do that, rely on someone  
3 else to do that. It should be--those contracts as  
4 they come from the tribe should be funded at the  
5 level and not wait for somebody else to submit  
6 theirs.

7           So with that, I'd like to say thank you  
8 for listening, and this is what I would like to  
9 present. Thank you.

10           MR. WASHBURN: Thank you very much.

11                           (Applause.)

12           MR. WASHBURN: Our next speaker is  
13 President Bryan Brewer, followed by Lydia Bear  
14 Killer. She's on deck after President Brewer.

15           Good morning, President.

16           MR. BREWER: I'm not showing you any  
17 disrespect for sitting down, but I'm kind of  
18 hurting today and I hope you understand that.

19           My name is Bryan Brewer, President of  
20 the Oglala Sioux Tribe. I want to really thank  
21 you for giving us the opportunity for giving us  
22 this consultation. I really feel it's as close as

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1 we can get to a true consultation with both of you  
2 being here and with Ms. Gillette being here. You  
3 know, I've been to consultations where there have  
4 been low-level staff people and we have walked out  
5 of those consultations out of protest.

6           We call this a--I keep hearing I--you're  
7 calling it a Government-to-Government consultation  
8 and I believe that is wrong. It should be a  
9 Nation-to-Nation consultation. We are nations.  
10 We are here because of our treaties, and I feel  
11 that's the way we should be treated. I believe  
12 that when low-level cabinet people that we have to  
13 speak to and we're called Government-to-  
14 Government, I believe it's a slap in the face to  
15 the Tribes that have treaties, and most of us do.

16           You know, I've been a--I'm a combat  
17 veteran. I'm a Vietnam veteran. I come from the  
18 Lakota. We're proud people. And I've been the  
19 President just about two years now, and I just  
20 want to say before I go on here that as a proud  
21 people, as all of us are, when we come here, we  
22 feel like beggars, and I feel that is wrong. That

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1 is wrong. You know, you should be honoring our  
2 treaties.

3           And I hope President Obama looks at  
4 this. And if we can't honor our treaties, then  
5 give us back our land. But give it back to us.  
6 With a stroke of a pen, President Obama can give  
7 us back our Black Hills. If he cannot honor these  
8 treaties, sign his name to a piece of paper and we  
9 will go on.

10           In the 1970s, the Federal Government  
11 shifted from a shameful policy of termination and  
12 assimilation to a new policy of self-  
13 determination, a policy that would finally  
14 recognize the right of Indian Tribes to practice  
15 self-determination and self-governance that would  
16 respect the Nation-to- Nation relationships  
17 between the Tribes and the Federal Government.  
18 The Indian Self-Determination and Education  
19 Assistance Act represents the centerpiece of that  
20 shift in policy.

21           The ISDEAA allows Tribes to choose to  
22 carry out their own programs in place of the

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1 Federal agencies. Congress knew that there would  
2 be assistance--agency resistance, so they choose  
3 mandatory binding contracts as the mechanism to  
4 achieve that transfer of control. Contract  
5 support costs are a necessary component of 638  
6 contracts and self-governance compacts and,  
7 therefore, self-determination as a whole, because  
8 they allow Tribes to carry out their own programs  
9 at the same level as the Federal Government.

10           When Congress amended the ISDEAA to  
11 require that contract support costs be paid, both  
12 Congress and the agency recognized that they were  
13 essential to achieving parity between contracting  
14 and direct service Tribes. For decades, the  
15 Federal Government has underfunded, underpaid  
16 contract support costs, treated its contracts with  
17 Tribal Nations as discretionary, as somehow less  
18 binding than other government contracts. That was  
19 unacceptable to Tribes and held by the United  
20 States Supreme Court to be illegal. As a  
21 practice, it destroyed the concept of parity  
22 between contracting and direct service Tribes to

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1 the benefit only of the agencies whose own costs  
2 were protected.

3           The Federal Government owes a trust  
4 responsibility to all Tribes, whether they choose  
5 direct services, self-determination contracting,  
6 or self-governance. Self-determination policy  
7 means that it is a Tribe's right to choose and  
8 there must not be a penalty for any choice.

9           The Indian Health Service and Bureau of  
10 Indian Affairs have now committed to paying full  
11 contract support costs in fiscal years 2014 and  
12 2015. This is a step in the right direction.  
13 However, direct services in contracting and  
14 compacting Tribes are now all concerned that even  
15 as contract support costs are finally fully  
16 funded, Tribal program budgets were slashed under  
17 sequestration and have not been restored. As long  
18 as that remains the case, no Tribe is fully  
19 funded. Moreover, future funding choices are  
20 unpredictable.

21           The Federal Government has an obligation  
22 to fully fund both contract support costs and

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1 Indian programs and to reverse the devastating  
2 effects of sequestration in Indian Country.  
3 Parity, predictability, and sufficient funding are  
4 all goals that can and must be achieved for Indian  
5 Tribal budgets. The Government must not pit Tribe  
6 against Tribe and shortchange all Tribes by  
7 engineering a false zero-sum game where one  
8 promise can only be kept at the expense of  
9 another. Such action is entirely inconsistent  
10 with the Federal Government responsibilities as a  
11 trustee for all Tribes. The cost of fully funding  
12 Indian programs and contract support costs can be  
13 absorbed at the Department level as found wherever  
14 in the Federal budget.

15           Because this issue affects all Tribes,  
16 when the agencies consult about contract support  
17 costs, they must include all Tribes in all areas.  
18 At a minimum, the agency should hold at least one  
19 joint consultation in every region for maximum  
20 participation.

21           The agencies have also failed to handle  
22 resolution at past contract support cost claims in

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1 a matter befitting a trustee. In order to  
2 minimize Federal liability, the agencies have  
3 delayed settlements by insisting on burdensome,  
4 expensive, time consuming methodologies that are  
5 contrary to the agency's own policies. The  
6 Federal Government must change its approach to  
7 settling past claims to achieve swift, fair, and  
8 reasonable settlement that is consistent with the  
9 ISDEAA and agency policies relied on by Tribes by  
10 decades.

11 To expedite settlement in the Ramah  
12 case, the Department of Interior and the  
13 Department of Justice should use microstatistics  
14 to compute class-wide damages. The IHS should  
15 permit use of the annual shortfall reports it has  
16 submitted to Congress with adjustments as  
17 necessary for accuracy to establish damages and  
18 past claims.

19 Thank you very much.

20 MR. WASHBURN: Thank you, President  
21 Brewer.

22 And our next speaker is Lydia Bear

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1 Killer, followed by Mike Gross and then Governor  
2 Michael Chavarria from Santa Clara Pueblo.

3 MS. BEAR KILLER: I'd like to say good  
4 afternoon to everybody else here. My name is  
5 Lydia Bear Killer and I am Tribal Counsel for  
6 Oglala Sioux Tribe and currently serve as the  
7 Chairwoman of the Health and Human Services  
8 Committee.

9 Today, I come to you, you know, on this  
10 consultation and put on record about our treaties.  
11 You know, our treaties are recognized in the  
12 United States Constitution under Article VI, that  
13 we are guaranteed the health and welfare and  
14 education from the United States Government.

15 Today, we talk about these contract  
16 support costs. We are already operating 50  
17 percent less in our needs out there in the Tribe  
18 and we are requesting that this contract support  
19 is above and beyond the monies that we're going to  
20 be getting in those contracts that are coming out.  
21 We are operating indirect costs from within those  
22 programs and our monies--our monies are less

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1 already, but by the time it gets out there, you  
2 know, when we take the indirect cost to operate by  
3 your law, by your regulation with the five  
4 certified systems, we're coming down even less in  
5 services with that dollar that gets out there.  
6 You know, we're operating IHS maybe 43 cents a  
7 dollar by the time it gets out to Indian Country,  
8 out to the Oglala Sioux Tribe.

9           So, we are really running shortfalls.  
10 We are really needing increases in the budgets.  
11 But we're asking and we're demanding that this  
12 contract support cost is above the amount that's  
13 afforded to each Tribe. Today, you know, as we  
14 stand here, I think BIA and IHS owes the Oglala  
15 Sioux Tribe about \$12 million in contract support  
16 costs already.

17           So, you know, when you talk about what  
18 formula, what's going to be there, you know, we  
19 want this contract support to come above and  
20 beyond. And I also don't agree with moving monies  
21 from needed programs to supplement this contract  
22 support.

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1           So, today, I stand in front of you guys  
2 and I talk about our trust responsibility between  
3 the Federal Government and the Tribes, especially  
4 the Tribes with the treaties that--you know, like  
5 everybody is saying, our treaties aren't a welfare  
6 program. We gave up a lot. Our ancestors gave up  
7 a lot. They had to lay down their weapons and  
8 give up land to get this agreement with the  
9 treaty.

10           So, today, you know, we come here and we  
11 say this over and over, and like the President  
12 says, it seems like we're begging. However, this  
13 is owed to us. And maybe people don't want to  
14 hear that, but that's the truth, the terms of  
15 treaties.

16           Our programs in Indian Country are  
17 already severely underfunded and I would like to  
18 see our programs' funding levels increase.  
19 However, we want contract support on top of that.

20           Our health care for Indian people, it's-  
21 -I don't think our IHS is really serving our  
22 people. The majority of our money that comes in

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1 there, it is absorbed by the referrals that our  
2 hospitals have to make because our facilities are  
3 inadequate in providing standard health care to  
4 our people. And the majority of our money comes  
5 into what they call contract health care.  
6 However, it's not enough to pay all the bills when  
7 our patients, our Tribal members are flown out.  
8 You know, today, newborn babies are ending up with  
9 a bill and collection agencies are hounding our  
10 people because of this. So, we need our IHS to  
11 really look at standards of care, our standard  
12 quality care of health for our people out there.

