

1 NO CHILD LEFT BEHIND
 2 TRIBAL CONSULTATION
 3 SCHOOL FACILITIES AND CONSTRUCTION
 4 Miccosukee Resort & Gaming
 5 Ballroom C
 6 500 SW 177th Avenue
 7 Miami, FL 33194
 8 Tuesday, July 19, 2011 at 9:00 a.m.

9 Committee Members
 10 (Present)

11 Dr. Kenneth H. York, Primary Tribal
 12 Planning, Mississippi Board of Choctaw Indians

13 Gregory Anderson, Primary Tribal
 14 Muscogee (Creek) Nation of Oklahoma

15 Jackie Cheek, Alternate Federal
 16 Bureau of Indian Education

17 Shirley Gross, Primary Tribal
 18 Pierre Indian Learning Center

19 John "Jack" Rever, Director
 20 Office of Facilities Environment and Cultural Resources

21 Monty Roesel, Primary Tribal
 22 Rough Rock Community School Navajo Nation

23 Arthur Taylor, Primary Tribal
 24 University of Idaho, Nez Perce Tribe

25 Catherine M. Wright, Primary Tribal
 The Hopi Tribe, Hopi Board of Education

Staff
 (Present)

Glenn Allison, Facility Officer
 BIE-ABO Facilities

Regina Gilbert, Regulatory Specialist,
 Office of Regulatory Affairs & Collaborative Action
 Office of the Assistant Secretary - Indian Affairs

Seyi Olubadewo,
 Consensus Building Institute

Audience Members
 (Present)

Fernie Yazzie,
 School Board President, Borrego Pass School, Navajo Nation

Everly Vandever,
 Borrego Pass School

Juliette Tubby,
 Planner, Mississippi Band of Choctaw Indians,

Clarice Londono,
 Administration Manager, Miccosukee Indian School

Johnny Pasham,
 Facility Manager, OFMC Eastern Region

PROCEEDINGS

DR. YORK: Good morning. We'll just go ahead and
 get started. My name is Kenneth York. I'm a member of
 the Mississippi Band of Choctaw Indians, and I've been
 representing the United Southeastern Tribes and the
 Committee.

What we hope today is to do an overview of the
 draft report from the No Child Left Behind School
 Facilities and Construction Negotiated Rulemaking
 Committee. And we are required to do a tribal
 consultation.

Before we get started, I would like to ask those
 of you from the tribes to introduce yourselves.

Will you please stand, we would like to do an
 opening prayer.

(A moment of prayer was had.)

If you would introduce yourselves before we get
 started.

MR. YAZZIE: Good morning. My name is Fernie
 Yazzie. I'm with the Navajo Nation, and the school
 that I represent is Dibe Yazhi Habitiin Olta. I'm the
 School Board President.

MR. VANDEVER: Good morning. My name is Everly
 Vandever, Navajo Central Facilities, Borrego Pass
 School.

MS. TUBBY: Juliette Tubby, Mississippi Band of
 Choctaw Indians.

MS. LONDONO: Good morning. Clarice Londono from
 the Miccosukee Indian School, just down the Trail,
 19 miles west, and I'm the Administrative Assistant
 there, and I also do the -- I'm the Facilities Manager,
 I guess, contact person. I deal with FMIS and
 Facilities also. Thank you.

MR. PASHAM: I'm Johnny Pasham, I'm the Facilities
 Manager for the Eastern Region Office.

MR. ROESSEL: I'm Monty Roesel. I'm a member of
 the Committee representing Navajo Nation.

MS. CHEEK: Good morning. I'm Jackie Cheek. I'm
 the Special Assistant to the Director for the Bureau of
 Indian Education, and I serve as the alternate for the
 Bureau of Indian Education on the Committee. I'm an
 enrolled Seneca from the Seneca Nation of Indians in
 New York State.

MR. ANDERSON: Good morning. My name is Greg
 Anderson. I'm Committee Member and Superintendent of
 the Eufaula Dormitory.

DR. YORK: Once again, Kenneth York. I'm with the
 Choctaw Indians.

