Indian Affairs - Office of Public Affairs

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United States Department of the Interior
OFFICE OF THE SECRETARY
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Dear Tribal Leader:

On July 30, 2020 I marked the second anniversary of my swearing in as the Department of the Interior's (Department) Assistant Secretary- Indian Affairs.

As I hit the ground running, my goal has been to develop strong relationships with tribes to work on innovative solutions for lifting up tribal communities. I remain steadfast in my motivation to work with Indian Country to make Indian Affairs an efficient enterprise that improves service delivery to tribes, continues to improve the administration of operations within the Bureau of Indian Affairs (BIA) and the Bureau of Indian Education (BIE), strengthen law enforcement operations and opportunities, increase economic growth and broadband deployment, and focus on a more effective voice for tribes throughout the Federal Government.

Within my second year, my team and I worked diligently to deliver for tribes across our Nation. Below are some high-level examples I would like to share with you.

FOCUS ON EDUCATION

The BIE implements federal Indian education programs for roughly 46,000 students at 183 schools across the United States. Quality instruction and safe facilities empowers the next generation of Native American leadership and remains an important and top priority for Indian Affairs. To strengthen instruction delivery and facilities improvement, Indian Affairs has taken several crucial steps to empower the BIE.

Return to Learn!

The Coronavirus (COVID-19) is challenging tribal governments and BIE-funded schools on a scale not experienced in decades. Our BIE team is fully committed to finding a path forward through these challenging times to provide the educational services BIE students need as well as support to students and their families as well as staff. The BIE is continuing its collaboration with tribes, states, local health officials and our federal partners for a safe school reopening, and it's Return To Learn! plan provides the guidance needed for both in-classroom and online learning. Return To Learn! provides guidance on reopening criteria that follows current Centers for Disease Control and Prevention (CDC) recommendations, provides flexibility for local conditions, and makes recommendations on distance learning platforms.

The BIB-operated K-12 day-school operations across the United States had a uniform start date of

September 16 for the 2020-2021 school year. In addition, off-reservation boarding schools and dormitories were authorized to provide day-school instruction-only, with distance-learning options for students who are not able to attend in person. To that end, BIE has awarded over 1,200 teacher laptops, over 10,400 student laptops, over 6,300 Kajeet jetpacks, and over 1,300 iPads.

BIE Budget Separation.

As I reported last year, soon after taking office I tasked BIA and BIE with providing me detailed administrative process maps. I was concerned with how cumbersome the procedures were for implementing simple yet critical operations for maintaining our BIE schools. It became clear that we needed to empower BIE to manage its own operations to better serve the unique needs of our students and allow BIA to focus on its own service-based requirements. The fiscal year 2020 budget for the first time separated BIE's and BIA's budgets, increasing BIE's transparency, accountability and separating Congressional justification for each of the two organizations. The net effect is that BIE will gradually assume direct responsibility for acquisition, safety and facilities management.

I am also proud to report that Indian Affairs finalized a standard operating procedure for funding requests to address facility needs. Further BIE will deliver quarterly safety inspection reports to Indian Affairs to more regularly monitor conditions.

School Accountability, Assessments and Standards.

In April 2020 a new BIE rule took effect establishing a single, uniform accountability system for standards and assessments across BIE schools.1 For the first time, BIE now has a unified system of requirements for a high-quality education for both BIE-funded schools and the students served by such schools. The rule also reaffirms the right of tribes to use Native American languages as a medium of instruction. It is the intent of this rule to provide simplicity, certainty, clarity, and consistency for the 174 BIE-funded schools and the students, parents, school administrators, tribes, and Indian communities served by those schools.

Johnson-O'Malley Act Education Contracts.

In March 2020 a new BIE rule took effect clarifying the eligibility requirements for Indian students to receive benefits under the Johnson-O'Malley (JOM) Act. The JOM Act authorizes the Secretary, tribes, and tribal organizations to enter contracts with states, schools, and private nonsectarian organizations to use appropriated funds in support of Indian students under such contracts. The BIE's new rule updated rules that had been in place for over 40 years without substantial changes. The new rule updates the BIE's existing rules to implement the JOM Act and its amendments by the JOM Supplemental Indian Education Program Modernization Act of 2018. In doing so, the rule clarifies the funding formula and process to ensure full participation of contracting parties, and otherwise reconciles and modernizes the regulations to comport with the activities of contracting parties under the JOM Modernization Act.2

1 85 Fed. Reg. 17009 (Mar. 26, 2020).
2 85 Fed. Reg. 10938 (Feb. 25, 2020).