13           The other thing is our education. You  
14 talk about education. You know, our teachers--I  
15 mean, our schools are having to give up qualified,  
16 certified teachers in order to meet the needs for  
17 facilities, utilities, and food for the children  
18 out there.

19           So, the sequestration that happened on  
20 top of the already unfunded mandates that are out  
21 there, I believe that our services are slowly  
22 being pushed aside with what the actual needs are

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1 because of what our Federal programs are doing.

2           And we shouldn't have to spend our  
3 limited time and resources working to press the  
4 Federal Government to live up to its obligations.

5 And today, you know, that's what I want for the  
6 record.

7           But we are coming forward and we're  
8 hoping, you know, we're the Oglala Sioux Tribe has  
9 always been, I guess, loyal to Indian Health  
10 Service, but during this administration, we see  
11 that the standard care of health of our people is  
12 not working and it's not helping a lot of us.  
13 Even now, the elected officials standing here, if  
14 we were flown out, we have a bill that needs to be  
15 paid, the flight, the transportation, and also the  
16 bill to the medical facility. And if we don't pay  
17 it within 30 days, the bill collectors are calling  
18 us, you know, because IHS is not making the  
19 attempt to pay those bills.

20           So, we're struggling out there. We're  
21 struggling, and that's why we keep saying this is  
22 a treaty obligation, and I hope that OMB and every

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1 Federal program here that has anything to do with  
2 Indian Country reads the treaties, because it's  
3 not just a welfare and we're not just standing  
4 here asking for it. It's an obligation that's due  
5 from the United States Government to Indian  
6 Country.

7 Thank you.

8 MR. WASHBURN: Thank you, Ms. Bear  
9 Killer.

10 We next have Michael Gross representing  
11 the Ramah Council, followed by Governor Michael  
12 Chavarria from Santa Clara Pueblo, and then Eric  
13 Olson from Santa Fe Indian School. That's the  
14 next in the queue. Mr. Gross.

15 MR. GROSS: Thank you, Mr. Chairman and  
16 friend, Mr. Washburn.

17 You know, it's difficult for a lawyer to  
18 stand here because we have many obligations to  
19 different clients, and sometimes, although their  
20 big interests coincide, the roles that the lawyer  
21 plays for each one sometimes need to be  
22 delineated. So, I am here today for the Oglala

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1 Sioux Tribe and the Ramah Navajo Chapter. The two  
2 entities are the first two named representatives  
3 for the class that won the case in the U.S.  
4 Supreme Court in June of  
5 2012.

6 I happen to be class counsel in that  
7 case and brought the case for these entities in  
8 1990, and it's been 24 years, as Ms. Garcia noted,  
9 that this case is in the courts, and it's still  
10 not settled, and the question is why, and I think  
11 the answer has to do with institutional behavior.

12 Comments about institutions tend to be,  
13 in my experience, pointed. They need to be. But  
14 they do not reflect on the individuals who are  
15 running the agencies at all moments, and I want to  
16 make it very clear that my comments are not  
17 directed to either one of you, because we know in  
18 Indian Country, and I personally, of your great  
19 devotion to the law and to Indian peoples' rights.  
20 That's why you took these jobs.

21 So, when I speak here now, I speak from  
22 my heart. I've been 45 years at this war. Ramah

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1 is the first client I ever had out of law school.  
2 And the reason I've stayed so long in this field  
3 is not necessarily because I didn't have other  
4 ambitions, but because it was never won. We never  
5 won the fight, and we still haven't.

6           You know, this case that we won in the  
7 Supreme Court was a contract law case, and yet for  
8 Indians, self-determination is the equivalent of  
9 the Civil Rights Act for black people. We don't  
10 have a Brown v. Board of Education for Indians.  
11 We have Salazar v. Ramah, which reads in the  
12 judicial reports as a pedantic matter of fact  
13 contract case. It had to be brought that way in  
14 order to win it, because the U.S. Government and  
15 the Constitution, although they should be amenable  
16 to an interpretation of Indian self-determination  
17 as the antidote for forced assimilation, have  
18 never reached that point.

19           So, we are laboring here in an  
20 environment of law which is not yet settled. Had  
21 this been Brown v. Board of Education, which  
22 itself suffered years and years of delay before it

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1 was fully realized, yet the law was clear, but if  
2 that were the kind of decision it was, our task  
3 here today would be a lot simpler.

4           And that is why Indian people have  
5 constantly to wage this turf war, I call it, with  
6 the institutions in Washington that run their  
7 lives. There's no other word for it. And again,  
8 I come back to my legal training. When I went to  
9 law school, we were taught to look at the broad  
10 picture, see what the real causes for the legal  
11 dispute at hand are, and try, if possible, to use  
12 the law in that manner to fix the problems.

13           Well, if you look at self-determination,  
14 you see a train of policies starting with the  
15 Dawes Act, for example, which robbed Indian people  
16 of their communal rights and awarded 60 acres and  
17 a mule, or whatever it was, 160 acres maybe, to  
18 individual Indians called allottees whose rights  
19 to this day have never been fully recognized, for  
20 example, in the area of water rights. Yet, the  
21 trust responsibility applies to them.

22           And then we have the determination

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1 period interspersed with the Indian Reorganization  
2 Act, a period of benevolence and wisdom under John  
3 Collier and Franklin Roosevelt. Up and down. Up  
4 and down. Policies favor Indians one year and  
5 don't favor them the next year. Budgets go up.  
6 Budgets go down. So, that's the nature of this  
7 fight.

8           It's a turf war because the  
9 infrastructures of the agencies won't give up.  
10 That's the reason why it's taken 24 years in  
11 court, and what's happened is that the  
12 infrastructures have not been forced to own up to  
13 their share of the burden of self-determination  
14 contracting. It's very simple. There has never  
15 been a true accounting of the truths of the costs  
16 as well as the savings to the Federal Government  
17 from Indian self-determination.

18           Why has there never been an accounting  
19 by OMB of how much the inherent Federal functions  
20 that the Indian Health Service used to great  
21 effect in the Cherokee cases to save itself from  
22 full liability, why haven't they been measured?

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1 Why haven't they even been identified? Why  
2 haven't the savings of other Federal agencies, for  
3 example, OPM that pays for retirement and health  
4 benefits, serves the interests of the Secretaries  
5 outside the budgets of the Indian agencies when  
6 those agencies contract out under the Self-  
7 Determination Act the performance of their  
8 services? There's savings there to the government  
9 and they've never been measured.

10           Let me--I want to read from, if I may,  
11 from a--and this won't take long--a couple of  
12 quotes. In 1970, President Nixon, mentioning the  
13 Ramah Chapter and its historic effort to start one  
14 of the first--the only--the first school started  
15 from scratch in modern times by an Indian  
16 community, said in his famous message that ushered  
17 in the Indian self-determination policy, which  
18 became law four years later, "Appropriate  
19 technical assistance to help local organizations  
20 successfully operate these programs would be  
21 provided by the Federal Government. No Tribe  
22 would risk economic disadvantage from managing its

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1 own programs. Under the proposed legislation,  
2 locally administered programs would be funded on  
3 equal terms with similar services still  
4 administered by Federal authorities."

5           Eight years later, after the Act was  
6 passed, the then-Director of the OMB, James T.  
7 McIntyre, Junior, wrote a letter to the Secretary  
8 of the Interior, Andrus, about the Self-  
9 Determination Act. Now, bear in mind that in  
10 those years the Act was passed, intervening years,  
11 and contract support costs, to the BIA's  
12 everlasting credit, founded the concept of  
13 contract support costs because it recognized soon  
14 after the law was passed that the Secretarial  
15 program amount was not sufficient to keep programs  
16 at equal terms between contractors and non-  
17 contracted services.

18           So, this is what Director McIntyre  
19 wrote. "We believe that the Department, through  
20 the proper management of its existing resources,  
21 can and should provide to the Tribal contractors  
22 the full amount of contract support funds which

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1 are rightly due them. Furthermore, we expect the  
2 Bureau's own overhead costs to decrease as the  
3 overall level of Self-Determination Act  
4 contracting increases." That has never happened--  
5 never happened.

6           Now, I realize there have been certain  
7 cutbacks in your agencies' budgets, but they are  
8 not tied to self-determination contract support  
9 costs, and they should be. And that's where the  
10 word "parity" comes in.

11           I am pleased to tell you, and I may be  
12 stealing its thunder somewhat, but just yesterday,  
13 the National Congress of American Indians, the  
14 leading Indian rights advocate, organizational  
15 advocate, that this country has, passed a  
16 resolution Number ECWS 14-008. Some of its key  
17 paragraphs read, "Whereas, the National Congress  
18 of American Indians believes it is essential that  
19 this new set of reforms restore and implement  
20 parity of opportunity as provided in the Act and  
21 in its legislative history, as well as in its  
22 regulations, so that the decision to contract or

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1 not contract not be driven by the weight of  
2 immediate economic considerations." Nixon's  
3 message. McIntyre's message.

4           "Whereas, the absence of a requirement  
5 that the Indian service agencies report their in-  
6 house management costs for directly operated  
7 services for Indians and have not measured the  
8 savings to themselves and other Federal agencies  
9 when Tribes perform the services and have not  
10 reduced their in-house management accordingly has  
11 forced contracting Tribes to cover shortfalls in  
12 contract support costs by reducing program levels  
13 or use Tribal monies for overhead in a manner in  
14 violation of the fundamental principles of Indian  
15 self-determination." "And, whereas, Congress, the  
16 agencies, Indian Tribes, and the public at large  
17 would all benefit from periodic accounting of the  
18 true costs and savings of contracting to the  
19 Governments," and then the "resolve" sections  
20 follow, which I won't read now because they take  
21 too long.