MS. WRIGHT: Good morning. I'm Catherine Wright,
 and I'm with the -- I'm the Director for the Hobi Board

1 of Education.

2 MS. GROSS: Good morning. I'm Shirley Gross. I'm

3 the Program Coordinator for the Pierre Indian Learning

4 Center in Pierre, South Dakota.

5 MR. TAYLOR: Good morning. I'm Arthur Taylor.

6 I'm a member of the Nez Perce Tribe, and I represent

7 the Pacific Northwest.

8 MS. GILBERT: Good morning everybody. My name is

9 Regina Gilbert, and I work with the Office of

10 Regulatory Affairs. We are the federal agency who is

11 helping with the Committee through their work.

12 MS. OLUBADEWO: Hi. I'm Seyi Olubadewo. I'm with

13 the Consensus Building Institute, and we're helping

14 facilitate the meeting.

15 MS. AGUIRRE: Hello. I'm Janice Aguirre, and I'm

16 the Court Reporter from Miami-Dade County Court

17 Reporters.

18 DR. YORK: I was asked to MC, so I'll try to do

19 that today.

20 Again, we are here with the tribal consultation on

21 the No Child Left Behind School Facilities and

22 Construction Negotiating Rulemaking Committee.

23 As we continue the presentation, I'm going to be

24 introducing presenters and their backgrounds. Once

25 again, I guess we'll get started.

1 School replacement and renovation includes

2 previous and existing programs, new school construction

3 and facility replacement; recommendations for new

4 process and formula.

5 Formulas for minor and major renovation includes

6 existing programs, the acronyms MI&R and FI&R;

7 recommendations for new process and formula, and then

8 appendices.

9 I noticed that in the report you'll find not only

10 the names and background of the individuals of the

11 Committee, but they also have pictures.

12 Chapter 1: Introduction includes brief overview

13 of task and process; Federal Government's duty to

14 educate native children; federal failure to provide

15 quality school facilities; lack of transparency in

16 allocation process.

17 Chapter 2: Catalog of facilities. And today we

18 have Arthur Taylor and Shirley Gross to do the

19 presentation of the catalog section.

20 Arthur is, again, the Native American Tribe of Nez

21 Perce, liaison for the University of Idaho. Arthur is

22 a member of the Nez Perce Tribe.

23 Then, Shirley is Program Coordinator for the

24 Pierre Indian Learning Center. She's representing 15

25 tribes in North Dakota, South Dakota and Nebraska.

1 We have a PowerPoint presentation for you today.

2 The agenda: To review the work of the Committee,

3 review summary of the Draft Report, record comments and

4 recommendations in the Draft Report.

5 The Committee's Statutory Mandate: In the No

6 Child Left Behind Act, Congress mandated the creation

7 of a Negotiated Rulemaking Committee to prepare reports

8 for Congress and the Secretary of Interior. These

9 include a catalog of the conditions of the

10 Bureau-funded schools; a school replacement and new

11 construction report; and a school facilities renovation

12 and repairs report.

13 The reports must identify the needs for

14 replacement and renovation, and a formula for equitable

15 distribution of funds to address these needs.

16 You can find the document that has been approved

17 for publication on the website, www dot bia dot gov

18 slash howeare slash AS dash IA slash ORM slash

19 Rulemaking slash index dot htm. That's a long one.

20 The Draft Report: Table of Contents includes the

21 Introduction, overview of the task and process;

22 statement of need.

23 The catalog of facilities includes the response to

24 statutory questions, problems with FMIS and recommended

25 improvements.

1 MS. GROSS: Good morning. In the catalog of

2 facilities, it's an all Bureau-funded schools, and it

3 incorporates the findings of the Government

4 Accountability Office study evaluating and comparing

5 the school systems; and it rates the facilities with

6 respect to the rate of deterioration and useful life of

7 structures.

8 I believe in the beginning of the book that will

9 give you that information.

10 It establishes a routine maintenance schedule for

11 each facility; identifies the complementary educational

12 facilities that do not exist but that are needed; and

13 it makes projections on the amount of funds that are

14 needed to make each school viable and consistent with

15 the accreditation.

