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The Morning Star

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July 14,2017

The Honorable Ryan Zinke  
Secretary of the Interior  
1849 C Street N.W.  
Washington, D.C. 20220

**Re:Written Comments on Federal Government Re-organization at the  
Department of Indian Interior-Indian Affairs.**

Dear Secretary Zinke:

On behalf of the Northern Cheyenne Tribe (Tribe) this office is formally providing written comments in response to the Department of the Interior's (DOI) May 16, 2017 notice for Tribal leaders to submit comments to DOI concerning the reorganization of *Indian Affairs* under this Department's jurisdiction. A representative from my office attended one (1) of six (6) listening sessions held on June 8, 2017 in Rapid City, SD in which the lead DOI representative posed the important overall question of whether or not the current Bureau of Indian Affairs (BIA) and Bureau of Indian Education (BIE) structures were meeting the needs of Tribes. The listening sessions were DOI's response to the March 13, 2017 Executive Order No. 13871 (*Comprehensive Plan for Reorganizing the Executive Branch*) issued by President Donald Trump requesting all Federal agencies to initiate a process to seek public and Tribal comments and suggestions (input) regarding improvements to the organization and functioning of the Executive Branch.

**LITTLE WOLF AND MORNING STAR – Out of defeat and exile they led us back to Montana and won our Cheyenne homeland that we will keep forever.**

It envisioned that submitted Public and Tribal leader input (Indian Affairs) would be helpful in the development of a proposed a *Government-wide Reform Plan* that would improve the efficiency, effectiveness, and accountability of Federal Agencies , including, as appropriate, to eliminate or reorganize unnecessary or redundant Federal agencies. The Director of the Office of Management and Budget (OMB) in the E.O. 13871 is tasked with proposing a plan to reorganize governmental functions and eliminate unnecessary agencies, components of agencies and agency programs. The heads of each Federal agency are required to submit to the OMB Director a proposed plan to reorganize their respective agency. The following commentary from this office is in response to the request from DOI on reorganization of the BIA and BIE.

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In viewing the proposed change initiative being required by the President of the United States it is important for Tribal leaders and other stakeholders to recognize is that change from what we have known to be government-to-government relations-through a period of transition-and to arrive at a desired new way of implementing government-to-government relations is a process. The BIA and BIE under the auspices of the DOI can be characterized as bureaucratic behemoths with the smaller BIE subject to an estimated thirteen (13) Federal laws and with the BIA under an estimated 150+ specific authorizing pieces of legislation passed by the United States Congress (information from DOI website). General authorizations include the Snyder Act of 1921, the Indian Reorganization Act of 1934, the Indian Self-Determination Act and the Johnson-O'Malley Act. Much of the governing legislation and implementing Federal regulations may be outdated and in dire need of updating to address the ever changing dynamics infused into the current Federal system of service delivery. The BIA and BIE systems are influenced by diverse technological, political, legal and administrative issues that are diverse in nature due in part to the sixteen (16) major administrative areas, with multiple subsidiary branches, requiring active ministerial functions. For Tribal leaders, embedded in the Federal statutes and implementing regulations are the principles of *trust responsibility, fiduciary responsibility and Tribal sovereignty* that have been consistently challenged in their interpretation through administrative rulings and in the American Judicial system.

In the listening session held in Rapid City multiple participating Tribal leaders repeated the need for the United States government to uphold Trust Responsibility, Fiduciary Responsibility and Tribal Sovereignty in the process of meaningful Tribal

consultation associated with the ongoing process of reorganization of BIA and BIE. The facilitator for the listening session indicated that the Federal government had not issued a draft reorganization plan and that the session was the beginning of the process to develop a reorganization plan for the DOI which will be submitted by the Secretary's office to the OMB by September 9, 2017. Organizational charts for the BIA and BIE were distributed by the Federal representative and no other information was distributed to Tribal leaders for review, analysis and commentary by the July 15, 2017 deadline to submit comments on the rapidly approaching deadline for the Secretary to submit proposed changes to the BIA and BIE to the Director of OMB.

In this contemporary era of Tribal government operations it is vital for Tribal leaders to have access to information directly related to the core issues identified by the leaders in the DOI that are stimulating the aggressive executive initiative to revamp BIA and BIE operations. Our basic approach in understanding the change process is a framework that includes the current state, the transition state and the future state of the BIA and BIE. The current state includes the processes, behaviors, tools, technologies, organizational structures and job roles that constitute how work is done. Longitudinal studies, by the General Accounting Office (GAO) or other Federal oversight

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agencies that assess both quantitative and qualitative performance of the BIA and BIE have not been provided for analysis by Tribal leaders (e.g. information on government websites). In addition, customer surveys, employee satisfaction surveys or attainment of organization goals (with congressional appropriations) as a result of a BIA and BIE strategic planning has not been provided to assess effectiveness, efficiency and accountability. Due to the short timeframe and lack of performance based information required to submit substantive evidence based comments to improve the efficiency, effectiveness of BIA and BIE our Tribe's is not appropriately afforded adequate time to submit comments based on hard data. Tribes are aware that the President's administration and U.S. Congress are keenly attuned to the allocation of the American taxpayer dollar and appear to be focusing on waste, fraud and duplication of services in all areas of the executive branch of operations.