22           But, let me just sum it up this way.

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1 What this resolution amounts to is a direct  
2 challenge to the U.S. Government to account  
3 properly for the true costs as well as the true  
4 benefits and savings to the government when  
5 contracted services are performed in place of the  
6 in-house direct service bureaucracies based here  
7 in Washington. There are significant savings.  
8 They need to be applied, and probably some sort of  
9 a formula, which could serve many purposes,  
10 including predictability, stability, and equality,  
11 should be developed through this consultation  
12 process that's supposed to take place starting in  
13 May.

14 All organizations, as this resolution  
15 says, including NCAI, that have a legitimate  
16 voice, regional Indian organizations, nationwide  
17 particular, subject matter organizations, such as  
18 the Indian Health Service organization, contract  
19 support costs work groups, all need to be involved  
20 in developing this idea based on the simple idea,  
21 the simple principle, that the services contracted  
22 to Indian Nations of this country need to be kept

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1 in parity with those of the service agencies.

2 And, finally, putting on my class hat,  
3 we need to settle these cases, people. This is  
4 taking longer--Jamie Dimon can pick up the phone  
5 and call Attorney General Holder and agree to pay  
6 \$13 billion into the U.S. Treasury. The U.S.  
7 Treasury can sustain a couple of phone calls to do  
8 the reverse with Indian Tribes.

9 Thank you.

10 MR. WASHBURN: Thank you, Mr. Gross.

11 Next, we have Governor Michael  
12 Chavarria. And following Governor Chavarria is  
13 Eric Olson from the Santa Fe Indian School.

14 MR. CHAVARRIA: Okay. Well, (speaks  
15 Tewa).

16 Good morning. My name is Governor  
17 Michael Chavarria from Santa Clara Pueblo. I  
18 appreciate the opportunity for calling in on a  
19 couple conference calls that we had the past  
20 couple of weeks here.

21 I think one of the solutions that we  
22 have is that we need new monies to be incorporated

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1 into our budgets. Yes, we know that there's an  
2 increase in funding, but yet that increase in  
3 funding is only going to these programs and  
4 services, functions and activities of these  
5 contracts. So, even though there's an increase in  
6 funding, there are still going to be funding cuts  
7 from these programs internally, and the only way  
8 we can do it to 100 percent cost, support the  
9 contract support costs, is to ask for new monies  
10 from the Congress.

11           It's going to be very hard if we take  
12 out funding from these direct services because  
13 it's going to prohibit our ability to provide  
14 adequate services and programs to our people.  
15 Right now, we're already struggling with those  
16 sequestration cuts. And in order to go forward,  
17 it's going to be very important not to impact the  
18 service users, both at BIA and the IHS.

19           For Santa Clara, we do have indirect  
20 cost proposal. Last year, I think our indirect  
21 cost rate was 24.33 percent. This year, it's up  
22 to 39 percent. So, living with that IDC rate

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1 proposal that we submit to the National Business  
2 Center, that proposal has gone up in the last  
3 year, and that's already a shortfall that I'm  
4 already seeing within our budgets.

5           These extra monies also will be helpful  
6 to support, have a full commitment from our  
7 trustee, the Federal Government. One of the  
8 things that I've noticed through IHS, though, as I  
9 was looking at the formulas, is that some of that  
10 data has been old, old data. We need to start  
11 using updated data, because all that data is now  
12 being imported to those formulas and that's where  
13 your Tribal shares are derived from. And, yes,  
14 even though we get additional monies, all that  
15 formula revolves around your Tribal share.  
16 Depending on your Tribal share is how you get some  
17 of that money to then provide services for your  
18 people.

19           I also serve as a 1/19th owner of the  
20 Santa Fe Indian School. One of the things that we  
21 questioned from the Indian School was the 100  
22 percent costs for Tribally controlled grant

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1 schools. I think that question was asked to you,  
2 Secretary. It is very important that we do get  
3 funding in this year's budget and in the further  
4 budgets to support those Tribal costs of indirect  
5 costs and administrative costs for schools and  
6 it's very important that we address those issues.

7           And so I think it's very important that  
8 we understand, and as you mentioned, we have 120  
9 days, by May 17, to sit down, provide additional  
10 comments, provide testimony on solutions on how to  
11 work on this together, because it's not going to  
12 end today. It's not going to end tomorrow. This  
13 is something that we have to look at for our  
14 future and how do we support our constituents,  
15 which are the end users of the BIA programs, but  
16 also IHS.

17           So, it is very important that we do sit  
18 down, as the leaders that have gone before us have  
19 mentioned. It's very important that we call this  
20 not a Government-to-Government but Nation-to-  
21 Nation, because as a Governor from my Tribe, I  
22 also serve as the Chairman of the Eight Northern

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1 Indian Pueblos Council. So, it's very important  
2 that we do strategize and come up with a  
3 legitimate solution to these challenges that we  
4 are facing today.

5 So, I really appreciate the opportunity  
6 for standing before you and at least addressing  
7 some of my concerns. Thank you.

8 MR. WASHBURN: Thank you, Governor.

9 DR. ROUBIDEAUX: Thank you. I  
10 appreciate everybody's comments today. We are  
11 very interested in all of your ideas. I am  
12 worrying a little bit about the fact that it's now  
13 11 o'clock and the session goes until 12, and then  
14 the actual NCAI General Session starts at one  
15 o'clock. And we're happy to be here for all that  
16 time, but I also want to make sure that we respect  
17 the fact that there's other events people have to  
18 go to and all of those sorts of things. So,  
19 putting my Western hat on, just making people  
20 mindful for time.

21 But, we really do appreciate your  
22 comments and I think the Governor makes a good

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1 point about, you know, there--this issue about  
2 these appropriations and CSC, we definitely want  
3 the goal of full funding for contract support  
4 costs. We've heard loud and clear you don't want  
5 it at the expense of other programs. And we've  
6 also heard of the nature of these costs, or that  
7 they're estimates for a long time. And you're  
8 right. Over time, your rate may go up or down and  
9 so that has to be accounted for along the way.

10           And we are very anxious to find a long-  
11 term solution with all of you and we appreciate  
12 your input here. And there will be other  
13 opportunities to give input. And the letter that  
14 we did give out to you on February 12 has the  
15 address for written comments, if you have  
16 testimony written that you'd like to send in. And  
17 we will announce other opportunities for sessions,  
18 as well. So, don't worry. This is not your only  
19 opportunity for that.

20           With that said, we don't really do this  
21 list, but we have the list where people can sign  
22 up to speak, and we have a rather long list, but

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1 we want to make sure people who have come new into  
2 the room since the beginning have the opportunity.  
3 If you want to sign up on the list to give input,  
4 the list is up here at the front. And we'll go  
5 through that order as quick as we can because we  
6 want to hear from whoever wants to speak today.  
7 So, thank you all very much.

8 MR. WASHBURN: And, so far, we have Mr.  
9 Eric Olson, and then we have Lloyd Miller, and  
10 then Patty Marks and Amy Fredeen.

11 MR. OLSON: Thank you, Mr. Secretary.  
12 My name is Eric Olson. I'm the Chief Financial  
13 Officer for the Santa Fe Indian School. We are  
14 one of 125 Tribally controlled grant schools in  
15 the United States, located in Santa Fe, New  
16 Mexico.

17 We're very pleased that the  
18 administration and the Congress and the  
19 Secretaries are in support of full contract  
20 support funding for the 638 contracts. We know  
21 the Tribes have been fighting that battle for a  
22 long time.

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1           As Governor Chavarria mentioned, we have  
2 a very similar situation with Tribally controlled  
3 grant schools. Our administrative costs are to be  
4 funded in a manner that's spelled out in the  
5 statute, and each year, because of the limitations  
6 of appropriations, we receive a little bit less  
7 than two-thirds of that funding. So, we would  
8 appreciate the administration's support and the  
9 support of the respective Secretaries and of  
10 Congress in fully funding administrative costs for  
11 Tribally controlled grant schools.

12           And, Mr. Secretary, we left you a little  
13 bit earlier with a position paper on the matter  
14 and we'd appreciate your support.

15           MR. WASHBURN: Thank you.

16           MR. OLSON: Thank you.

17           MR. WASHBURN: Thank you, Mr. Olson, and  
18 thank you for keeping it tight.

19           Mr. Miller.

20                         (Laughter.)

21           MR. WASHBURN: I know Mr. Miller can be  
22 concise. He's really good.

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1           MR. MILLER: I could never match the  
2 eloquence of my colleague, Mike Gross. He's been  
3 in this battle such a long time. It's been an  
4 honor to serve as co-counsel with him in the Ramah  
5 case.

6           By way of introduction, Lloyd Miller  
7 with the Sonosky Chambers Law Firm. I represent  
8 the National Tribal Contract Support Costs  
9 Coalition. It's 21 Tribes and Inter-Tribal  
10 organizations representing 250 Tribes in 11 States  
11 and operating about a half-a-billion dollars in  
12 programs from your two agencies.

13           I wanted to offer some specific  
14 recommendations, because I think there's been some  
15 concern. My first recommendation is as we talk  
16 about solutions, we need to identify what the  
17 problems are. I haven't heard a lot about the  
18 problem. Now, I've heard a few things, and those  
19 are very important. Predictability of the amount,  
20 that's very important. So, how do we get at that?  
21 I've heard concerns about accuracy in the data, so  
22 we have to get at that.