Education Space Criteria, Learning Platforms and Digital Modernization.

In May 2020 Indian Affairs released a new Education Space Criteria Handbook, 80 1AM 2-H, to replace

one that had been in effect since 2005. The Handbook provides a standard method for evaluating space-planning criteria for BIE school facilities. To ensure that core instructional requirements are incorporated with functional space needs, the Handbook sets forth methodologies for establishing minimum requirements for new construction and for determining the modifications and upgrades that are needed to upgrade existing schools to meet core education functional requirements. The BIE is focused on creating consistency across Bureau Operated Schools through standardizing learning platforms. This organized effort will also include training across locations for teachers, students and parents. In addition, BIE continues to modernize each location's digital infrastructure on-site at each school location.

Section 105(1) Leases.

This year Indian Affairs conducted listening sessions to provide tribal leaders with information on agreements under Section 105(/) of the Indian Self-Determination and Education Assistance Act. Section 105(/) allows tribes and tribal organizations with self-determination contracts or self-governance compacts to enter into a lease with the Department for tribally owned or rented facilities used to carry out those functions. I am proud to report that since July 2019, the Department has approved the first three 105(/) lease agreements with the Gila River Indian Community, the Red Lake Band of Chippewa Indians, and, most recently, with the Mashantucket Pequot Tribal Nation.

FOCUS ON JUSTICE

Operation Lady Justice.

Throughout 2019 I hosted Reclaiming Our Native Communities roundtables across Indian Country to hear from tribal leaders and others on what Indian Affairs could to do seriously address the issue of missing and murdered American Indian and Alaska Native women, children, and men. From these roundtables came recommendations that ultimately contributed and led to the Task Force on Missing and Murdered American Indians and Alaska Natives, also known as Operation Lady Justice, established by President Trump through E.O. 13898 in November 2019. The President later declared May 5 as Missing and Murdered American Indian and Alaska Native Awareness Day.

The goals of the Operation Lady Justice include establishing protocols for new and unsolved cases; establishing multi-jurisdictional cold case teams; improving the response to investigative challenges; collecting and managing data across jurisdictions; and providing clarity on the roles, authorities and jurisdiction for those involved. Since January 2020, the Task Force, co-chaired by Attorney General William Barr and Secretary of the Interior David Bernhardt, held five in person listening sessions, four virtual listening sessions, and twelve virtual tribal consultations and launched the Task Force website: OperationLadyJustice.usdoj.gov.

On July 27, 2020 Secretary David Bernhardt Advisor to the President Ivanka Trump, and BIA Office of Justice Services (OJS) Director Charles Addington joined me in Bloomington, Minnesota, to open the first of seven offices around the country to investigate cold cases involving missing and murdered American Indians and Alaska Natives. The final office is scheduled to open later this year in Nashville, Tennessee.

Opioids & Other Illegal Narcotics.

As noted last year, in 2018 the Department launched the first-ever Joint Law Enforcement Task Force

on opioids focusing on Indian Country. Led by BIA-OJS, the Opioid Task Force partners with federal, state, tribal and local law enforcement to conduct extended undercover operations and stings to get drugs and dealers off the streets.

Between 2018 and July 2020 BIA-OJS has conducted 37 Opioid Task Force operations throughout Indian Country resulting in over 800 arrests and the seizure of over 6,500 pounds of illegal narcotics with a street value of more than $32 million. We have also expanded the Community Opioid Awareness Training program to tribal communities, with the result that between 2018 and July 2020, BIA-OJS has:

- Conducted 108 Opioid Community Awareness and Training programs;
- Trained over 2,000 community members and service providers; and
- Trained over 730 officers in Opioid identification and enforcement.

