

TRIBAL CONSULTATION MEETING  
ON JOHNSON-O'MALLEY STUDENT COUNT UPDATE  
AND DRAFT SF-424B ASSURANCE STATEMENTS

Held on Friday, April 27, 2012  
at the Northern Quest Casino  
Airway Heights, Washington

Reported by: Amy J. Brown, CCR, RPR, CRR

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

2 MR. MARTIN: Good morning.

3 AUDIENCE: Good morning.

4 MR. MARTIN: It's a little after eight  
5 o'clock. My name is Jim Martin with BIE back in  
6 Washington. We would like to start with Johnson-O'Malley  
7 this morning, updating the student count.

8 Again, I'd like to introduce, here in the  
9 front row, Roxanne Brown. She will be handling the next  
10 presentation of the Assurance Statement.

11 We also have Stanley Holder here, also with  
12 BIE in Albuquerque.

13 What I'd like to do, out in front we have a  
14 little two-page document, yours may be a front and back,  
15 talking about Johnson-O'Malley. So this will be what  
16 we're working from.

17 Basically for the 2012 Appropriation Act at  
18 the Department of Interior, it contained the clause from  
19 the House that they wanted to update the national JOM  
20 student count. They gave us six months to produce the  
21 count number. So if you go back to December when the  
22 Appropriation Act was enacted, that six months is going  
23 end up around June 20, 2012.

24 So, again, what the Congress has asked for is  
25 an updated count of those students who are eligible for

1 the Johnson-O'Malley program.

2           And most of you have dealt with  
3 Johnson-O'Malley over the years. Back in 1995, there was  
4 an effort to move several programs from budget categories  
5 into what is now called a TPA or Tribal Priority  
6 Allocation system. Programs transferred to TPA would be  
7 put into a tribe's base funding level and carried forward  
8 each year thereafter.

9           So in the '95 budget process, both the House  
10 and the Senate decided to move Johnson-O'Malley from a  
11 different budget category into a TPA. In order to do  
12 that, we took what you would consider a final  
13 Johnson-O'Malley student count, identified the amount of  
14 funds for each Johnson-O'Malley contractor/tribe and  
15 those funds into the base funding for the tribes.

16           When the dust settled, we probably had 250  
17 tribes that were receiving Johnson-O'Malley funds and  
18 those monies were moved into the tribe's base. The  
19 remaining 125 or 30 were public school districts that  
20 received Johnson-O'Malley funds. Now, they don't have a  
21 base in the Tribal Priority Allocation, but they were put  
22 in a special subgroup, if you will, and each year since  
23 1995 those funds are distributed annually through their  
24 Johnson-O'Malley contract.

25           So beginning with 1996, we no longer did a

1 student count on an annual basis. I did participate in  
2 many of the student counts from 1980 through 1995 and the  
3 process was pretty simple. Our point of contact in the  
4 fields were the ELOs, the educational line officers, and  
5 the 300-plus Johnson-O'Malley contractors, they would  
6 submit to the ELO a list of eligible Johnson-O'Malley  
7 students.

8 The list would be broken down by grade level,  
9 by the student name, the student's birth date, and on  
10 occasion the tribe of the student. That was all the  
11 information that the contractors would submit to the ELO.

12 The contractor would also attach a statement,  
13 and we call that a certification statement, and it simply  
14 said that as a JOM contractor I certify that these  
15 students meet the eligibility requirements for  
16 Johnson-O'Malley as put forth in 25 CFR part 273.

17 So we had all these lists coming to the ELOs.  
18 And the 30 some ELOs, at one point, now we're down to 22,  
19 would take those lists. They would keep the student  
20 there at the ELO level. They wouldn't go any further.

21 What the line officers would submit to  
22 office would be the name of the Johnson-O'Malley  
23 contractor, the number of eligible students, and the  
24 certification statement that they were eligible students.  
25 That's what came into central office.

1           So from those submissions we would compile a  
2 national Johnson-O'Malley student count. It would be  
3 broken down by state, the Johnson-O'Malley contractor,  
4 which would list tribes and public school districts, and  
5 then it would list the number of eligible students.

6           The last time we did this in 1995, the total  
7 of the eligible students was 271,884, I believe. Okay.  
8 That's the final count we took 17 years ago.

9           So now the House has asked us to update it,  
10 the number of students eligible. So here's where we need  
11 your input.

12           If we're going to submit a count like 300-  
13 thousand, the question is how we go about it. Here we  
14 at the close of the 2011/'12 school year. Some people  
15 have suggested that that '11/'12 school year should be  
16 count year.

17           It would make more sense to use that because  
18 it's current, as opposed to '12/'13 school year. And the  
19 questions we would ask each JOM contractor or potential  
20 JOM contractor: During the '11/'12 school year, what was  
21 the number of eligible students for the Johnson-O'Malley  
22 program that you did provide or would have provided for  
23 the '11/'12 school year?

24           And again, we would ask that those numbers be  
25 submitted to their respective education line officers,

1 in turn would submit them to central office and we would  
2 compile that national count list again, by state, by type  
3 of JOM contractor/provider, and the number of eligible  
4 students.

5 I did not mention that you would turn in  
6 at this point. That gets kind of complicated and it  
7 extra time because each JOM contractor would have to go  
8 back to the school to generate a list. And with the  
9 June 20th deadline approaching, I'm thinking we'll have a  
10 problem with collecting actual names.

11 Now, if we took a number from each JOM  
12 provider at this point, we could then, if Congress asks,  
13 come back and ask for the actual names and birth dates,  
14 other identification, month or two or three down the  
15 That would give everyone adequate time to prepare.

16 So again, I'm just throwing this out as a  
17 discussion point.

18 So, now, some things have changed as you  
19 know, since '95. We've had a number of Johnson-O'Malley  
20 programs go to self-governance compacts. Now, what does  
21 that mean? Well, that means their base funding came out  
22 from our education budget, if you will, and it's now in  
23 the Office of Self-Governance in the tribe's base.

24 The same thing for a group of grants called  
25 the Consolidated Tribal Grant Programs. We've got almost

1 a million dollars in JOM money that are in these CTGP  
2 grants each year. Back to the self-governance, it's a  
3 little over 7 million. Okay?

4 So, yes, we want all self-governance tribes  
5 administering JOM programs to definitely submit an  
6 JOM student count, again, we would ask to their  
7 education line officer, the same with the CTGP grants.

8 Okay. Now, the House also asked us to do  
9 another item, and that was to fill a position that we  
10 terminated back in 2005, and the House said it was a  
11 full-time JOM coordinator at central office.

12 So again, we're asking for your input.  
13 that position be refilled? Would like to know, do you  
14 think one position is adequate? Where should that  
15 position or positions be located to best serve the JOM  
16 program throughout Indian country?

17 So again, I'm looking for a couple of things.  
18 One, specifically how we do the count and aggregate the  
19 numbers up to central office, and, number 2, what should  
20 we do about the House's direction to fill in that  
21 position.

22 So with that, I'll be glad to answer any  
23 additional questions or take comments on how we should  
24 proceed.

25 RAY LORTON: Ray Lorton, superintendent

1 Chief Leschi School in Puyallup, Washington.

2 Are you familiar with the NASIS system,  
3 American School Information System?

4 MR. MARTIN: Yes.

5 RAY LORTON: I'm just wondering if that's  
6 not a solution in terms of trying to track down students  
7 in terms of numbers through ELOs, because everything is  
8 enrolled in that NASIS system with our students, so just,  
9 you know.