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1 I think it's important as you go forward  
2 with consultation, asking for solutions, that it  
3 not be we need solutions for the contract support  
4 costs problem. It's not a problem. It's not a  
5 problem. It was a legal question that was  
6 resolved by the Supreme Court. We know it must be  
7 paid in full. But there are issues that need  
8 solutions. Let's identify what those issues are.  
9 And I think we would be well served by having the  
10 discipline of identifying what those issues are.

11 With regard to the consultation process,  
12 that's first and foremost. Within 120 days, you  
13 need to report to Congress on the consultation. I  
14 would strongly urge that you continue exactly what  
15 you're doing. I think this is great, meeting  
16 together across the country, whether you do every  
17 area and region paired together or you take two  
18 areas and two regions and pair them together so  
19 you have six regional meetings, that you do it  
20 together, because it is one law. It is one set of  
21 Supreme Court decisions. The two agencies have  
22 near identical contract support cost policies.

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1 The Tribes have one indirect cost rate that  
2 applies to both agencies. And if you find  
3 yourselves pursuing separate tracks, each one  
4 really smart and each one very good, the Tribes  
5 get whipsawed. IHS has something very good they  
6 need done, the BIA has something very good that  
7 needs to be done, and they cannot be reconciled.  
8 That is not helpful for the Tribes. So I urge you  
9 to continue doing what you've launched.

10           So, too, with your Contract Support  
11 Costs Work Groups. Encourage those work groups to  
12 meet together. I'm familiar with, because I've  
13 been nominated to be on the IHS Technical Work  
14 Group. I'm not sure if the BIA has formed a  
15 Technical Work Group--not yet, Vickie says no--but  
16 if they can form one and those Technical Work  
17 Groups could work together, meet together, I think  
18 the work product would be better.

19           And then I'd encourage that at the end  
20 of the regional consultation process and at the  
21 end of the Contract Support Costs Work Group  
22 process that you have a two-day meeting. I think

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1 it really will take that much time--a national  
2 meeting back here in Washington, D.C. These are  
3 going to be very burdensome, these meetings, on  
4 Tribal leadership, to come here. To double-up the  
5 meetings would be burdensome, is why I've  
6 encouraged you to consider continuing to do your  
7 work jointly. The Contract Support Costs--I see  
8 Vickie here. She's on both work groups. She  
9 doesn't need to be in different parts of the  
10 country for the BIA and the IHS Work Group.

11           So, that's all part of one  
12 recommendation as to the process for consultation.  
13 It's actually, I should say, three.

14           The second block of area is I think both  
15 agencies need to visit with, whether it's OMB or  
16 your leadership, to staff up your activities.  
17 There's a lot more work to be done now. I've  
18 heard it from Tribes and I've heard it from agency  
19 people. We didn't care so much about the accuracy  
20 of the numbers because no one was getting full  
21 funding. Now, we really care about the accuracy  
22 of the numbers, because nothing will defeat the

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1 integrity of these contracts than massive  
2 overpayments. We cannot have massive  
3 overpayments. Tribes do not want to be overpaid.  
4 You do not want to overpay them. Your funds are  
5 desperately needed for health care, for social  
6 services.

7           And so accuracy is at a premium now and  
8 I think you're going to have to staff up. There  
9 is far too much difference in the areas and in the  
10 regions, from region to region and area to area,  
11 in how they proceed with regard to the contract  
12 support costs activity. It's got to be more  
13 training. You can do reverse IPAs from the Tribal  
14 people who know this activity. Some of you at  
15 both agencies have at times worked with  
16 consultants. Whatever it takes, it's got to be  
17 staffed up better. Again, we cannot have  
18 overpayments. It will kill Indian Country to have  
19 overpayments of the contract support costs  
20 activity.

21           On the payment issue, and Martha spoke  
22 so well--she is a real hero. You are a real hero.

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1 Twenty-four years on this. We can do that within  
2 three months, by the way.

3 (Laughter.)

4 MR. MILLER: Martha is right. She has  
5 got a rate ready to go. It's a full payment  
6 mandate, ready to pay. I mean, once you think  
7 about whether--once you have the data set in 2014,  
8 once you have the data set in 2015 for a given  
9 Tribe, ready to go. Why not?

10 Currently, your policies have Pool 1,  
11 Pool 2. Pool 1 is the amount of money that was  
12 paid last year. You pay it out again this year,  
13 because it was never enough for full funding, so  
14 you at least get that money out the door and then  
15 you try to deal with your increase to deal with  
16 the remainder that's due. Why hasn't--Pool 1  
17 should go out the door. You didn't get your  
18 apportionment until just now, Friday, I guess.  
19 But now, Pool 1 could go out to all the Tribes  
20 right away, and then Pool 2 could go in short  
21 order.

22 But in the future, in 2015, you might

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1 want to think about what Martha is discussing. As  
2 soon as a Tribe shows they have a current indirect  
3 cost rate, it's in or you are issued your  
4 provisional rate from DCA, if that's what it is,  
5 bingo. Ready to go.

6 Another thing is it seems bizarre to me  
7 when I reflect--and I am no tech savvy guy, I  
8 mean, anyone who knows me--but you would think in  
9 this day and age, inside the government, you would  
10 have--and it was only on account of the  
11 litigation that the little bit of what I am going  
12 to talk about happened--it should not have  
13 happened that way-- that you would have ready  
14 electronic access to indirect cost rate  
15 agreements--not you, your people--and indirect  
16 cost rate proposals. It should not be that you do  
17 not. I mean, your Contract Support Cost Office  
18 needs to know what the latest indirect cost  
19 agreement is, and there are two ways to do this.

20 You can have 12 areas or 12 regions ask  
21 550 Tribes, what are your rates, and we know what  
22 the return on that request for information is

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1 going to be. Or you can do one e-mail and get a  
2 database back from the Interior Business Center--I  
3 mean, the--yeah, the Interior Business Center--and  
4 the Division of Cost Allocation and get it at one  
5 time and you would know from them, assuming their  
6 database is accurate and up to speed. That would  
7 be the way to do it. But it seems like there are  
8 silos that are separating your agencies from  
9 getting information from those agencies that  
10 shouldn't be necessary. Of course, you already  
11 have access to audits through the clearinghouse,  
12 but to the extent you need that information.

13           Lastly is data from the shortfall  
14 reports is disclosed. Well, it's disclosed to  
15 Congress, of course. And back in the day, as we  
16 say, both agencies used to share their contract  
17 support costs shortfall reports as drafts to all  
18 of Indian Country, and all of the data. So, you  
19 know, Vickie could see what's going on in  
20 Oklahoma, and your Department, too, Mr. Secretary.

21           The reason that was good--I remember  
22 that meeting. Mike and Brian and I were at a

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1 meeting and we were looking at all the areas, and  
2 if Mike had just been looking at Ramah and I had  
3 just been looking at Zuni, we would have known  
4 what was going on with Ramah and what was going on  
5 with Zuni. But when we looked at the whole thing,  
6 we went, wait a minute. There's something wrong  
7 with these three areas. These numbers do not add  
8 up. And we discovered certain things being done  
9 in those areas that was being done differently  
10 than the other nine areas.

11           We would never have known that had we  
12 not seen the report and had our background that we  
13 could bring to bear and people of Vickie's caliber  
14 there, and Rhonda's caliber there in the room  
15 seeing that. and I don't know this stuff, but  
16 they know this stuff, and you want to benefit from  
17 the expertise that Tribes have developed over the  
18 years.

19           So, I encourage you to work internally,  
20 or however you must, to get the clearances, if  
21 there are new clearances that are needed, to go  
22 back to that regime, because I think your

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1 shortfall reports back in the day were very  
2 accurate and it was remarkable how by the late  
3 2000s you could predict- -your predictions were  
4 accurate on what you thought contract support cost  
5 requirements would be in the coming year based on  
6 the President's budget request. If the budget was  
7 funded, you were able to predict it.

8           So, the series of recommendations.  
9 Thank you very much, and I'm sorry I took so much  
10 time.

11           MR. WASHBURN: Thank you, Mr. Miller.

12           We next have Patty Marks, then Amy  
13 Fredeen, and then Mickey Peercy after that.

14           MS. MARKS: Thank you. Since my  
15 colleagues have covered a lot of things, I won't  
16 repeat, but it's an honor to speak for Chairman  
17 Tex Hall from MHA Nation in the Great Plains  
18 today.

19           A couple of things very quickly. One of  
20 the things about being a senior citizen, probably  
21 the only benefit, is I was there from the  
22 beginning. I was there at the beginning of 638

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1 and I have watched it go all the way through, and  
2 what Mr. Gross has related is absolutely accurate.  
3 This was supposed to be a dollar-for-dollar  
4 offset. As the Tribe took on a project, took on a  
5 contract and needed a human resource officer, one  
6 was supposed to come out of the budget of OPM. As  
7 the Tribe needed to pay salaries and fringe  
8 benefits, fringe benefits were supposed to come  
9 out of the fringe benefit account. That was the  
10 theory.

11 Well, we all know what happens to theory  
12 in Washington, but there is a clear path here  
13 wherein this money was not supposed to all come  
14 out of Interior. It was definitely not supposed  
15 to come out of IHS or BIA's budget solely, because  
16 at the time, it was well recognized that many of  
17 the services provided to your personnel in both  
18 agencies don't come out of the Department. They  
19 come out of GSA. They come out of OPM. They come  
20 out of any number of other agencies. So, I'd like  
21 OMB to keep that in mind.