In addition to the Opioid Task Force, since 2018 BIA-OJS has trained over 1,200 law enforcement and criminal investigators trained in controlled substance identification. It has also conducted 70 tribal court assessments, 67 tribal court trainings, and the training of over 1,600 tribal court personnel. By working alongside our Native communities and other partners, I will continue to ensure that we do all that we can to get these drugs off the streets.

Tribal Access Program for National Crime Information Kiosks.

In September 2018 Indian Affairs directed the deployment of additional kiosks under the Tribal Access Program for National Crime Information (TAP). The TAP allows selected federally recognized tribes to more effectively serve and protect their nation's citizens by ensuring the exchange of critical data across the Criminal Justice Information Services (CJIS) systems and other national crime information systems, enhancing tribal efforts to:

- Register sex offenders pursuant to the Sex Offender Registration and Notification Act (SORNA);
- Have orders of protection enforced nationwide;
- Protect children;
- Keep firearms away from persons who are disqualified from receiving them;
- Improve the safety of public housing; and
- Allow tribes to enter their arrests and convictions into national databases.

In partnership with the U.S. Department of Justice, the first TAP kiosk went "live" on September 18, 2019 at the Anadarko Agency in Oklahoma. Since then, other TAP kiosks have been completed at the Northern Cheyenne Agency in Montana and at the Northern Pueblos, the Southern Pueblos, and the Mescalero Agencies in New Mexico. Though the COVID-19 pandemic has slowed their roll-out, additional agencies are set to receive the state-of-the-art technology in future, including the Fort Totten Agency in North Dakota; the Fort Apache, the San Carlos, and the Colorado River Agencies in Arizona; the Uintah and Ouray and the Southern Paiute Agencies in Utah; the Ute Mountain Agency in Colorado; and the BIA-OJS District III Phoenix Office. The TAP kiosks allow tribes to more effectively serve and protect their communities by fostering the exchange of critical data in several national databases through the Federal Bureau of Investigation's CJIS network.

In addition, BIA-OJS partnered with the U.S. National Missing and Unidentified Persons System (NamUs) to create new data fields to specifically capture tribal affiliation type data. This will assist law enforcement agencies with tracking and investigating missing and murdered persons throughout Indian Country. Prior to this initiative, there was no national data base to assist law enforcement with

capturing and tracking missing and murdered persons who are Native or have been reported missing from Indian Country.

FOCUS ON ECONOMIC DEVELOPMENT

National Tribal Broadband Summit.

The COVID-19 pandemic has disrupted American Indian and Alaska Native communities across the country, causing schools to close, offices to shift to telework, and countless businesses and services to prioritize online transactions. Now more than ever, reliable, affordable broadband access is critical to the health and economic wellbeing of tribal communities. That is why I have been working to make navigating broadband development in Indian Country less burdensome.
Following on the success of last year's landmark meeting of the National Tribal Broadband Summit in Washington, D.C., we hosted a National Tribal Broadband Virtual Summit on September 21-25, 2020 in collaboration with the U.S. Department of Agriculture and the Institute of Museum and Library Services. This year's virtual Summit brought together leaders from across the broadband development ecosystem to share best practices, new ideas, and lessons learned from their real-world experience bringing high-speed internet to Native American homes and businesses, giving participants the tools they need to bridge the connectivity gap in Indian Country and unlock the opportunities broadband access can provide. Over 900 individuals registered for the event, more than three times last year's attendance.

Mortgage Handbook.

In July 2019 we issued the Indian Affairs Mortgage Handbook, 521AM 4-H, to provide guidance to BIA staff for processing leasehold and trust-land mortgages on trust or restricted land. By helping ensure the timely and more transparent processing of mortgages on Indian lands, the new Handbook will also help contribute to increased prosperity and economic development in Indian Country.

Off-Reservation Fee-to-Trust Decisions.

On May 31, 2018 Indian Affairs issued National Policy Memorandum NPM-TRUS-36 for off reservation fee-to-trust requests. In providing policies and procedures for processing off reservation fee-to-trust applications and delegating the authority to decide those applications to the Assistant Secretary - Indian Affairs, the memorandum ensured transparency and accountability in a process that is critical to restoring tribal sovereignty. I am proud to report that in August of this year these policies and procedures became a part of the Department's Indian Affairs Manual to ensure their continuing benefits. 52 1AM 15 (Aug. 7, 2020).