10 MR. MARTIN: Well, it would not do the  
11 trick, so to speak, because the students in the BIA  
12 generally are not eligible for JOM funding. They are  
13 eligible for the Title 7 money from Department of Ed.,  
14 Indian Ed. Act, but not for Johnson-O'Malley.

15 Having said that, we do have 30-some schools  
16 that are BIA funded that are eligible for JOM, and those  
17 are the previously private schools, and it allows for  
18 their eligibility in the JOM regulations, but NASIS would  
19 not help us in this particular count.

20 RAY LORTON: Okay. When you talk about  
21 doing a new count, I think you said there's 277,000,  
22 currently, students, current students, and they want to  
23 take, go out and do a new count, so does that mean that  
24 schools such as ours that do receive JOM will be getting  
25 additional dollars, or is that just different

1 opportunities for other contractors to receive monies  
2 based on their JOM population in schools?

3 JIM MARTIN: Well, it has potential for  
4 additional JOM funding once the House and the Senate  
5 receive the updated count. In reality, the student JOM  
6 count was growing 4 to 5 percent per year in the early  
7 '90s, so we're probably going to be closer to 500,000 as  
8 opposed to the 200-and-some thousand.

9 Now, it will be up to the House and the  
10 to determine what do with the updated count, and it may  
11 take several years for increases to come from this count.  
12 With all the national deficit problems, they may only  
13 increase small amounts over the next few years, but the  
14 idea is to provide additional funding for all those  
15 eligible students that were not counted in 1995.

16 Just this last month we were notified from  
17 Milwaukee Public Schools, they wanted a Johnson-O'Malley  
18 project, by they're not in the '95 count. In updating  
19 count, I assure you that Milwaukee is going to be there.

20 Yes, sir?

21 RICHARD SANGREY: Good morning. Richard  
22 Sangrey with Chippewa Cree Tribe.

23 In anticipation of this meeting, I did get a  
24 new count for Rocky Boy's, and who would I give that to?

25 JIM MARTIN: I'll be glad to take it.

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1 RICHARD SANGREY: Okay. And on the other  
2 question, what -- what grade would that position be? And  
3 I know it will probably be located in Washington, D.C.,  
4 but in the report we see that a lot of the positions back  
5 there are GS-11, 12, but they're held by SES individuals.

6 JIM MARTIN: More than likely this  
7 position would be either a GS-13 or 14. That's what it  
8 was when it was abolished in '05.

9 JENNIFER HOOPER: Good morning. I'm  
10 Jennifer Hooper from AVCP, Southwest Alaska.

11 I have a couple of questions. I'm new to  
12 It was a program given to me just this spring. And I  
13 guess, first of all, where can we go to find out which  
14 were -- I guess you mentioned originally there were 250  
15 tribes.

16 Is there a place we can go to see which  
17 would need to do updated counts or are you asking any  
18 tribe now to provide a count?

19 And then the second question. I don't know  
20 anyone has looked at Alaska yet, and I'm not sure if  
21 you're part of the consultation that's going to happen  
22 next month in Anchorage, but it's pretty common in Alaska  
23 for tribal consortiums to, you know, receive compact for  
24 any of the, you know, number of their number of tribes.  
25 And in my case I have 56 tribes in our region and I think

1 we've got about 30 tribes that compact their JOM program  
2 to us, and so that's 30 tribes that I now have to work  
3 with.

4 And I guess knowing June 20th is less than  
5 months away, school is going to be out in a couple weeks,  
6 people are going to be fishing and hunting, any advice on  
7 how to -- for groups like mine, organizations like mine,  
8 how to get a true, valid count?

9 JIM MARTIN: Well, I would suggest as  
10 as you get back you start the process. Thinking ahead,  
11 when you do submit your count for your tribes and that  
12 compact, you can clearly state that this is an estimated  
13 count and you cite because school has just let out,  
14 personnel have left the school, so to speak, so this  
15 information is the best we can come up with at this

16 Now, some of the schools can probably provide  
17 you with a number. Again, I wouldn't try to get the  
18 individual names. That would be -- it's going to take  
19 more time, but do the best you can to get an estimated  
20 count for 30 of your tribes.

21 And, actually, the tribes may -- do the  
22 deal directly with the school districts?

23 JENNIFER HOOPER: I think some of them  
24 I'm not familiar with the -- I haven't learned enough yet  
25 to know how the rest of our tribes who, you know,

1 directly with BIA, how they do it, but that's.

2 JIM MARTIN: Well, for those who can  
3 obtain a number for you, that you've got a number, and  
4 then I would ask the tribe to estimate if the school  
5 district cannot respond in time. But in reality, I'm  
6 thinking we'll start this probably in early June and  
7 conduct the count over a two- to three-week period.

8 So you do have some time to obtain numbers.  
9 Okay? Now go back to the first part of your question. I  
10 forgot that.

11 JENNIFER HOOPER: If -- if there's a  
12 we can go to find out which of the 250 original tribes.

13 JIM MARTIN: Okay. There will be a  
14 It's going to be on our website. Our website, as most of  
15 you may know, is [www.bie.edu](http://www.bie.edu).

16 When you go on the website, upper right  
17 corner, you'll see "Resources" and you click that. On  
18 right side under "Resources" you'll see a section for  
19 tribal consultation materials and there will be the  
20 two-page paper that you have today.

21 What I will put there when I get back next  
22 week is the actual '95 JOM student count. It's a  
23 document, about 15 pages. It's in table form and it  
24 each JOM contractor for '95, what state, and the eligible  
25 student count.

1                   So you can then see what was counted or  
2 in for you, your organization or tribe or school district  
3 back in 1995.

4                   Okay? And that should answer most of your  
5 questions.

6                   DEBRA PATTON: Debbie Patton, Ketchikan  
7 Indian Community in Alaska.

8                   Can we get this information just off of our  
9 certification from our enrollment officer or does it have  
10 to come through the school district?

11                  JIM MARTIN: If your certification  
12 officer -- are you talking about a tribal certification  
13 officer?

14                  Would the tribe be assured that those  
15 are either age three or through grade 12?

16                  DEBRA PATTON: Yeah. You can punch that  
17 in.

18                  JIM MARTIN: Okay. Then I would say yes,  
19 that would be the easy way to obtain a number and a  
20 logical way.

21                  DELANO SALUSKIN: Good morning. Delano  
22 Saluskin, again, the Yakama Nation.

23                  I just recently got appointed to the  
24 committee but I have a couple of questions and concerns.  
25 You talk about creating a new position, GS-13, 14. The

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1 first question I would have, is that going to come out of  
2 the monies that already are scarce and dedicated or  
3 be dedicated to the JOM participants? Question number 1.

4 Question number 2 is that each year, each  
5 my grandchildren, they come home, we sign these cards,  
6 know, certifying that we live on the reservation, we're  
7 trust lands and so we -- we submit that information each  
8 year, and it's kind of astounding to me that you guys  
9 haven't updated your records since 1995.

10 But I'm just wondering, what happens to that  
11 information we -- we provide the schools each year?  
12 That's another question I had.

13 What is that information used for?

14 Oh, yeah, and the other thing is I wasn't --  
15 wasn't aware that our children ages three on up were  
16 eligible for JOM funds, too. I know we have a lot of  
17 Start programs and early childhood programs and I guess  
18 maybe we've been really under-represented in what's been  
19 available through JOM funds.

20 So I guess where do those funds -- who are  
21 going to be receiving those funds for those children  
22 years and up?

23 JIM MARTIN: Well, first of all, yes, in  
24 Johnson-O'Malley, since the regs were passed in '75,  
25 had a lot of preschool projects and some of the JOM

1 contractors have -- in '95, the last count we did, did  
2 turn in three, four and five year olds. So as we update,  
3 by all means, you should include those who are eligible.