16 We found on the conditions of the school

17 facilities, that 34 percent of the schools are in poor

18 condition, and \$1.3 billion estimated cost to bring

19 these 63 schools, now in poor condition, up to

20 acceptable condition.

21 For 2010, OFMC requested \$112 million for school

22 facilities construction, in the 2010 budget.

23 For 2010 (sic), OFMC received \$46 million for

24 school facilities construction.

25 On the backlog, when you are on the FMIS system

1 and you're entering into the backlog, the local
 2 Facility Manager, the person at the site, enters a
 3 deficiency, and you can enter any deficiency except
 4 with an S, for safety.

5 Regional Facility Office approves, or disapproves,
 6 or changes, cost estimate duplication. In some areas
 7 the Regional Office does not do it. It is done in the
 8 Albuquerque office.

9 The Safety Inspector Data Entry risk uses S,
 10 that's a safety. Gatekeeper/Contractor approves,
 11 disapproves, or changes what the Facility Manager, or
 12 whoever enters that data, depending on what they
 13 classify, and if they think that it belongs on that
 14 certain code.

15 And the Contractor Data, these are the gentlemen
 16 that come out to the schools every two or three years
 17 and collect all the data on your school, regarding any
 18 deficiencies, conditions of the buildings, and they go
 19 back and they enter in that code into your backlog
 20 system.

21 The areas of concerns of this Committee has come
 22 up with, and that is going over with different various
 23 schools and entities, and in the discussions, and the
 24 different areas that we have found, is the accuracy of
 25 the existing data in FMIS; unclear roles and

1 concern that we have, and that were identified within
 2 our Committee was that there is no consistent local
 3 Bureau staff to provide FMIS assistance to schools.
 4 And, so, in order to look at some -- we created some
 5 recommendations for that. And one is to develop
 6 structure to improve OFMC and BIE coordination; to
 7 define all the roles and responsibilities for all
 8 parties using FMIS from the school up to the
 9 headquarters; and ensure assistance monitoring by OFMC
 10 and BIE of all schools using FMIS, including grant and
 11 contract schools; and emphasize responsibility on
 12 school administrators to ensure FMIS is updated
 13 regularly; and require schools to use FMIS.

14 For FMIS entry training and support: we found
 15 that there was insufficient FMIS training offered at
 16 the users' location; need more support to ensure the
 17 schools use FMIS effectively.

18 The recommendation for that problem were to
 19 develop a national FMIS users group, support group;
 20 develop a regional FMIS support group; create a roster
 21 of people in each region who can provide that technical
 22 assistance to those FMIS users who need assistance when
 23 needed; a 40-hour basic training and refresher training
 24 course should be offered at each region on a regular
 25 basis; and provide FMIS users advance notice and any

1 responsibilities, who is supposed to put the entry data
 2 in; the inadequate training and support; the system
 3 administration and remote access; and transparency of
 4 condition assessments.

5 These were the biggest complaints that we heard,
 6 was the lack of interest by administrators into the
 7 FMIS, and by the -- I think that it was 42 percent
 8 accuracy rate of people who were entering the data,
 9 which meant that there was a great member of schools
 10 that didn't have their data in the system, or didn't
 11 have the correct information in there, or it was not
 12 updated.

13 And if you all know, that any of this -- all this
 14 information is what makes up your school. So, if your
 15 information isn't in there, they can't tell what
 16 condition your school is in.

17 The contractors that come out and visit your
 18 schools every two years do put that information in, but
 19 a lot of it is not coming from the local area.

20 The recommendations that the Committee made was to
 21 prioritize assistance for schools needing help with
 22 FMIS data entry; ensure schools have equal access;
 23 ensure administrators understand FMIS; and require the
 24 40 hours for Managers.

25 MR. TAYLOR: Okay. Some of the other areas of

1 necessary training before new FMIS requirements take
 2 effect.