Trust Land Acquisitions.

In an effort to promote self-determination, economic development, and Indian housing under my leadership, by this time last year the BIA had accepted over 29,600 acres of land into trust for tribes. I am very pleased to report that in the year since, the BIA has accepted 19,000 more acres of land into trust for tribes based on 494 applications. To help expedite the processing of fee-to trust applications and reduce the burden on tribes that submit applications, the Department in 2020 issued Guidance for reviewing tribal eligibility for trust-land acquisitions under the Indian Reorganization Act of 1934.

Tribal Energy Resource Agreement Reforms.

Economic development in Indian Country starts with Native people. The Department supports tribal decision-making on tribal lands, and it has delivered on the promise of Tribal Energy Resource Agreements {TERAs) by producing regulations that facilitate tribal decision-making, not hinder it. The TERAs promote tribal control over energy development on tribal lands and offer the potential for economic growth by allowing tribes to enter into leases, business agreements, and rights-of-way for energy resource development on tribal lands without the Secretary's review or approval.

In line with President Trump's promise to cut back red tape, the Department understands that tribes themselves should decide the appropriate balance between development and environmental protections on their lands. In June 2019 Indian Affairs proposed changes to TERA regulations aiming to remove hefty regulatory requirements and to establish an alternative to TERA through a certification of Tribal Energy Development Organization (TEDO). The new rule took effect on December 18, 2019.

Helping Expedite and Advance Responsible Tribal Homeownership Act Approvals.

In July of this year I announced changes to the Indian Affairs Manual that codify our new policy governing how the BIA will review and approve tribal leasing regulations applications submitted under the Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act of 2012.

4 84 Fed. Reg. 69602 (Dec. 18, 2019).

These detail the steps the BIA will take from the moment it receives an application to final approval and publication in the Federal Register. This new policy is intended to make the process as transparent as possible and to clearly define the roles of each reviewer.

The timing of the new policy coincides with the eighth anniversary of the HEARTH Act's being signed into law. While serving as Assistant Secretary, the number of approved HEARTH Act leasing regulations for tribes has increased nearly 84 percent. In the last year, I have approved HEARTH Act regulations for the Menominee Indian Tribe, the Shingle Springs Band of Miwok Indians, the Forth Belknap Indian Community, the Kickapoo Traditional Tribe of Texas, the Pueblo of Laguna, and the Catawba Indian Nation. The BIA continues to work with many Tribes on their HEARTH Act regulation approvals, and I anticipate that more than 60 will have been approved by the end of 2020.

Office of Indian Energy and Economic Development Grants.

On February 5, 2020 the Indian Affairs' Office of lndian Energy and Economic Development (IEED) announced grant awards of over $700,000 to 21 American Indian and Alaska Native groups under the Native American Business Development Institute (NABDI). The NABDI empowers tribes to conduct feasibility studies on the viability of an economic development project, opportunity, enterprise, business or technology. In June, we solicited proposals for technical assistance funding to hire consultants to perform feasibility studies of economic development opportunities located in designated Opportunity Zones. Eligibility for funding was limited to those applicants whose proposed projects, businesses, or technologies will be located in designated Opportunity Zones. This is a new tax incentive established by the Tax Cuts and Jobs Act of2017 to encourage long-term investments in low-income communities across the United States, including Indian Country. The deadline for NABDI application submissions was September 28, 2020 and grants are expected to be announced in October 2020.

On August 13, 2020 IEED announced grant awards of $1.2 million to 23 federally recognized tribes and Alaska Native entities to study the feasibility of developing or extending broadband services in their

communities under the National Tribal Broadband Grant (NTBG) program. Six additional awards were made in September 2020 totaling approximately $276,000. The purpose of the NTBG is to spur economic development and commercial activity, create opportunities for self-employment, enhance educational resources and remote learning opportunities, and meet emergency and law enforcement needs by bringing broadband services to underserved Native American communities. Twenty-seven of the 29 NTBG grants awarded involve studies of broadband projects located in Opportunity Zones. Feasibility studies funded by the grants will assess the current broadband services, if any, that are available to each grantee's community; engineering evaluations of new or expanded broadband services; estimates of the cost of building or expanding broadband networks; determination of the transmission medium(s) to be employed; identification of potential funding and/or financing for networks; and consideration of financial and practical risks associated with developing broadband systems.