4           Again, the idea was that you would turn in a  
5 list of student names that would be somehow served by  
6 JOM project. It doesn't mean that the student has to be  
7 served every day or all student -- or the whole academic  
8 year.

9           Many of the projects contain the 30- or 45-  
10 project within -- sometime within the school year, but by  
11 the end of the school year every student had a chance to  
12 participate.

13           Your first question. The funds,  
14 Johnson-O'Malley would not be funding that position. The  
15 program funds, as we call for JOM, would go to the  
16 contractors. None of it is used for BIE administration.

17           Where the money would come from is what we've  
18 been talking about yesterday and today, the BIE education  
19 program management line item, yes, which is proposed to  
20 take a \$3 million reduction.

21           It would have been nice if Congress would  
22 appropriate additional money for that JOM position, and  
23 any tribes or school districts get a chance to recommend  
24 that to the House or Senate, that -- that would be nice.

25           You're probably looking at 80 to 100 thousand

1 dollars a year for the one position.

2 I'm missing -- you asked me one thing and I  
3 had already missed it.

4 DELANO SALUSKIN: Yes. Every year we --

5 JIM MARTIN: Oh, okay.

6 DELANO SALUSKIN: -- do provide  
7 information to the schools. What is that information  
8 being used for and where does it go, I guess? It seems  
9 that we've been giving that information.

10 JIM MARTIN: Well, I fill out that same  
11 card each year and it's for impact aid, Public Law  
12 whatever 8745, and that office from the U.S. Department  
13 Ed. provides funds to school districts with military  
14 dependents and/or Indian children.

15 So that money and that count has nothing to  
16 with the Department of Education -- I'm sorry, with the  
17 Department of Interior. That's Department of Education  
18 funding. So we -- we don't have access to that student  
19 count that's turned in.

20 If a JOM contractor, whether it be a tribe or  
21 a school district, does have access to that count  
22 and the tribe is comfortable with the count, that the  
23 student meets the eligibility requirements, you could  
24 submit that count, and we would accept it.

25 I'm sorry. I think Rick had a question up

1 here. She's coming, Rick.

2 RICK GAY: Thank you. Rick Gay, Umatilla  
3 Tribe.

4 A couple of things, just to make sure. I'm  
5 hearing you say that you're just looking for a number  
6 because all of the information that we used to turn in --  
7 names, birth dates, enrollment numbers, parents, tribal  
8 affiliation, et cetera, et cetera, et cetera, would place  
9 quite a burden, a data gathering burden.

10 So you're really just looking for a number?

11 JIM MARTIN: Yes. That's what I propose.  
12 What do you think of that? Does that make sense?

13 RICK GAY: A lot more sense than filling  
14 out that legal-size form with ten columns.

15 JIM MARTIN: I understand.

16 RICK GAY: As Delano kind of raised or  
17 touched on, you know, there's three different counts that  
18 are done, I realize that are done for totally different  
19 purposes, but adding JOM would be one, the 506 forms for  
20 Title 7, and then whoever does the count for impact aid.

21 I would hope that as this moves forward with  
22 your new love fest with the Department of Ed., that maybe  
23 you could start looking at ways of lessening that burden.  
24 I realize 506 is self-declared, you know, there's -- and  
25 totally different purposes, but, you know, we're -- we're

1 involved with each of those.

2 My next -- moving on to kind of your  
3 eligibility. I guess one of the points is, is it tribal  
4 enrollment or quarter blood, or is it tribal enrollment  
5 and?

6 Because over the years a number of tribes  
7 lowered their enrollment requirements. So, you know, is  
8 it "or" or "and" and are you going to look at, if it's  
9 "or," that quarter blood, dropping that down to the level  
10 that a number of tribes are -- are currently using for  
11 enrollment purposes? So that needs to be clear when we  
12 the count.

13 JIM MARTIN: It's going to have to be  
14 "or," Rick, and the reason is the regs published in 1975  
15 say they have to be at least one-fourth degree Indian.  
16 haven't changed that regulation, so we're bound by it.  
17 But over here, 638 has been amended since '75 many times  
18 and now it says "member of the tribe." So that means the  
19 tribe sets the requirement for membership.

20 So we would have to accept either a member of  
21 a tribe or a student who is proved to be one-fourth  
22 Indian total. That's -- that's what -- the way we would  
23 interpret the reg in 2012.

24 And I'm sure the solicitors are going to  
25 with it.

1                   RICK GAY: And I guess one final comment  
2 just -- well, two.

3                   I'm wondering if you can explain what the  
4 impetus was for Congress to add this. I'm assuming  
5 outside pressure from tribes and groups that currently  
6 don't receive JOM and wanting to tap in.

7                   And if this is going to be used for a  
8 redistribution of the current funding level, you know,  
9 people could see a third to a 50 percent reduction  
10 I'm in agreement with you, the count, given the increase  
11 in tribes, and it's logical that the count has increased  
12 dramatically.

13                   JIM MARTIN: Let me answer that part  
14 first, Rick.

15                   Over the last decade, I can tell numerous  
16 times calls from either the House or the Senate asking  
17 "Why did you guys over there freeze the JOM count? We  
18 need to open this thing up?"

19                   And our response is usually both the House  
20 the Senate directed us to do this. It's going to take  
21 language in either the House or Senate bills to allow us  
22 to re-open it. And 2012 is the first time the language  
23 made it through everybody and appeared in the House  
24 report.

25                   And it was due primarily to school districts

1 and tribes and their discussions on the Hill.

2 RICK GAY: And my final comment, I guess,  
3 regarding the coordinator position, I -- I would  
4 that you resist that given the 3.5 million proposed  
5 reduction to administration, using that argument that it  
6 just makes it that much more because you're at a 13, 14  
7 level, you're looking at 100,000 a year salary plus  
8 overhead costs. So tell Congress to leave the three and  
9 half alone and you'll fill the position.

10 JIM MARTIN: I would like to. Thank you,  
11 Rick.

12 SHARON GOUDY: Sharon Goudy, Yakama  
13 Nation.

14 And as I stated yesterday, the Yakama Nation  
15 is in the throes of putting together an education plan,  
16 this is very timely in the sense of data and a census of  
17 the target audience.

18 But to respond to your question how to do the  
19 count, it would be my suggestion that that be -- that  
20 office or whomever is going to receive the count set that  
21 methodology or set the process or the template for each  
22 organization to have a consistent method of reporting or  
23 counting, as well as the same requirements for validating  
24 that information, rather than each person devise their  
25 way of establishing the count. Just to make sure that

1 it's fair and it's validated.

2 Also, who do we count on our reservations?

3 Because we could use our enrollment office, but that's  
4 tribal specific and we have many other tribes that reside  
5 on our reservation, members of other tribes that reside  
6 our reservation attending our schools.

7 So what about those persons? Does it have to  
8 be member specific?

9 And, if so, then are those JOM funds specific  
10 to your own tribal members if you're the one providing  
11 that count?

12 I have also -- I think it was already  
13 expressed, but as you increase the number, 17 years ago  
14 now, and you said there isn't going to be the increased  
15 funding would come from the BIE streamlining and those  
16 what they perceive to be savings moved over to JOM, but  
17 that doesn't occur, we provide the count, then what?

18 Are we competing with each other for the base  
19 amount of funds available and we now have increased  
20 numbers to serve? And so what do we do now?

21 And the next question I have is on your  
22 request about should BIA reestablish the full-time  
23 position. Well, if I'm reading your consultation, it  
24 that the committee directed the Bureau to reestablish the  
25 full-time permanent JOM coordinator position, and so

1 that's not an option or it is an option, it's unclear.