22 The second point I want to make very

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1 briefly is a very important one to me, and that is  
2 OMB has set the rules. People wonder what happens  
3 to Tribal rates, but those rates are controlled by  
4 those OMB rules. And a Tribe goes in and has to  
5 sit down--and I encourage an OMB representative to  
6 actually sit in at a contract cost rate  
7 negotiation, because what we see is an effort by  
8 MBC to try to force the way that the Tribe  
9 budgets. And on a large land base, this is a  
10 really critical issue. Do we put that human  
11 resource officer under the program or do we put it  
12 under indirect? All of those things need to be  
13 reexamined.

14           The third point I want to make, and the  
15 last one, is simply this. When the whole contract  
16 support process was enacted by Congress, people  
17 meaning well tried to fit the Tribes under the OMB  
18 process for local governments. And the whole  
19 process for local government contract support was  
20 based on the fact that a local government had a  
21 tax base to supplement where a Federal agency, for  
22 example, put a cap on. That was supposed to be

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1 picked up by the tax base.

2           Trying to fit a square peg in a round  
3 hole has never worked, so I'm encouraging, as a  
4 part of this process, to involve some Tribal  
5 accountants who actually do this for a living and  
6 negotiate these rates to sit down with OMB and  
7 really look at the rules and see if perhaps  
8 separate rules for Tribes in the way that things  
9 are calculated might go a long way toward solving  
10 this problem.

11           We've got caps on all kinds of related  
12 agency work, and this has become increasingly  
13 important now that you're looking at a situation  
14 where the Bureau and IHS are not the only primary  
15 funders for core programs. We have Department of  
16 Education. We have HHS supplementing social  
17 services. We have DOJ supplementing law  
18 enforcement. If their rates are different than  
19 the way that you calculate and we have to still  
20 operate within those same OMB established rules,  
21 the math doesn't add. It's just that simple.

22           So, I just encourage you to bring

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1 everybody to the table. Start from day one, from  
2 how you negotiate these things, from what the  
3 Tribes actually have to include in their overall  
4 contract indirect cost package and see if we can't  
5 solve it that way.

6 Thank you.

7 MR. WASHBURN: Thank you, Patty.

8 We have Amy Fredeen, and then Mickey  
9 Peercy and then Vickie Hanvey.

10 MS. FREDEEN: Good morning. My name is  
11 Amy Fredeen and I am the Executive Vice President  
12 and Chief Financial Officer for Cook Inlet Tribal  
13 Council. I also serve as the Alaska  
14 representative on the BIA's Contract Support Work  
15 Group Committee.

16 I won't repeat. I concur with a lot of  
17 the comments that were said before. Let me just  
18 summarize some of the few areas where I see,  
19 first, identifying a problem, second, identifying  
20 some possible solutions.

21 So, one of the best tools you have in  
22 your pocket for estimating what amount of contract

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1 support is needed is the shortfall report. Now,  
2 that's a little bit of a misnomer now because it  
3 shouldn't be a shortfall anymore. But the problem  
4 is, is that as of two weeks ago, two of the  
5 regions for the BIA had not submitted their  
6 shortfall report, so that puts those regions at a  
7 distinct disadvantage.

8           One of the things that we would really  
9 encourage, and I think that the BIA has made great  
10 strides in the accuracy of their shortfall report  
11 under Terry, and I really have to commend the IHS  
12 for reaching out and really understanding and  
13 communicating with Tribes to understand their  
14 contract support needs.

15           One of the areas that is a consistent  
16 issue for Tribes is really the small and needy  
17 Tribes. And so the work group met a couple weeks  
18 ago and we came up with a proposal for the BIA  
19 side that, like there is a base TPA for small and  
20 needy Tribes across the nation, is that there's a  
21 base contract support floor for small and needy  
22 Tribes. And what this does is it gives small and

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1 needy Tribes a base level of funding to hire an  
2 accountant, have a basic audit, have some basic  
3 office support.

4           And what the Contract Support Group is  
5 recommending for a policy change would be to set a  
6 floor at the lesser of \$65,000 or the amount of  
7 the TPA they receive, and the reason why we said  
8 the lesser is because there are small and needy  
9 Tribes that do put some of their funding through  
10 consortiums and this recognizes the fact that  
11 there might be some duplication there. So, that's  
12 one of the recommendations.

13           Second, as we talk about really making  
14 sure that there is full funding, this is going to  
15 require a policy change, and so you need to have  
16 consultation, and I think the joint consultation  
17 we're having is great, but it needs to be region  
18 by region, because each region has their own  
19 challenges. And we encourage you to have region  
20 by region consultation and consider making sure  
21 that there is meaningful participation via phone,  
22 especially in Alaska, where a lot of people can't

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1 afford to fly from their small villages. Having a  
2 consultation dedicated for phone contact is  
3 important.

4           The other thing I would echo is it is  
5 really important to use your work groups as the  
6 technical advisors they are, and as you rework the  
7 policy, really have them at the table when you  
8 come up with your work plans.

9           MR. WASHBURN: Thank you so much, Amy.

10           Next is Mickey Peercy, then Vickie  
11 Hanvey, then Ron Allen and--

12           MR. PEERCY: Oh, and then Ron Allen.

13                           (Laughter.)

14           MR. PEERCY: Not a moment too soon,  
15 right. He was headed there.

16                           (Laughter.)

17           MR. PEERCY: Really quickly, Mickey  
18 Peercy, Executive Director of Self-Governance,  
19 Choctaw Nation of Oklahoma. Thank you for having  
20 the session. We appreciate it. I'm trying not  
21 to- -will try not to say things that other folks  
22 have said.

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1 I appreciate OMB being here. Please  
2 remember that when these two have budget problems,  
3 they point to OMB, so they blame you, so take up  
4 for yourself.

5 (Laughter.)

6 MR. PEERCY: You need to point back to  
7 them. We're your friends.

8 (Laughter.)

9 MR. PEERCY: How's that? Really  
10 quickly--

11 UNIDENTIFIED: As opposed to--

12 MR. PEERCY: We are your friends. Keep  
13 that in mind. So, come on down to Choctaw.

14 (Laughter.)

15 MR. PEERCY: When we talk about fully  
16 funded contracts for cost, we all know that it's  
17 not true. Any time you say fully fund but you  
18 don't give the funds, that's not really playing  
19 fair, and that is a Congress issue that we have to  
20 put back on Congress. They say, fully fund it.  
21 You find the money. Well, that's not their role.  
22 Their role is to appropriate the money, get the

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1 money to you guys and you get the money to these  
2 guys. So, these guys aren't to blame and you're  
3 not to blame. It's those guys up on the Hill.  
4 So, you can't do that. So, when we say fully  
5 funded, as has been mentioned before, it's not  
6 fully funded.

7           And since OMB is here, we got some  
8 increases in 2010. They were great.  
9 Sequestration took those away. That can't happen.  
10 Sequestration, we have to be exempt from  
11 sequestration. Whether that becomes that we're a  
12 mandated program instead of discretionary or not,  
13 keep that. I've got OMB here. I can't help but  
14 talk to them.

15           Contract support costs--show us the  
16 money. You know, 14, we've got a mechanism. It's  
17 there to get the money out quickly. Don't hold  
18 any back. Get it out. I think Tribes need to have  
19 the money in their coffers, so don't spend a lot  
20 of time with this. Let's get it on the road and  
21 get it done.

22           IHS-wise, and Doctor, you've heard me

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1 before, there's got to be consistency. If Max is  
2 doing a certain thing in Oklahoma, then it should  
3 be done the same in--he should be doing the same  
4 thing in Alaska. He should be doing the same--you  
5 know, Martha should have the same thing in  
6 Nashville and it ought to be consistent so areas  
7 aren't defining contract support costs  
8 differently, whether that be pass through, whether  
9 that be whatever.

10           And I don't know--I'm getting involved  
11 more, Mr. Secretary, in the BIA, so I hear--in the  
12 old days of working with the BIA, there wasn't  
13 anything consistent in the BIA, so we--hopefully,  
14 it's a lot better now. He asked me the other day,  
15 he said, "What was I smoking?"

16                           (Laughter.)

17           MR. PEERCY: Well, it's been a long time  
18 since I've been--not since I've been smoking, but  
19 it's been a long time since I've been in BIA--

20                           (Laughter.)

21           MR. PEERCY: --and I do have drug  
22 testing at my place.

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1 (Laughter.)

2 UNIDENTIFIED: It's legal now.

3 MR. PEERCY: It's legal in some places,  
4 yes. And I do have glaucoma, by the way.

5 (Laughter.)

6 MR. PEERCY: Contract support costs  
7 work- -I had to liven this up just a little bit.  
8 We were about to die.

9 (Laughter.)

10 MR. ALLEN: He needs to put his  
11 "Breaking Bad" hat on.

12 (Laughter.)

13 MR. PEERCY: I've got one. Work Groups.  
14 They've got two--

15 MR. WASHBURN: Ron, you could use a hat,  
16 too.

17 MR. PEERCY: Yeah, right.

18 (Laughter.)

19 MR. PEERCY: We've got two really good  
20 technical work groups going with contract support  
21 costs, on the Interior side and on the IHS side.  
22 Use them. You know, ideally, Tribal leaders don't

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1 get into the mix of--into the weeds of it. Your  
2 work is going to assign that to you, your contract  
3 support costs work. You've got Feds on there and  
4 you've got Tribal folks on there. Let them work  
5 together to come up with recommendations to bring  
6 forward. So, they need to be meeting a lot right  
7 now, whether that be electronically or whether  
8 that be telephonically or however, or face to  
9 face.

10           And the working sessions, which have  
11 been very good today, are working sessions, not  
12 listening sessions. We need to really come up  
13 with the ideas.