During the transition state of 180 days prior to submittal of a proposed reorganization plan by heads of Federal agencies to the Director of OMB there appears to be a "messy" disorganized and unpredictable state of affairs within the DOI and other

Federal agencies. Emotionally charged comments ranging from despair, anxiety to fear are raging through Tribal leadership and their communities due to the uncertainty associated with the reorganization of BIA and BIE. Tribal leaders do not want to compromise the documented progress achieved under the previous administration, however, some Tribal leaders are inclined, in the transition state, to accept new perspectives and learn new ways of implementing government-to-government relations, under a yet to be determined, restructured BIA and BIE without diluting the principles of trust, fiduciary responsibility and Tribal sovereignty. The executive direction provided by President Trump is a powerful administrative instrument, implemented by high level DOI leaders designed to change the course of Federal governmental operations. The transition period is very challenging and when the senior career leaders in Indian Affairs were summarily transferred/reassigned prior to input by Tribal leaders the distrust level escalated amongst Tribal leaders across the country.

The future state of BIA and BIE has not been fully defined and may actually shift during the transition state and what remains to be seen is whether the future BIA and BIE will be better than the current BIA and BIE in terms of performance. The future state of the BIA and BIE may not match the personal and professional goals of the Tribal leaders of the 567 Federally Recognized Tribes whose local issues, concerns and priorities are as diverse as the economies, cultures, languages, geographies, and political, legal and administrative experiences with the BIA and BIE. In this current reorganization process there has been very poor communications with Indian tribes based on no summary or detailed explanation by the DOI leadership on why the current BIA and BIE is not working and must be changed. It is certain that any change in the BIA and BIE structures delivering services to Tribes will impact each respective Tribe in different ways.

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The across the board reorganization of Federal agencies appears to have the characteristics of unplanned change and responsiveness to unplanned change requires tremendous flexibility and adaptability on the part of the organizations (BIA and BIE). Fundamental changes to these organization's career senior executives (for example) and changes to the organization's processes, systems, structures, strategies and core values will depend upon the BIA and BIE resources and capabilities. The new leaders in the DOI have an executive mandate to reorganize BIA and BIE and the leaders are certainly intelligent high- achievers with a track record of good decisions, however, it takes time and analysis to define the problem, to fully understand the root

cause, and evaluate the trade-offs between potential solutions. The changes in the line of authority in the organizational chart are for the most part are about power and reporting lines and do not address the problems and between the boxes and lines. It is probably the space between the boxes and lines where the solutions lie. It is the executives and senior leaders who will bring about the future state of the BIA and BIE and it is the project team tasked with investigating alternatives who will ultimately decide on a path to reorganization and will develop a solution to change these organizations.

Employees, managers, and supervisors will continue with the current state of the BIA and BIE simply because these organizations they are responsible for must keep their respective organizations functioning, in accordance with applicable law and regulations, while reorganization is being implemented. It is more difficult to define substantive involvement by Tribal leaders in the reorganization of the BIA and BIE, however over the past decades there has been consistent commentary by Tribal leaders that Congressional appropriations do not reach the local Tribal communities where direct services are delivered. In short, Tribal leaders in various government-to-government forums have asserted that the BIA Regional and local agencies receive a larger share of the DOI appropriations with the local Indian communities receiving a low percentage of the Federal dollars appropriated by the United States Congress. At present Tribal leaders have not been afforded data or summaries of data depicting the patterns of success or attainment of strategic goals. Tribal leaders in the budget current BIA/DOI budget formulation provide limited budget priority information (e.g. top five (5) budget priorities by the twelve (12) BIA regional offices) which skews the actual funding needs of participating Tribes.

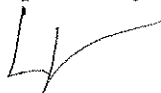
Reorganization initiatives involving the BIA with the BIE appear occur in cycles with the last major study of the Indian Affairs by Senate Select Committee in the late 1980s. This review and reorganization effort by an appointed Committee provided multiple recommendations for improving the efficiency, effectiveness and accountability of the BIA including, at the time, BIA schools. Some of the recommendations made by the team were included in restructuring of the BIA. The current Trump Administration reorganization is focusing on reducing funding for major programs and eliminating some small and independent Federal agencies. The programs under the BIA and BIE are subject to reduction or elimination depending on the budget decisions by the U.S. Congress. Indian Tribes are currently asserting their interests with appropriate

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Congressional representatives urging preservation of BIA and BIE programs that sustain Tribal communities and are inextricably linked to trust responsibility, fiduciary responsibility and Tribal sovereignty. The Congressional appropriations decisions in Fiscal Year 2018 will directly impact the restructuring of BIA and BIE and at this stage of the Trump administration's reorganization of the Executive Branch the administration's high level leaders appear to be intent on *removing obstacles* to reorganization including the leaders in the BIA and DOI who may have been identified as barriers to reorganization. The Trump administration has not permanently filled the top leadership position in many Federal agencies including the DOI, BIA and BIE which may be an indication of a continuing search for leaders whose main roles are to deliver the change or reorganization.

In closing, the Department of the Interior has not provided a formal planned change intervention strategy in the current effort-based on meaningful government-to-government consultation with Indian Tribes-that seeks to improve the organization effectiveness of the Bureau Indian Affairs and Bureau of Indian Education organizations which deliver essential services to Indian communities. More importantly, Tribal leaders have been requested to provide input without adequate information to make substantive recommendations to reorganize the BIA and BIE. Tribal leaders throughout Indian Country are not adverse to reorganization or positive change if the plan for reorganization is strategically planned with the inclusion of information indicative of the performance of programs under the authority of DOI. Following the submission of a DOI reorganization plan to the Director of the OMB, this office recommends a meeting with Tribal leaders to review and appropriately make revisions to the reorganization plans for the BIA and BIE. We respect the intent to improve BIA and BIE, however, we are of the opinion that this reorganization must include the trust and support of Tribal leaders across Indian country.

Respectfully Submitted,



L. Jace Killsback, President  
Northern Cheyenne Tribe

cc: file