2 But to me it would make sense to let the  
3 tribes know who does that work now and what -- what was  
4 the cost of the previous position. You need to include  
5 office support cost and overhead. I'm sure if you hire a  
6 coordinator they're going to need a support staff and  
7 office location and all the overhead costs that go along,  
8 fringe benefits, et cetera.

9 And if it's an unfunded mandate, you're  
10 then that it would be up to the tribes to recommend that  
11 it be funded. Well, I think -- well, first off, we  
12 wouldn't want to compete with this type of expense  
13 the actual services to the education of our youth, and so  
14 I think that would probably, if you're dealing with an  
15 unfunded mandate, that needs to be, you know, a tribal  
16 request that it be funded or some method of lobbying that  
17 the position that they directed be reestablished be  
18 funded, as well as the increased funding by doing this  
19 count.

20 You do all the mental gymnastics of counting  
21 and it doesn't result in more funds and in fact it  
22 in less because now they open the doors and we have more  
23 people to count in that survey.

24 So to respond to those two questions, I  
25 think it's important to know what exists now. Who does

1 now? What will it cost and who's going to pay for it?

2 Thank you.

3 JIM MARTIN: Your last question, let's  
4 talk about that.

5 Currently there is no position in central  
6 office that has JOM duties. The last one was in 2005.  
7 was actually part-time Johnson-O'Malley duties and that  
8 position was abolished in approximately 2005.

9 With support costs, you could run up a tab of  
10 120 or 130,000, probably, per year. Okay. Again, that  
11 would not come from the Johnson-O'Malley program line  
12 item. It would come from that terrible education program  
13 management, which is about to get whacked. Okay?

14 No, in a way it doesn't make sense, but each  
15 program has to fight for its own productivity and  
16 these days.

17 Now, you also asked a question about who  
18 should you count. You could use your own tribal  
19 enrollment from ages three up through grade 12 for your  
20 own tribal students.

21 Those that are not of your tribe, I can see a  
22 couple of options. The respective tribe who would know  
23 who lives and attends school in your area, they could be  
24 one source that could provide you with a list of  
25 And then the second option would be the school district

1     itself, the public school district.

2                     But as a JOM contractor, the list that you  
3     turned in can include your own tribal students and  
4     students of other tribes that attended the schools in  
5     area. It doesn't have to be just your own students. We  
6     have accepted additional tribal members for many, many  
7     years.

8                     Now, did I answer all of your questions?

9                     I'll be glad to keep trying here.

10                    SHARON GOUDY: It was a suggestion that  
11     everyone follow the same method of count. You know, that  
12     instead of us all devising a method of count and who we  
13     should and who we should not count, that ought to be  
14     standardized so we're all using the same method.

15                    JIM MARTIN: From a statistician or  
16     researcher's point of view, I agree 100 percent with you.  
17     From a bureaucratic position, that's going to present  
18     problems, and the biggest problem would be the Office of  
19     Management and Budget.

20                    Any time a federal agency asks for  
21     from the public, it's called an information collection  
22     requirement, and whatever standard form you're going to  
23     use you have to submit to OMB and they take weeks and  
24     months to approve that form, if they approve it at all.

25                    And that's the primary reason back in the

1 and the '90s we asked for each individual contractor to  
2 submit their list in the format that they want, so we  
3 didn't have to go through the information and collection  
4 requirements.

5 So at this point I don't know if we're going  
6 to attempt to get a quick approval from OMB. Again, that  
7 does make sense, but even in letter/memorandum form, we  
8 can determine from each contractor the number of students  
9 that you intend to serve or that were served in the  
10 '11/'12 school year. We can still derive, get the same  
11 information when it comes to different formats.

12 Is the '11/'12 school year the right one for  
13 us to use?

14 PENNY KIPP: Good morning. I'm Penny  
15 from the Confederated Salish and Kootenai Tribes in  
16 Flathead Nation, Montana.

17 I just wanted to report Eula [phonetic] is a  
18 self-governance tribe, and every year I get an e-mail  
19 our self-governance, someone in their office, and it says  
20 "How many JO students do you have? How many JO students,  
21 number counted and how much was allocated per student?"

22 So we have continued since '95 to do that  
23 count every year and distribute those funds so  
24 we're -- we're right on task and so we can provide that  
25 number to you.

1 JIM MARTIN: Great. Great.

2 PENNY KIP: And I think with your  
3 question, should we start in 2011/2012, we have to start  
4 somewhere and I think if we try it now and if we don't  
5 quite get it right, we'll get it right next year, but I  
6 think we should start now and kind of find our support  
7 services, figure out how we all do it. And I agree we  
8 need to get a consistent process for everybody.

9 Thank you.

10 JIM MARTIN: Thank you.

11 LAWRENCE LaPOINTE: Good morning. My  
12 is Lawrence LaPointe. I'm a council member for the  
13 Puyallup Tribe, and the Puyallup Tribe established chief  
14 Leschi in -- it opened in 1996. And part of the reason  
15 opened it was it took 30 years for us to get the school  
16 built.

17 We had students were waiting for city  
18 transportation to their public schools and they were  
19 driven in by -- by the public that was angry with the  
20 tribes that we were fishing. And we have the schools now  
21 but Seattle/Tacoma used to be a relocation site, as well.

22 I think Ray can confirm that we have 60  
23 different tribes represented in our school. You know, to  
24 create an ISEP account, it would have to be based on  
25 whatever information the parents provide to Ray's

1 administration.

2 So I don't know where we start from that, but  
3 I think there -- you know, Sharon is right. We have many  
4 different tribes in our school as well as tribal members  
5 going to public schools.

6 And I've had tribal members ask me how to  
7 access then it was Title 9 to get funding for  
8 and I says, "Go to the school counselor and find out how  
9 you can access those dollars to get the instrument for  
10 your child, or whatever help you need in that regard,"  
11 a lot of the public schools don't process that  
12 for Native children in the school district, so.

13 And then your statement that House of  
14 Representatives and the Senate wanted information in  
15 regards to new student counts and your statement was it's  
16 up to them what to do with it, and I thought BIE and BIA  
17 were advocating for -- for tribes, and it doesn't sound  
18 that way, that we had to do our own lobbying just to get  
19 you -- or keep you employed with the BIE, with the Bureau  
20 of Indian Affairs, so I don't know.

21 Can you answer any of those questions?

22 JIM MARTIN: Sure I can. In the current  
23 budget structure, climate, there's going to be very few  
24 budget increases for Interior, for BIA and BIE, over the  
25 next three or four years, perhaps even longer. It would

1 be up to the department and it would be to approve a  
2 request for JOM.

3 And since the core mission of BIE is the  
4 elementary and secondary schools that we fund, the 183,  
5 the JOM supplemental education programs probably would  
6 make it to the top of the list for an increase. That's  
7 just the budget realities, I guess.

8 So when I say it would be up to the House and  
9 Senate to appropriate, that's what I'm talking about.

10 LAWRENCE LaPOINTE: Are you attending the  
11 TPAC [phonetic] meetings or anybody from BIA or BIE?

12 JIM MARTIN: From time to time, yes.

13 LAWRENCE LaPOINTE: Our regional director  
14 does and we have a council member who does, as well. I  
15 mean, it seems like -- I don't know what her name --  
16 Kendall or something like that that worked for OMB on  
17 behalf of tribes --

18 JIM MARTIN: Yes.

19 LAWRENCE LaPOINTE: -- is the point of  
20 contact for stressing the point to OMB that the dollars  
21 are needed.

22 JIM MARTIN: Yes, I would agree with  
23 In Chief Leschi's case, it is a little unique and I think  
24 it is in fact a previously private school and that's why  
25 it received Johnson-O'Malley funds, but, again, you could

1 count other students in other schools, provided those  
2 students were at some point during the school year served  
3 by a JOM project or component. So your count could  
4 conceivably be higher in this recount than it was 17  
5 ago.