14           And then once we come up with the  
15 recommendations, quickly, and--how did Melanie put  
16 it? Melanie is on the phone. She will probably  
17 never get home. I can't remember, but with a lot  
18 of zest. We need to get it out, let the Tribal  
19 leaders know by phone, by e-mail, by sit down and  
20 talk to them, and then get it done.

21           So, I think those are the things I have,  
22 so thanks for the time, and stand up--

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1 (Laughter.)

2 MR. WASHBURN: There will be no size  
3 discrimination here, Mickey.

4 (Laughter.)

5 DR. ROUBIDEAUX: Is there a Tribal EEO  
6 complaint?

7 (Laughter.)

8 MR. PEERCY: Yes, we do, by the way.

9 MR. WASHBURN: Okay. We have--

10 MR. PEERCY: But I've never had one.

11 (Laughter.)

12 MR. WASHBURN: We have Vickie Hanvey and  
13 then Ron Allen and then Chairwoman Danielle Vigil-  
14 Masten from Hoopa Valley.

15 MS. HANVEY: You'd think he'd get tired  
16 of doing that after a while. You know, I haven't  
17 grown any, so--

18 (Laughter.)

19 MS. HANVEY: I'll try to keep my  
20 comments on some of the items that have been  
21 addressed brief, but I think it's important that,  
22 also, that when you hear these overarching themes,

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1 that that's important.

2           And one of the things that I wanted to  
3 mention is renaming the report. It's been called  
4 the shortfall report for--since its existence, and  
5 in theory, it should no longer be a shortfall if  
6 we're fully funding. However, I think that that  
7 lends to some other information that when--and we  
8 discussed this during our work group meeting--that  
9 that report serves two purposes and one is for  
10 allocation of funding. And I know that there's an  
11 issue with both IHS and DOI over the last few  
12 years of sharing that data, but the point that I  
13 want to reiterate again and again is that one of  
14 the purposes of that report is an allocation,  
15 funding allocation. Just as you have NAHASDA  
16 housing allocation, any other funding allocations  
17 that are publicly distributed, that report is a  
18 formula- based, if you will, allocation.

19           It was also used as the backdrop for the  
20 report to Congress. And to me, those two purposes  
21 need to be distinguished so that we can use the  
22 allocation portion of the report to actually do

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1 some work and review.

2 Consistency is one of the things that  
3 have been mentioned over and over again, and I  
4 don't believe that we can over-emphasize that.  
5 There are issues both with IHS and DOI with  
6 inconsistencies between the areas and the regions.  
7 I don't think it's anything intentional or  
8 anything like that. It's just a matter of multiple  
9 pens and multiple interpretations, if you will.

10 And keep in mind that the whole purpose  
11 in that in the work groups over the years, in the  
12 work that we've done, is to try to achieve  
13 equitable distribution. In other words, if--well,  
14 and I'll give an example. Just recently, I  
15 reviewed the data from Cherokee with IHS and had  
16 some questions about some of the numbers and  
17 corrected that and it actually, if you will,  
18 decreased the amount of money that we get. But,  
19 to me, it needs to be accurate data and we need to  
20 be sure that that's accurate and consistent across  
21 the board.

22 And again, with the Choctaw School

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1 decision, whether you're a 638 Tribe or, I believe  
2 there's only two Tribes that are self-governance  
3 Tribes that have--and we're one of those--that  
4 have a Choctaw decision school--again, we need to  
5 be consistent in how those are handled within the  
6 spreadsheet.

7           Another overarching item that I wanted  
8 to be sure and mention is the partnership and  
9 participation with OMB with the IDC and DCA. All  
10 of those need to be involved in this process.

11           One of the key things that I want to  
12 propose is that whenever we talk about contract  
13 support costs, and I'm going to get kind of in the  
14 weeds a little bit here, but there's really two  
15 parts to that. There's the indirect cost and then  
16 there's the direct contract support cost. I think  
17 we need to distinguish between those two in  
18 addressing this issue, and the reason for that is  
19 direct contract support cost is unique to BIA and  
20 IHA within the Self-Governance Act. However,  
21 indirect cost has to be consistent and applied in  
22 accordance with cost principles for every agency

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1 and Tribal program that the Tribe administers.

2           So, when you negotiate your indirect  
3 cost rate, and there's a lot of things that go  
4 into that as far as in recent years, I've seen  
5 agencies across the Federal Government, if you  
6 want to take a certain grant, that they will only  
7 pay an indirect cost rate of X amount. And you  
8 can do that as long as you understand that any  
9 difference, the Tribe is going to pick up. But  
10 you don't have to accept that grant.

11           So, and I don't want to get too much  
12 into the weeds of that, but one of the things I  
13 want to be sure that we need to talk about with  
14 OMB and some others is that how other Federal  
15 agencies are also weighing into the indirect cost  
16 and how Tribes can operate their programs.

17           I mentioned direct contract support  
18 costs. This is, as I said, something unique to IHS  
19 and BIA. This is one of the areas that's going to  
20 be distinctive between IHS and BIA. Right now,  
21 BIA does not have a method for negotiating direct  
22 contract support costs. We have established years

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1 ago just via a memo from, I believe it was Cason  
2 at the time, for 15 percent of salaries across the  
3 board. However, with IHS, there is a methodology  
4 in place to negotiate direct contract support  
5 costs. So, those will be an area that will be  
6 different between the two agencies.

7           The last thing that I had on my notes  
8 that I wanted to be sure and mention to everyone  
9 in the room, to all the Tribes, be sure and pull  
10 up your data--if you don't have it, find out who  
11 has it at the agency--and review your data  
12 yesterday. With the BIA, I heard someone earlier  
13 mention that the data needs to be updated. The  
14 agencies prepare the report differently. The BIA  
15 relies on you to submit your data, especially if  
16 you're a self- governance Tribe. Six-thirty-eight  
17 Tribes are treated a little differently. No  
18 matter which--how can I say that--pull up your  
19 data and review it and make sure that the  
20 information that's in there is accurate, and if  
21 not, hound somebody until you get your data  
22 correct.

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1 Thank you.

2 MR. WASHBURN: Thank you, Vickie.

3 We next have Ron Allen, and then we've  
4 got Danielle Vigil-Masten.

5 MR. ALLEN: Thanks, Kevin. I'm not  
6 sure. When Vickie and I get up here, the mic seems  
7 to-- the battery seems to be wearing out, you  
8 know--

9 (Laughter.)

10 MR. ALLEN: It's just something that  
11 happens from meeting to meeting, you know, Mickey.

12 MR. PEERCY: Yes, it does.

13 MR. WASHBURN: I tried to get the TSA to  
14 block you at the airport. I don't know, so--

15 (Laughter.)

16 MR. ALLEN: They did. They pulled me  
17 off to the side--

18 MR. PEERCY: --a three-hour delay  
19 yesterday.

20 MR. ALLEN: I mean, it was a full  
21 search, you know. I was getting kind of squeezey  
22 there--

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1 (Laughter.)

2 MR. ALLEN: First of all, Kevin and  
3 Yvette, I want to talk about you. I mean, between  
4 you and OMB and the White House, you advanced an  
5 initiative to close the gap on an issue that has  
6 been facing us, you know, for basically 25, 30  
7 years. You know, I certainly--I have been one who  
8 has been a champion on full funding for a long  
9 time throughout my career on behalf of my Tribe  
10 and working with Indian Country and NCAI, et  
11 cetera. So thank you. But that's off the record.

12 (Laughter.)

13 MR. ALLEN: Just kidding.

14 But I do want to underscore this whole  
15 issue of full funding of contract support is an  
16 issue as a result of the success of the self-  
17 determination and self-governance legislation.  
18 The legislation is about empowerment of the Tribes  
19 to take control of their destiny and their future.  
20 It's about the Tribes taking control over these  
21 Federal programs intended for the benefit of their  
22 people. And what you witnessed over the last 25

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1 to 30 years is a growing movement of Tribes moving  
2 that direction. Every Tribe has a contract or a  
3 funding agreement of some sort. So every Tribe is  
4 affected by full funding, and I think that that is  
5 critically important.

6           And we have fought for years and  
7 testified in many hearings, you know, with regard  
8 to the justification of full funding and the  
9 consistent treatment of Tribal contracts with the  
10 Federal Government like any other contractor. It  
11 annoyed us to no end to see Halliburton come and  
12 advocate for Congress to come in and get  
13 supplemental appropriations--back when they were  
14 doing supplemental appropriations--but they would  
15 get it to make sure they were fully funded. So,  
16 you guys have finally closed the gap and I think  
17 that that is an important agenda and an important  
18 appreciation.

19           I know we're working out the details of  
20 clarification of how to implement it, and I know  
21 that you have to set aside monies in order to make  
22 sure that you deal with the new or the expanded

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1 contracts and funding agreements. Okay. We've  
2 got some complications there that we can sort out.

3 I do want to note that it's important  
4 that you retain the working group, the CSC Working  
5 Group, in order to help you refine the policies.  
6 Now, quite frankly, Kevin, the BIA has--you know,  
7 the IHS policy, I thought, was the strongest one,  
8 and BIA now matches them, and so your policies are  
9 fairly consistent, in my opinion.

10 Yvette and I and others have talked  
11 about some refinements, okay, so some  
12 clarification. So, yes, we need to continue to  
13 refine it and clarify it in a way that makes sure  
14 that there's a consistency. Vickie referenced the  
15 indirect and the direct contract support and how  
16 they both have functions. And we knew years ago  
17 when we were advocating for it that there could  
18 not be duplication, and in my opinion, there is no  
19 duplication. But if for any reason somebody  
20 thinks they're not because of the clarification of  
21 what's allowable and what's not allowable, OMB,  
22 quite frankly, provides guidance on that very

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1 subject matter. Even that has to be implemented,  
2 and so you have the National Center that we end up  
3 negotiating with, et cetera.