5 52 1AM 13.
6 85 Fed. Reg. 36609 (Jun. 17, 2020).

FOCUS ON POLICIES & PROCEDURES

In June of this year Indian Affairs released its Pandemic Plan, the purpose of which is to protect the health and safety of all Indian Affairs, BIA, and BIE employees while maintaining essential functions and services and supporting federal, state, local, and tribal response to a pandemic.

Over the course of the last year, the BIA comprehensively updated the policies and procedures (1AM Part 90) of the Branch of Wildland Fire Management (BWFM) for wildland fire management, many of which had not been revised for over a decade. The BWFM is responsible for managing and overseeing safe and effective wildland fire protection programs on Indian lands held in trust by the Federal Government.

As mentioned above, Indian Affairs this year finalized two monumental BIE rules: a new system for standards, assessments, and accountability at BIE-operated schools (25 CFR 30) and updates to modernize the JOM Program that provides funding for Indian children attending public schools (25 CFR 273). These rules provide a framework for continued improvements in the education of our children. Indian Affairs also finalized several rules to improve transparency, correct outdated provisions, and further "good governance" principles, including finalizing rules to:

- Delete a burdensome BIA data collection requirement for proposed roads already included on the Tribal Transportation Program (TTP) inventory (25 CFR 170);
- Improve transparency of Courts of Indian Offenses' jurisdictions by providing for updates to the list of Courts 'to be timely posted on BIA's website (25 CFR 11);
- Update office addresses in the CFR (25 CFR 293); and
- Update the minimum standards of character required of Departmental employees and volunteers who have contact with Indian children so that the standards conform to those of the Indian Child Protection and Family Violence Prevention Act (25 CFR 63).

Indian Affairs proposed a regulatory framework for review of requests for acknowledgment of Alaska Native entities as tribes under the Alaska provision of the Indian Reorganization Act (IRA) (25 CFR 82). Indian Affairs also expects to publish several additional proposed rules to streamline its processing of probates, allow BIE schools to obtain additional funding, and modernize Land Title and Records Office (LTRO) regulations.

Indian Affairs updated the National Policy Memorandum governing use of carryover funds from a previous fiscal year. The memorandum is an important tool for ensuring timely expenditure of funding, both for Indian Affairs operations and to support tribal programs.

In August 2020 Indian Affairs published National Policy Memoranda to support modernization of infrastructure. One memorandum establishes the procedures for the Education Construction Site Assessment and Capital Investment Program. The goal of the Program is to implement a comprehensive approach to assessing the conditions of BIE-funded schools. Under development is a holistic site-by-site solution to provide a safe, secure, healthy, operationally modem, and sustainable campus to support BIE' s mission in providing quality education opportunities.

The second National Policy Memorandum establishes the process for executing a facility lease under the authority of the Indian Self-Determination Education and Assistance Act (ISDEAA), 25 U.S.C. § 5324(1). The memorandum is an important step forward for streamlining the processing of 105(1) lease requests from tribes. The memorandum achieves this by clarifying the information tribes must provide to support a lease request, and documenting the roles and actions of staff across Indian Affairs to complete and manage 105(1) leases.

Indian Affairs also achieved greater efficiencies an d brought more value to Indian Country through improvements in acquisitions. Indian Affairs was able to award over $372M in acquisitions (31 percent above last year's level) by increasing the use of contracts under efficient smart acquisition vehicles by 61 percent, and increased the use of Buy Indian authorities by 67 percent, thereby sending more than $84 million over the previous fiscal year to Indian owned businesses. The total amount awarded to Indian owned business is fiscal year 2020 was over $208 million.

LOOKING FORWARD

As always, I welcome meetings with you issues of importance to you. To schedule a meeting, please go to: https://www.indianaffairs.gov /as-ia. I look forward to continuing to work with you to bring more success to Indian Country and Alaska Native Communities.

Sincerely ,

Tara Sweeney
Assistant Secretary - Indian Affairs

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