6 There's a question back there.

7 JOANNA MAREK: (Native language spoken).  
8 Joanna Marek, Nez Perce Tribe.

9 And I -- just for the record, the Nez Perce  
10 Tribe does not want to see any of the funds lost, no  
11 cutbacks to education for our children, future children.

12 Who determines what the JOM funds are used  
13 for?

14 If we as tribes -- I know through our Head  
15 Starts we can say you will tutor, you will bring in  
16 special needs for the children that need that because  
17 we've done that. However, for the schools, the public  
18 schools, we have what I feel has been a lot of abuse to  
19 the program -- buying football uniforms for -- and that's  
20 for non-Indians. That's not specifically for Native  
21 children.

22 They're not getting the tutoring, they're not  
23 getting the educational help that they need. It's used  
24 pay for salaries.

25 So is that something that tribes can do, to

1 say this is what we want these JOM funds to be used for  
2 the public school?

3 And, secondly, who collects the data? Who  
4 holds it now? We turn it in and who is overseeing it and  
5 determining how much money goes where, to the public  
6 school, to the tribes, the Head Starts, et cetera?

7 JIM MARTIN: Okay. Let me start with the  
8 first part. I already forgot what the first part was.  
9 Help me out here.

10 JOANNA MAREK: Who determined -- who  
11 determines what the money is used for?

12 JIM MARTIN: Okay.

13 JOANNA MAREK: Football uniforms.

14 JIM MARTIN: I'll go back to the  
15 regulations and the U.S. Code itself. JOM and the U.S.  
16 code is just a few paragraphs long. The law itself says  
17 there has to be an education plan, there has to be a  
18 parent committee or a committee made up of parents and  
19 parents approve the education plan.

20 Now, in some cases the tribe itself can act  
21 for a parent committee. We've seen that in many, many  
22 cases. So however the education plan is written,  
23 by the parent committee, is how the funds and the budget  
24 should be expended.

25 So basically the project itself and how the

1 funds are expended to carry out the project are under the  
2 control of the parent committee. That was the intent of  
3 JOM from 1934 onward.

4 Now, as to who's actually using this data  
5 today, well, again, we stopped doing the count 17 years  
6 ago, so no one has been collecting it, so to speak, as  
7 as a student number; however, the JOM process continues  
8 self-governance compacts and the CTGP grant reports each  
9 year and in the 93-638 contract and the reports that are  
10 turned in.

11 You know, each JOM provider has provided a  
12 count, but on the Bureau's end, we haven't been compiling  
13 that for anything over the last 17 years.

14 JOANNA MAREK: Okay. For follow-up, so  
15 the -- all the data is sent to the central office then,  
16 because what I'd like to see here for the Northwest is  
17 that we have a person here for the Northwest as a  
18 representative.

19 JIM MARTIN: Well, I can also see that as  
20 we start up an annual count at the end, a certification  
21 process, each education line office are going to have  
22 new duties to carry out that we haven't been carrying out  
23 in 17 years.

24 I don't know how exactly they're going to be  
25 funded, whether these will be other duties that's

1 assigned, but the function of counting and accounting for  
2 JOM funds and students is just something that the system  
3 is going to have to do, and rightfully so, because I  
4 think the Congress is going to just end up with letting  
5 do an updated count. The pressure is going to build and  
6 additional funding, additional responsibilities are  
7 down the pike, I'm sure.

8 Any other questions or comments?

9 JENNIFER HOOPER: Good morning. Jennifer  
10 Hooper again, AVCP. Two real quick questions. I kind of  
11 alluded to it earlier.

12 Do you know if this is going to be part of  
13 consultation process agenda in Anchorage on the 23rd of  
14 May? First question.

15 JIM MARTIN: Yes, I'm sure it will be.

16 JENNIFER HOOPER: Okay. And then,  
17 secondly, I -- again, I'm still just very new to JOM so  
18 I've got a lot of questions. But, real quick, do you  
19 know -- I don't know if we have an online officer in  
20 Alaska or who our point of contact would be.

21 JIM MARTIN: Well, currently you're  
22 probably talking Jon Claymore here. He's in the Seattle  
23 office. Our last office that handled Johnson-O'Malley in  
24 Alaska was the Anchorage office, and I forget what year  
25 that was closed.

1           But all the JOM higher ed. that deals with  
2 contracts was moved down to what was then the Portland  
3 area, which now means Seattle. And Jon has a person  
4 Janie Bedwell, and she handles all the JOM contracts for  
5 Alaska. So I will get with you or, if you will, you can  
6 get Janie's e-mail address and establish contact with

7           We have several Alaska tribes that are in  
8 compacts and so what we're trying to do is make sure each  
9 compacted tribe is accounted for in the student count  
10 update.

11           JON CLAYMORE: Okay. Jon Claymore,  
12 educational line officer in Seattle.

13           Yeah, Janie Bedwell is the contact for the  
14 Alaskan tribes up there. We've got 32 different JOM  
15 contracts up in Alaska and I will be here to hand out  
16 cards, contact information, that type of stuff for our  
17 office to answer any of those questions.

18           JIM MARTIN: I'm kind of curious, who is  
19 your self-governance point of contact up there in Alaska?  
20 Would it be Frances?

21           JENNIFER HOOPER: Frances Dunn? Yeah.  
22 For me -- for AVCP, I'm a 477 program, so Frances is the  
23 only one that -- the only person I deal with. JOM is not  
24 part of our 477 program. It was just given to me as  
25 duties as assigned, I guess, but he's the only one that

1 I've worked with so far.

2 JIM MARTIN: Okay.

3 Yes, sir?

4 MATT KALLAPPA: I'm Matt Kallappa. I'm  
5 the Office of Self-Governance here in Vancouver,  
6 Washington.

7 And to answer the question you had just  
8 since the closing of the education office in Anchorage,  
9 those duties have kind of split to Janie Bedwell as far  
10 the counts and those kind of things go.

11 But for compacts, there is a regional  
12 self-governance coordinator not just for BIE but for all  
13 of the BIA services, and that's now Keith Kippla  
14 [phonetic]. It had formally been Roger Jackho [phonetic]  
15 for a long number of years, but now Roger is retired.  
16 it's Keith; he's been there for the last couple of years.  
17 So he would be the one involved with coordinating all the  
18 information for the State of Alaska.

19 JIM MARTIN: Great.

20 MATT KALLAPPA: But I did want to bring  
21 one other point. I don't know if it's a question or not.  
22 But a part of the freeze of the count in 1995, Rick and  
23 others were around back then -- we're all getting old.

24 JIM MARTIN: That was called "in the

25 MATT KALLAPPA: Yeah, back in the day.

1                   Part of the freezing of the count and moving  
2 JOM to the TPA was part of the reorganization task force  
3 recommendations. The tribe said we -- we are more,  
4 probable more interested in educating our kids than  
5 anybody else would be, so we think that those funds  
6 be moved into TPA so that we can have better control, and  
7 consistency.

8                   Rather than a fluctuating number, try to have  
9 a base where they -- instead of one year they have, I  
10 don't know, \$50,000 dollars for a program, the next year  
11 it comes down to 20,000. It's hard to keep staff, hard  
12 maintain a program, et cetera, et cetera.