4           So, it's been an interesting experience  
5 through the years, you know, one, negotiating the  
6 rate and watching, for the most part, the  
7 stabilization of the rates. And the stabilization  
8 of the rates, you know, often has to do with the  
9 bases, you know, what's in the base, what's not in  
10 the base, et cetera. So, I think that we need to  
11 move that agenda forward.

12           And then right now, you know, both  
13 agencies are wrestling with the fact that you only  
14 have so much money, and the good graces of  
15 Congress and the administration, you advanced a  
16 budget to try to deal with this issue and also try  
17 to deal with the restoration of sequestration.  
18 Mickey and others have talked about we should not  
19 be exposed to sequestration because of the  
20 longstanding obligations, in our opinion, of the  
21 Federal Government to Indian communities. And we  
22 know that there's not enough money to cover your

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1 full obligations and promises historically.

2           So, you know, I, for one, don't want to  
3 get into that conversation because you just can't  
4 get there and the Congress can't get there. But  
5 where you can get there is to address them as best  
6 as you possibly can and enhance--while you're  
7 enhancing our ability to become self-reliant.

8           So, quite frankly, many Tribes, through  
9 their abilities to expand their economic  
10 development, are supplementing Federal functions  
11 and actually--and getting there. So, it's about--  
12 you know, that's a different agenda, and quite  
13 frankly, I was going upstairs on tax issues,  
14 dealing with the IRS and the Treasury on that very  
15 subject matter so that we can accomplish that  
16 objective, because we know through our  
17 calculations that we're literally billions off in  
18 shortfall. You want to talk about the shortfall of  
19 contract support? That's nothing compared to the  
20 shortfall in all of these Federal functions that  
21 the Federal Government should be providing to  
22 Tribes. So, BIA and all your functions, and IHS

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1 and all the responsibilities with regard to health  
2 care, are only a small piece of the pie that  
3 serves our Indian communities. You've got housing  
4 and transportation and so forth.

5           So, the issue to me is, when it comes to  
6 your two programs and it comes to these  
7 responsibilities, what's the solution? So, you're  
8 asking right now and in future consultations,  
9 what's the solution, and in my opinion, this is an  
10 obligation, a very unique obligation, for the  
11 Federal Government to the Tribes.

12           And I would encourage that we explore  
13 turning the contract support function, both  
14 indirect and direct, into an entitlement. Take it  
15 off the damn budget. Quit competing. Quit  
16 having- -quit forcing either of you having to move  
17 and make choices from public safety or from other  
18 important- -ambulatory services or emergency  
19 monies or even education, scholarships, you know,  
20 to enhance our students that go into the medical  
21 profession, et cetera. Quit having to make those  
22 choices. Move this money off-budget. It's an

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1 obligation. It's a contractual obligation. You  
2 guys need to sit and explore this opportunity and  
3 talk to your advisors. In the grand scheme of a  
4 trillion-dollar budget, this is not a big number.  
5 This is not a big number in the grand scheme of  
6 the full Federal budget. And that takes it off the  
7 table and it no longer competes for these very  
8 important programs.

9           You have health care programs that you  
10 have to provide from hospitals, the clinics, and  
11 so forth, and you have a whole myriad of  
12 responsibilities, from natural resources to public  
13 safety issues and education issues and so forth.  
14 Don't make that a competition. We want those  
15 resources back. We want that sequestration back  
16 and more.

17           Now, we're realists. We understand the  
18 limitations of how much resources that are out  
19 there from Congress as a way out, you know, what  
20 they're going to fund, what they're not going to  
21 fund. We even understand the political process,  
22 both budgets in the same committee that's probably

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1 one of the smallest committees on the Hill with  
2 regard to what's appropriated.

3           So, you know, the bottom line here is we  
4 can take these numbers, put them off-budget, and  
5 we still have to calculate, we still have to go  
6 through the same process, so you can know exactly  
7 how many contracts. So, then, when Navajo Nation  
8 or any other Tribe, you know, the Oglala Sioux  
9 says, I'm going to take all these programs, and  
10 you say, oh, that means contract support at your  
11 current rate, okay, that means that's another \$50  
12 million. Oh, my God, where am I going to get \$50  
13 million? It's a zero-sum game. You take it off  
14 the budget and then it's something that you don't  
15 have to deal with ever again.

16           So, you want solutions. That's a  
17 solution. We have argued that health care and BIA  
18 responsibilities should be off-budget. Okay, we  
19 can't go there. We've made that case in the past.  
20 We really think it's a treaty obligation, even  
21 though many of our Tribes don't have treaties, but  
22 it's a historical, legal, and moral obligation,

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1 put it that way. So we can't go there.

2 But with this legal contractual  
3 obligation, why don't we go there and get that off  
4 the budget, and then that's off your table. And  
5 then you can start wrestling with the needs for  
6 health care, the need for the BIA programs.

7 So, I advocate that we promote that  
8 idea. Thanks.

9 MR. WASHBURN: Thank you, Ron Allen.

10 Next, we go to Chairwoman Danielle  
11 Vigil- Masten, and then we will go to the people  
12 that have been so patiently waiting on the  
13 telephone.

14 MS. VIGIL-MASTEN: Okay. First of all,  
15 I would like to thank you for this opportunity to  
16 be able to present before you for consultation. I  
17 put mine into small, limited bullet points so then  
18 that way, we're not taking up too much time, so,  
19 you know, people are waiting here and a lot of  
20 Tribes have things that they want to say.

21 So, I'm from the Hoopa Valley Tribe in  
22 Northern California. I don't know if you guys

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1 know where that is. It's up in the heart of the  
2 redwoods on the North coast. We live on the  
3 Trinity River. We're a fishing Tribe. We also do  
4 timber.

5           So, my first issue is this. We had  
6 somebody come up here and say that we need to know  
7 the problem. Well, we know the problem. So, the  
8 problem is limited funding and slow payments to  
9 the Tribes on obligated trust fiduciary  
10 responsibility. That's number one.

11           Number two, the sequestration cuts made  
12 it very difficult as a Tribal leader to meet our  
13 membership's needs because we didn't know exactly  
14 how much money we had and the budget was  
15 constantly changing. So, it was a guessing game  
16 this year, and last year. This year, we  
17 struggled. Since we had to pick up the tab for  
18 the Government, we had to struggle this year to  
19 defend and protect our water rights and  
20 sovereignty because we had to cover the budget  
21 because there was no money coming in from anywhere  
22 else.

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1           The solutions--you know, it's easy to  
2 complain, but you always have to come up with a  
3 solution, and so we tell our Tribal members that  
4 at home. You know, if you have a complaint, come  
5 up with a valid solution.

6           So, first of all, I wish Jodi was here,  
7 but I would say, have President Obama urge  
8 Congress to complete their budgets on a timely  
9 manner, because we as Tribes have to and we think  
10 they should have to toe the line, as well.

11           Consultation with the Tribes to split--  
12 we think that consultation with Tribes should be  
13 split up by regions, so we echo what all the other  
14 Tribes are saying. Within each State, Tribes  
15 should have the equal time frame so that one other  
16 Tribe doesn't have more time than another time to  
17 submit their testimony in a vocal, verbal way, or  
18 they could do written, because some people could  
19 speak well while others can write well.

20           We also think that you guys need to take  
21 time out of your busy schedules and come visit us,  
22 see what our needs are in our Tribes, because

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1 we're all different, see what we're doing, our  
2 positive success stories and our negative. So,  
3 come out and visit us. I know you helped us with  
4 the Westlands case. We appreciate it. But we  
5 have a lot of things that we're doing. We picked  
6 up the tab for the last six years for IHS, \$5  
7 million, and we're going to be seeking that  
8 reimbursement, possibly.

9           So, I have a question for you guys. Can  
10 you let me know when we can expect our contract  
11 payments for AFA, BIA, and our IHS funding for  
12 2014? We are six years (sic) into the fiscal  
13 year. It's been very frustrating and we have a lot  
14 of complaints coming in from our Council as well  
15 as our members, and they have said, if I go to  
16 D.C., these are the questions I am going to ask,  
17 so can you give me an answer, because the word on  
18 the street is it's going to be May. So, can you  
19 let us know? I heard that Yvette said that  
20 they're in the process, so can I get an answer?

21           MR. WASHBURN: I can't tell you exactly  
22 when we'll get the money out for FY 14, but we--

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1 and we have to be working to get our money out  
2 quicker. We've heard that over and over and over  
3 and over. And to me, that's how I would partially  
4 define this problem. How can we create systems  
5 that we can-- you know, I guess--it's interesting.  
6 That question of how do we define the problem here  
7 is an interesting one, and to me, I guess, I would  
8 define the problem that we have before us, which  
9 is to make this work better, is basically what  
10 we've been asked to do.

11           But the problem is, how do we create a  
12 system that is so predictable and effective that  
13 every Tribe wants to be doing all of their work  
14 through 638 contracts and self-governance and so  
15 accurate and consistent that no Tribe--every Tribe  
16 is confident that it's fair, the way we're doing  
17 it. So, that's no small task, but that's how I  
18 would, I think, define the problem after listening  
19 to so many of you here today.

20           We need to now go to--

21           DR. ROUBIDEAUX: I just want to make a  
22 comment before we go on.

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1 MR. WASHBURN: Okay. Go ahead.

2 DR. ROUBIDEAUX: In terms of the IHS  
3 funding, for those that came in later, we got the  
4 OMB apportionment on Friday. We've allotted the  
5 funds out to the areas. And so the recurring base  
6 funds for your contract should be going out this  
7 week. If you have a question, ask your Area  
8 Director. Otherwise, the allocations, everything  
9 that goes out by formula, that takes a little bit,  
10 but we're doing everything we can to get that out  
11 as fast as possible. And for contract support  
12 costs, we're working with the work group to define  
13 a way to get it out as soon as we can.

14 And I want to agree with Assistant  
15 Secretary Washburn. Above all, my staff know that  
16 equity and fairness are the number one thing in  
17 anything we do, and I really appreciate  
18 everybody's input today, because it reaffirms the  
19 importance of that. Everybody deserves their fair  
20 share. And we appreciate the input, because it's  
21 going to help us find a way to get there. And  
22 this issue around estimating contract support

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1 costs at the time of negotiation versus at the  
2 time of appropriations versus doing it later if  
3 there's claims, we kind of hope this full funding  
4 thing would do away with that, the claims issue.

5           But, I appreciate everybody's input.  
6 It's a challenging issue, but I already have heard  
7 from Tribes in this session and in other sessions  
8 that good minds are at work on this. People are  
9 trying to find a good solution, and many of you  
10 today have mentioned some of those options and  
11 opportunities and we're really willing to work to  
12 find that solution so that you can have that  
13 predictable funding, that stable funding, you'll  
14 know the amount you're going to get, there's no  
15 question, and that we don't have to dip into the  
16 rest of the budget to get it. I think we share  
17 all those goals.

18           MS. VIGIL-MASTEN: So, one thing up in  
19 our area is we had--some of the Tribes had to do  
20 government shutdowns, just as the Federal  
21 Government did. And so now, without having their  
22 monies into their pot, they might have to do

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1 shutdowns again. So, that's something to think  
2 about, just so that, hopefully, that can expedite  
3 the process. And if you need help, we have Danny  
4 Jordan we can send your way.

5 (Laughter.)

6 MR. WASHBURN: Danny helps us a lot.  
7 Thank you.

8 (Laughter.)

9 MR. WASHBURN: Okay. Let's go to the  
10 telephones and--

11 DR. ROUBIDEAUX: So, operator, if you  
12 are still there, we are ready for questions.

13 OPERATOR: Okay. At this time, anyone  
14 wishing to ask a question or make a comment,  
15 please press star-one now. Remember, names were  
16 not taken when you joined today's call, so it will  
17 be very important. Unmute your phone and state  
18 your name loudly and clearly at the prompting.  
19 Your name is required to introduce your question.  
20 Star-one to ask a question, star-two to withdraw a  
21 question. Star-one to ask a question, and it will  
22 take just a moment for questions to start coming

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1 through.

2 DR. ROUBIDEAUX: Mickey is calling in  
3 from the meeting room.

4 (Laughter.)

5 DR. ROUBIDEAUX: You are welcome to ask  
6 any questions. I certainly hope you have been  
7 able to hear the discussion. And we appreciate  
8 anybody who has comments that wants to submit them  
9 in writing. At IHS, it's consultation@ihs.gov.  
10 The addresses for mailing it are listed on the  
11 letter that we had out there.

12 Operator, do you have anybody in the  
13 queue?

14 OPERATOR: At this time, I'm showing no  
15 one standing by, but I want to remind parties one  
16 more time, it is star-one now.

17 (Pause.)

18 DR. ROUBIDEAUX: So, if there are no  
19 questions on the phone, I think what we'll do is--  
20 it sounds like people are kind of stirring a  
21 little bit. Should we make some final remarks and  
22 then let people go, or is there any--for the good

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1 of the whole, does anybody else have a comment  
2 that they definitely wanted to make today?

3 MR. GROSS: Just one anecdote. I  
4 started out saying--this is kind of a joke--you  
5 know, that I'm still not finished with this case.  
6 Well, one time in 1977, the old Coalition of  
7 Indian Controlled School Boards was giving an  
8 award to the patriarch of the Ramah Navajo  
9 Chapter, Travis Coho. He was a severe man usually,  
10 very serious. And I was asked to introduce him.  
11 So, I said, Mr. Coho is the Chapter President.  
12 He's been a longtime leader of the community, and  
13 talked about the case that was then--the project  
14 was still in formation. And he said--I said, I've  
15 been working at this for seven years now, and he  
16 turned to the audience and in a loud stage whisper  
17 and said, "That's because you haven't won it yet."  
18 We're still trying to win it.

19 MR. WASHBURN: Thank you, Mr. Gross.

20 And I think we will make some final  
21 comments. I want to personally thank everybody  
22 for being here and contributing to this very, very

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1 important discussion. I do feel like we're making  
2 some progress. We need to figure out how to go  
3 forward with consultation. Several of the  
4 comments were focused on how to do that, and we  
5 will try to come up with a sensible plan based on  
6 your comments as to how to go forward for further  
7 consultation.

8           You've heard how I define the problem.  
9 I define it very broadly. How do we make the  
10 system work better, basically, and I think that's  
11 consistent with what Congress asked us to do.

12           We do have OMB here today, and Dr.  
13 Roubideaux may want to make some final comments,  
14 that OMB wanted to also express thanks to each of  
15 you for your comments. And this is Melanie  
16 Stansbury with OMB.

17           MS. STANSBURY: Hi there. So, I  
18 thought-- we thought it would be nice to just give  
19 a response, since so many of you have been so kind  
20 in pointing us out and giving us pointed comments.

21                           (Laughter.)

22           MS. STANSBURY: But, in all seriousness,

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1 we wanted you to know there were five of us here  
2 today in the room. We take this very seriously.  
3 We take very seriously our Nation-to-Nation  
4 relationship and our partnership with all Tribal  
5 Governments, and we really, really appreciate you  
6 coming out and providing your comments. We're  
7 listening. We're taking notes. We'll take it  
8 back to our organization. We'll think about it.  
9 We'll meet with you. We'll be meeting with the  
10 agencies. So, thank you. We really appreciate it.

11 MR. WASHBURN: Thank you, Melanie.

12 Dr. Roubideaux.

13 DR. ROUBIDEAUX: And I also want to echo  
14 my thanks to OMB. I think that they have wanted  
15 to help find a solution along the way. So, I  
16 think, in a way, this has been very difficult for  
17 all of us, but I'm really happy that we have been  
18 able to--all of us as a team, the administration  
19 and Tribes, this is our issue. I don't want to  
20 call it a problem, really. It's really a dilemma.  
21 It's the Supreme Court called it a dilemma between  
22 the authorizing language that says you can

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1 contract at any time, which we really love, and  
2 the challenge of appropriations is at a set point  
3 in time. And so how do you make sure that you're  
4 fully funding each year to make sure you hit the  
5 mark? And a part of it is timing issues. A part  
6 of it is policy issues. A part of it is numbers  
7 issues. And some of it is process issues.

8           There's been some great ideas today and  
9 we really appreciate your input. We will find  
10 ways to meet with you again. We will find ways to  
11 find forums for this input.

12           We're going to meet with Congress, as  
13 well, to clarify. When you read that language, we  
14 want to find more about what they wanted, as well.

15           But also, the issue of the work plan.  
16 The work plan is--it appears to be how we're going  
17 to consult with Tribes and work collaboratively  
18 with the administration, including OMB and  
19 Congress, to find solutions, which may include  
20 administrative and legislative and other kinds of  
21 things, but there is no preconceived,  
22 predetermined Federal option here. We, just as

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1 you, are struggling with what is the solution, and  
2 we really look forward-- this is our chance.

3           This is, like, the perfect opportunity  
4 for consultation. There is no preconceived notion  
5 on the Federal side. There is a question that's  
6 been posed to us by Congress and there's this  
7 opportunity for us to work together, and I  
8 appreciate--I appreciate the frustration and I  
9 appreciate the long history and I appreciate how  
10 upsetting this is at the local level for you as  
11 you go back to your communities and you see the  
12 needs.

13           But, it's frustrating for all of us, as  
14 well, and we want to see it to its end and we want  
15 to see a solution, because in this administration,  
16 we're very supportive of trying to get increases  
17 in funding and supportive of this moving forward.  
18 We can't predict the future, in a couple years,  
19 what that will hold. So, is there a way that we  
20 can enact some sort of solution that stands the  
21 test of time, and we need your help with that.

22           So, I just wanted to thank you all for

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1 your input today.

2 MR. WASHBURN: Thank you all. You all  
3 have iron bottoms, if you were able to sit here  
4 all day long--

5 (Laughter.)

6 MR. WASHBURN: --so, thank you. Thank  
7 you so much.

8 DR. ROUBIDEAUX: Thank you.

9 (Applause.)

10 (Whereupon, at 11:56 a.m., the  
11 Consultation Session concluded.)

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1 CERTIFICATE OF COURT REPORTER

2 I, CHRISTINE ALLEN, the reporter before whom the  
3 foregoing hearing was taken, do hereby certify  
4 that the witness whose testimony appears in the  
5 foregoing deposition was duly sworn by me; that  
6 the testimony of said witness was recorded by me  
7 and thereafter reduced to typewriting under my  
8 direction; that said deposition is a true record  
9 of the testimony given by said witness; that I am  
10 neither counsel for, related to, nor employed by  
11 any of the parties to the action in which this  
12 deposition was taken; and, further, that I am not  
13 a relative or employee of any counsel or attorney  
14 employed by the parties hereto, nor financially or  
15 otherwise interested in the outcome of this  
16 action.

17

18

19

\_\_\_\_\_  
CHRISTINE ALLEN

20

21

22

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