13                   So given -- given that history and movement  
14 into TPA, some of the aspects of TPA is that tribes also  
15 have the ability to move those funds within TPA, so it's  
16 funded under the TPA allowances.

17                   And I know one of the difficult things,  
18 particularly in the State of Alaska, is many of the  
19 in the State of Alaska have chosen to move all of their  
20 TPA funds into one -- one item category, either  
21 consolidated tribal government budget line item or it's  
22 your tribal government line item because they're so small  
23 and rather than have small numbers spread out across  
24 TPA, they have chosen to consolidate those into one  
25 for ease of administration and contracting, et cetera.

1 There are good reasons to do that.

2           However, what is lost when that happens is  
3 what was the JOM number that's part of that number. Say,  
4 for example, a small tribe has a \$225,000 total TPA in  
5 the CTGP line item, but they have for their own reasons  
6 back in early 2000s, maybe late '90s, chosen to  
7 consolidate their JOM. There would be considerable  
8 research that would need to be done to go back and  
9 identify what that original number was way back in the  
10 and what adjustments may have been made to it, either for  
11 pay cost increases or budget across the board -- or  
12 the board budget cuts, et cetera.

13           So that is something that I think that would  
14 need to be considered as part of this effort. If there  
15 are going to be increases, you would need to know, I  
16 think, what tribes currently have before you start to  
17 build, you know, who gets a share of whatever increases  
18 come.

19           So I'm sure you've already thought of that.  
20 just want to throw that out on the floor. And  
21 particularly with -- and it's not just the self-  
22 tribes in Alaska, it's all the tribes in Alaska, and  
23 particularly a lot of small tribes not just in Alaska but  
24 across the whole United States who may have elected to  
25 exercise their TPA authority to consolidate all their

1 programs into one budget line item and therefore the JOM  
2 number that may have been included in there may be -- may  
3 be not necessarily lost to history but would take  
4 considerable effort to find it.

5 JIM MARTIN: You know, I understand what  
6 you're saying, but first the Congress has just asked for  
7 the updated number. So in reality, we're looking at  
8 we are in 2012. They have not asked us to go back and  
9 look where we were in '95 and trace things forward.

10 But if I were a self-governance compact tribe  
11 or a CTGP guarantee, I would start that process now. I  
12 was looking what you can -- and you could probably start  
13 with the count that would be on our website, because each  
14 Alaska village and/or tribe, their '95 count and amount  
15 JOM money is in that document.

16 And then between now and whenever the  
17 or BIA asks for a method to straighten out the funding,  
18 you will, then some of that information will have been  
19 tracked and they'll know where they should be or what  
20 their share of the new amount being appropriated should  
21 be.

22 So I agree 100 percent with what you're  
23 saying, but Congress did not ask us to go that far just  
24 yet, but I'm sure it's coming.

25 Rick?

1 RICK GAY: Rick Gay.

2 When you put up the count, the '95 count,  
3 would you include the formula that was used to distribute  
4 the funds?

5 JIM MARTIN: The formula?

6 RICK GAY: Yeah. Because --

7 JIM MARTIN: Okay.

8 RICK GAY: -- some people may be able to  
9 work backwards in terms of funding levels or et cetera.

10 JIM MARTIN: Okay. Yes, we can do that,  
11 too.

12 Now, the JOM formula is a separate issue from  
13 the count because the formula was decided upon, if you  
14 will, between the BIA and the House and the Senate in the  
15 late '80s and it uses a per-pupil expenditure by state,  
16 which is published by the U.S. Department of Education.

17 And so each count within a state is -- is  
18 multiplied by a weighting factor depending on the  
19 per-pupil cost in that state, and it seems like the  
20 weighting factors go from 1.2 to 1.5. I'm speaking out  
21 my element here. Our finance people have these numbers.  
22 But there is a weighting system involved and that was put  
23 on in the late 1980s, and agreed upon.

24 So, yes, we can also include that and that  
25 might helping some of the tribes in their tracking what

1 has happened since '95.

2 Okay. Sure. That's a good point.

3 RICHARD GEORGE: Richard George with the  
4 Yakama Nation. I just have a few questions.

5 On your form, is there a difference between  
6 self-governance and direct service track?

7 JIM MARTIN: No.

8 RICHARD GEORGE: Okay. Thank you.

9 On the JOM coordinator position, are you  
10 asking us or telling us?

11 JIM MARTIN: Well, the Congress told us  
12 do it but they didn't provide any money to do it and so  
13 what I'm asking you is: Is one position enough? Should  
14 we actually do it, fill the position? If so, where  
15 we put the position?

16 RICHARD GEORGE: Yeah, well, I agree with  
17 the person that said that the funding, because of the  
18 funding levels, that the position shouldn't be there  
19 because if you give this position then you have an  
20 assistant to the coordinator, assistant to the assistant  
21 and all that, you know, so I just wanted to know if you  
22 were telling us or asking us.

23 Thank you.

24 JIM MARTIN: I was asking. I tell my  
25 17-year-old daughter to clean her room. She doesn't

1 listen to me at all.

2 RICK GAY: So you ask her?

3 JIM MARTIN: I'm going to ask her next.

4 Okay.

5 If nothing else, why don't we go ahead and  
6 take a ten-minute break or so and we'll start with the  
7 second part. Thank you very much.

8 (A break was taken.)

9 ROXANNE BROWN: Okay. Our next  
10 consultation piece is on Standard Form 424b. It's the  
11 proposed Grant Assurance Statement for tribally-  
12 schools under the Public Law 100-279 Act.

13 If you have the packet, you should have  
14 three -- you should have the PowerPoint, but you should  
15 have three separate forms. One form is front and back,  
16 and that's the currently approved Assurance Statement.

17 You should have a form, possibly one-sided,  
18 ,that has some yellow coloring at the bottom. That's the  
19 form that was devised by the focus group that was put  
20 together by the Bureau of Indian Education.

21 You should have yet a third form, one-sided,  
22 with one through 11 items, and that's the form where the  
23 Department of Ed. had input into item number 11.

24 Okay. So today the Bureau of Indian  
25 is seeking your tribal input on the revisions to this

1 Standard Form 424B, Assurance Statement for Public Law  
2 100-297, Tribally Controlled Grant Schools.

3 This form accompanies the transfer of funds  
4 from the Bureau of Indian Education to our  
5 tribally-controlled grant schools. And we're  
6 interested in the tribes' perspectives on adding the  
7 following to the Assurance Statement.

8 The environmental requirements -- and those  
9 you involved with schools and even tribes know what's  
10 happening to us in 2010, '11, and looking forward with  
11 and the environmental management system and our  
12 responsibilities.

13 Also for consideration, the addition of the  
14 Elementary and Secondary Education Act and Individuals  
15 With Disabilities Act included in the language, again, in  
16 item number 11.

17 There was actually a focus group put together  
18 by the Bureau of Indian Education and the three Deputy  
19 Directors, Navajo, East and West, who provided a list of  
20 representatives that volunteered to be a part of this  
21 group.

22 One of the things that's quite interesting is  
23 every July 1st when we send out the grants to the -- to  
24 the tribes and the schools, this Assurance Statement  
25 accompanies that grant document, those funding documents.

1 Well, we've received, oftentimes, those grant  
2 documents with sections of it blacked out and then  
3 oftentimes with caveats, statements added to the  
4 assurances because that was the belief or perspective of  
5 the school administrator as representative of the tribe  
6 the tribal governing body as to what the Assurance  
7 Statement should or should not say.

8 So it was some of those individuals who were  
9 recommended as part of this focus group across our BIE,  
10 and what we did is we needed -- we needed a group  
11 representing the tribes to come together and recommend  
12 what it is that they could agree to with the acceptance  
13 these tribally-controlled school funds.

14 We submitted 13 names. All were invited to  
15 participate, and seven representatives participated.  
16 met in Albuquerque with the Assistant Deputy Director of  
17 Administration on these assurances back in March.

18 And you can see for yourself some of the  
19 representatives from across the country. It looks like  
20 Ray Lorton from Chief Leschi School was a representative  
21 to that focus group.

22 We had -- the East was pretty well  
23 represented. We had a representative from the Navajo  
24 Nation. Well versed, well versed in statutes and  
25 requirements and able to negotiate and discuss what they

1 felt were appropriate.

2 Okay. And here we have -- we're going to go  
3 through those assurances one by one in the draft  
4 documents. Now, everything in the two draft documents,  
5 the two one-sided documents, is the same until we get to  
6 that final item in number 11.

7 So the first Assurance Statement addresses  
8 legal authority to apply for Federal assistance and that  
9 the institutional, managerial and financial capability to  
10 ensure proper planning, management and completion of the  
11 program activities for which the funding is provided is  
12 there.

13 The Assurance Statement Number 2, "Will give  
14 the awarding agency, the Comptroller General of the  
15 States and, if appropriate, the tribal governing body  
16 through an authorized representative, access to and the  
17 right to examine all records, books, papers, or documents  
18 related to the award."

19 Third Assurance Statement, "Will establish a  
20 proper accounting system in accordance with generally  
21 accepted accounting standards."

22 The fourth statement, "Will establish  
23 safeguards to prohibit employees, appointed or elected  
24 officials, from using their positions for a purpose that  
25 constitutes personal or organizational conflict of

1 interest, or personal gain."

2 Number 5, "Will comply, as applicable, with  
3 provisions of the Hatch Act which limit the political  
4 activities of employees whose principal employment  
5 activities are funded in whole or in part with federal  
6 funds."

7 Number 6, "Will comply with any applicable  
8 tribal, state and federal, environmental laws and safety  
9 standards which may be prescribed pursuant to the  
10 following:

11 "Institution of environmental quality control  
12 measures under the National Environmental Policy Act of  
13 1969 and Executive Order 11514.

14 "Notification of violating facilities  
15 to Executive Order 11738.

16 "Protection of wetlands pursuant to Executive  
17 Order 11990.

18 "Evaluation of flood hazards in floodplains  
19 accordance with Executive Order 11988.

20 "Assurance of project consistency with the  
21 approved State management program developed under the  
22 Coastal Zone Management Act of 1972."

23 Statement Number 6, "Conformity of Federal  
24 actions to State Implementation Plans under Section 176  
25 of the Clean Air Act of 1955, as amended.

1 "Protection of underground sources of  
2 water under the Safe Drinking Water Act of 1974, as  
3 amended.

4 "Protection of endangered species under the  
5 Endangered Species Act of 1973, as amended. Will comply  
6 with Lead-Based Paint Poisoning Prevention Act which  
7 prohibits the use of lead-based paint in construction or  
8 rehabilitation of residence structures."

9 Okay. That was pretty comprehensive.

10 Assurance Statement Number 7, "Will allow an  
11 inspection for Environmental and Safety compliance."

12 Statement 8, "Will comply with Section 106 of  
13 the National Historic Preservation Act of 1966, as  
14 amended, and the Archaeological and Historic Preservation  
15 Act of 1974."

16 Number 9, "Will comply with existing Federal  
17 Laws pertaining to background investigations, to include  
18 Public Law 101-630, Indian Child Protection and Family  
19 Violence Prevention Act, and Public Law 101-647, Crime  
20 Control Act of 1990."

21 Statement 10, "Will comply with the required  
22 financial and compliance audits in accordance with the  
23 Single Audit Act Amendments, and OMB Circular A-133,  
24 'Audits of States, Local Governments, and Non-Profit  
25 Organizations.'"

1                   And here, here is where the two draft  
2 documents differ just a little bit. This is the -- this  
3 is the section that the focus group agreed to.

4                   "Will comply with all applicable requirements  
5 of all Federal laws and regulations, and if applicable,  
6 tribal laws and regulations governing this program."

7                   That was what the focus group agreed on, and  
8 where it changes just a little bit is in red.

9                   This is -- this is the insert that the  
10 Department of Education recommended: "Will comply with  
11 all applicable requirements of all Federal laws and  
12 regulations, including the Elementary and Secondary  
13 Education Act and Individuals With Disabilities Education  
14 Act, and if applicable, tribal laws and regulations  
15 governing this program."

16                   Okay. Okay. There's a gentleman in the back  
17 there.

18                   RICHARD GEORGE: Hi, Richard George with  
19 the Yakama Nation. On these Assurance Statements that  
20 you've got here, on Assurance 6, 7 and 8 and 10, you have  
21 state regulations along with ESA, and it seems that  
22 Assurance Number 11, I believe it was Assurance Number 11  
23 because it states Federal regulations and tribal law and  
24 all that.

25                   But 6, 7, 8 and 10, they have state

1 requirements, and as a tribal government I don't know why  
2 we have to go with state requirements. I have a problem  
3 with the ESA statement. I don't even know why that one  
4 in there.

5 ROXANNE BROWN: Can I clarify for you  
6 in Assurance Statement Number 10, it's not asking our  
7 tribes to comply with states, it's referring back that  
8 states have to comply with this Single Audit Act or  
9 Circular A-133, not that -- not that our schools or  
10 are complying with state regulations.

11 And as far as the Elementary and Secondary  
12 Education Act goes, Public Law 107-110, No Child Left  
13 Behind Act, is the amendment to that, to that act, and so  
14 all of our schools receive funding from the Department of  
15 Education under the No Child Left Behind Act.

16 RICHARD GEORGE: But on Assurance 6, 7  
17 8, that's what I'm talking about. That's a -- I don't  
18 even know why ESA Act is in there.

19 And on 7, I have a problem with what  
20 I -- well, the environmental, the EPA, we're having  
21 problems with the state EPA right now as opposed to our  
22 tribal EPA quality and assurance and all that.

23 And Number 8? No, I don't have a problem  
24 it, but I do agree with Assurance Number 11, that states  
25 that Federal regulations and all that.

1 Thank you.

2 ROXANNE BROWN: Thank you. One thing  
3 wasn't mentioned in our BIE presentation yesterday or yet  
4 today is your feedback, your responses, your input, your  
5 comments can be submitted to consultation@bia.gov.

6 LES MINTHORN: Les Minthorn, Umatilla  
7 Tribe.

8 Your Assurance Statement Number 8, National  
9 Historic Preservation Act and the AHPA, it's encouraging  
10 to see these two acts and the Bureau's effort to comply  
11 with these.

12 In addition to and in relation to these two  
13 acts is another act that hasn't been mentioned or cited  
14 within these Assurance Statements, and it's a lack of  
15 compliance by the Bureau, which, understandably, the  
16 Bureau needs help with.

17 And as an example, recently in Portland at  
18 Bureau meeting with the tribes and Mr. Speaks, it was  
19 mentioned the lack of compliance by the Bureau of the  
20 Native American Graves Protection Repatriation Act. You  
21 don't list these in your Assurance Statements.

22 And again, as an example, when this was  
23 mentioned in Portland at the regional office, the people  
24 there in those offices never heard of this law. This is  
25 very discouraging. This law was passed in 1990.

1           There were requirements and guidance on how  
2   comply with this act, and I cite to you today 19 -- or  
3   2011 report to Congress, Bureau of Indian Affairs, is the  
4   most blatant federal agency in compliance in that, the  
5   most blatant.

6           The Bureau of Indian Affairs' office in  
7   Portland said they don't have a line item to deal with  
8   NAGPRA. It's very clear in the report to Congress in  
9   that the Bureau does not know where most of their human  
10  remains and/or artifacts are. This is a concern.

11          Potentially these are my ancestral remains  
12  that the Bureau does not know about. These are  
13  potentially my sacred items and associated and  
14  unassociated funerary objects that the Bureau does not  
15  know where they are at.

16          If there's going to be any compliance with  
17  NAGPRA, the Bureau first has to have money to comply with  
18  it, and very clearly the Bureau did not prioritize in  
19  complying with this act. This is concerning because if  
20  the Bureau does not know where sacred ancestral remains  
21  are, then they don't know what kind of disposition or  
22  has happened to those sacred human remains.

23          So today bringing this attention to not only  
24  the Bureau but the rest of the tribes here. There has to  
25  be pressure on the Bureau to work with this law that was

1 passed in 1990.

2 And again, the report to Congress cites that  
3 because the Bureau does not have money, then it will  
4 continue to be something that will not be prioritized.

5 So bringing this attention today with you and  
6 would hope that along with these Assurance Statements  
7 you will include in NAGPRA so that we as tribes can work  
8 with you to secure an appropriate disposition for our  
9 sacred ancestral remains.

10 Thank you.

11 ROXANNE BROWN: Thank you for your  
12 comments.

13 RICHARD SANGREY: Good morning again.  
14 Richard Sangrey, Chippewa Cree Tribe, Rocky Boy.

15 And I've got a question. I know it's going  
16 be asked of me. On the 4.5 million program reduction and  
17 Indian school equalization, can you tell me what that  
18 consists of?

19 ROXANNE BROWN: Well, I'm going to let  
20 respond to this just directly.

21 JIM MARTIN: Seems like the Greenbook is  
22 what we're talking about.

23 If you'll -- in the BIA budget section in the  
24 first page is a list of all of our 20-some line items,  
25 right at the top under forward-funded is ISEP. And you

1 will see a program reduction of about four-point-some  
2 million. You will also see something like a pay cost  
3 increase of about three-point-something million, and so  
4 those two mean, taken together, the ISEP was reduced  
5 approximately \$1 million.

6 So some additional money was put into ISEP  
7 then some money was actually taken away from ISEP, and  
8 narrative says that it, as with some federal programs,  
9 approximately 1 percent reduction is being proposed.

10 So that's how you get to about a million  
11 dollar reduction. In dollars, it went from ISEP of 390  
12 million down to 389 million. So that was ISEP's share of  
13 an overall reduction amount. Again, given to us by the  
14 department and OMB. Does that help? It's not what you  
15 want to hear, I know that.

16 RICHARD SANGREY: No. No. Bottom line  
17 this \$4.5 million reduction and I just wanted to know  
18 the -- what was going to be reduced with that 4.5

19 JIM MARTIN: It just means that the  
20 run through the ISEP formula would be reduced, but  
21 it's -- what I'm saying is, it's not by the full 4.5, but  
22 rather one-point-something million.

23 RICHARD SANGREY: So in this I'd have  
24 to -- rather than put 4.5, put 1.3?

25 JIM MARTIN: If I were putting this

1 together, I would put 1.3, yes.

2 RICHARD SANGREY: Okay. Thank you.

3 ROXANNE BROWN: Any further comments on  
4 the assurances?

5 Now, what has to happen is we're going to  
6 to try to seek approval of this document because this  
7 document accompanies, again, the grant funding documents  
8 that go out to our schools and tribes July 1st, so the  
9 timeline between now and then is not great. So any  
10 comments you have would be appreciated as soon as you can  
11 get those in.

12 STELLA WASHINES: Good morning. Stella  
13 Washines, Yakama Nation Tribal Council.

14 I have a statement to make about the  
15 Number 9, Public Law 101-630, the Indian Child Protection  
16 Family Violence Prevention Act. This is an unfunded  
17 mandate in Indian country. While I totally support the  
18 intentions, it's very cumbersome.

19 And I come from a background of 26 years  
20 working in alcohol and drug rehabilitation and also in  
21 health and human services arena for the past nine years  
22 tribal council, and this is a real big burden in Indian  
23 country because of the simple fact -- well, two things.

24 One is it's an unfunded mandate, so there's  
25 resources to do the background checks for individuals

1 may be coming in and working with vulnerable populations,  
2 our patients or children, students, elders.

3           And the other thing is that Congress, the law  
4 makers, really need to look at this law because it  
5 needs -- it leaves no room for rehabilitation. They're  
6 pulling -- Indian Health Service doctors have been pulled  
7 out of hospitals because maybe they got into a fight when  
8 they were, you know, a high school student, were charged  
9 with assault or battery or something like that.

10           That stays on your record. That under this  
11 eliminates them from being able to work with vulnerable  
12 populations. So it's well intended but it's very  
13 cumbersome. It's totally cumbersome. In Indian country  
14 it's an unfunded mandate that leaves no room for  
15 rehabilitation.

16           Thank you.

17           ROXANNE BROWN: Thank you.

18           LINDA BRISBANE: Would you please state  
19 the act -- the website again that they can get the  
20 information off of?

21           ROXANNE BROWN: Okay. To submit any  
22 comments that you have, you're going to e-mail those to  
23 consultation@bia.gov, G-O-V.

24           RICHARD GEORGE: Richard George, Yakama  
25 Nation. What I was talking about was the first screen on

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1 Number 6. The first one. Yeah. There it states "by  
2 state." And the second 6.

3 ROXANNE BROWN: I see. I see where  
4 talking about. And then what was the next one?

5 RICHARD GEORGE: The next number 6, State  
6 Management Program on there. All these Assurances are  
7 dealing with the state. That's what I'm having a problem  
8 with. Thank you.

9 ROXANNE BROWN: Thank you.

10 LES MINTHORN: Les Minthorn, Umatilla  
11 Tribe.

12 None of your Assurance Statements cite treaty  
13 and treaty rights. You need to include these. Thank

14 ROXANNE BROWN: Thank you. Any  
15 comments?

16 Thank you all very much and thank you for the  
17 opportunity to bring this forward to you. We appreciate  
18 all your input and the time that you've taken to be here  
19 yesterday and today. Safe travels to everybody as they  
20 back to their homes. Thank you.

21

22 (Applause.)

23 (Closing prayer.)

24 (Session concluded at 10:02 a.m.)

25

1 STATE OF WASHINGTON )  
2 County of Spokane ) ss.

3

4

5 I, Amy J. Brown, do hereby certify that at  
6 time and place heretofore mentioned in the caption of the  
7 above-entitled matter, I was a Certified Shorthand  
8 Reporter and Notary Public for Washington and Idaho; that  
9 at said time and place I reported in stenotype all  
10 proceedings had to the best of my ability in the  
11 matter; that thereafter my notes were reduced to  
12 typewriting and that the foregoing transcript consisting  
13 of 187 typewritten pages is a true and correct transcript  
14 of all such proceedings had and of the whole thereof.

15 Witness my hand at Spokane, Washington, on  
16 this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

17

18

19

20

21 \_\_\_\_\_  
Amy J. Brown, RPR, CRR  
22 WA CCR NO. 2133, ID CCR NO. 700  
Certified Court Reporter  
23 Notary Public for Washington and Idaho  
My commissions expire: 3-29-15 and

24

25

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