3 The next area was the system administration. The
 4 frequent problems was accessing FMIS. Few users know
 5 where to turn for assistance and long response time.
 6 The recommendations to make FMIS easily available on
 7 the web from remote locations without requiring
 8 dedicated terminals; ensuring OFMC and CIO respond to
 9 FMIS problems quickly and efficiently; notify all users
 10 via email when and for how long FMIS will be down;
 11 provide regional agency support, or a regional
 12 assistance team to ensure backlogs are able to be input
 13 into the system for all Bureau-funded schools without
 14 access for whatever reason.

15 Lastly, the transparency with contractor. And the
 16 problem with that was that the contractors' role is
 17 unclear, and Shirley just talked about how the
 18 contractors visit the school every three years. And,
 19 so, ensuring that the contractors' role is unclear,
 20 communication with schools may be poor, and
 21 accountability to the schools is limited.

22 And so the recommendations were to improve
 23 communication between the contractors and the schools;
 24 require formal entry and exit interviews between school
 25 and contractor; provide a copy of contractor's Facility

1 Assessment Report to the school; require contractor to
2 be accompanied by school's staff during contractor
3 visit; provide administrator the contractor's Scope of
4 work and a printout of school's list of backlogs from
5 FMIS 30 days prior to a contractor's visit; and anyone
6 with access from that location should receive
7 notification if backlog entries are changed by
8 gatekeepers.

9 And now it is time for questions on that section
10 of the catalog.

11 DR. YORK: Anyone have any questions or concerns
12 on the section that has been presented?

13 MR. YAZZIE: Good morning, again. My name is
14 Fernie Yazzie. I'm with the Borrego Pass School. I'm
15 the School Board President.

16 As a School Board, is there any way that we can
17 have access to make sure our FMIS is updated, because
18 the reason why I'm saying this, at Borrego Pass, we've
19 all come to an agreement where we come in as a
20 teamwork, and we go as a team. So, we like to share
21 information to help our staff at the same time, even
22 though, as a board, we actually help a lot of our staff
23 from our facilities, down to the janitors. So, we all
24 come together as a team. So, that's one of our goals
25 and objectives that we have for the last three years.

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1 So, my question would be, I know earlier you just
2 said that the administrator, who is the principal or
3 the director, along with our Facility Manager, has
4 access to FMIS.

5 The question, and I have been bringing this up in
6 our meeting, is the staff really up to date with FMIS?
7 Because right now, as a grant school, we do have a
8 limited staff on hand, especially with our facilities,
9 and we used to have our Facility Clerk before, where
10 they used to record everything on a daily basis, but
11 due to the shortfall of the budget, we ended up having
12 our Manager here to get all the input, but then again
13 he has a lot of tasks. So, that is just one of the
14 questions that I have.

15 MS. GROSS: Are you aware that a refresher course,
16 they are giving down there quite frequently now? And I
17 guess I didn't quite understand your question.

18 MR. YAZZIE: My question is, can the School Board
19 have access into FMIS where we can make sure that
20 everything is updated? I usually get a report. Most
21 of the time our Facility will be out in the field. We
22 don't get a chance to talk to him that much in the
23 meeting, but that's the only question that I had, where
24 the Board can have access to FMIS and just double check
25 and make sure that everything is updated on a daily

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1 basis.

2 MS. GROSS: They would go through the
3 administrator to do that, to get into there. To do it
4 directly, they would have to go through the same
5 background check and everything like we do to get into
6 there. Other than that, they can go through the
7 administrator.

8 You do get that yearly run-off of information on
9 your backlog, right?

10 MR. YAZZIE: Yes.

11 MS. GROSS: Okay.

12 MS. GILBERT: Any other questions?

13 DR. YORK: Any other questions or comments?

14 MS. LONDONO: It's not really a question, it's
15 more of a comment. Maybe we would benefit from having
16 a directive on how much time is expected from the
17 person that is the hands-on FMIS person entering the
18 information. Just how much time it takes to maintain
19 the system, or should be devoted to that system, say,
20 on a monthly basis, so on, in which reports should be
21 printed out, how often and informed to, like the
22 gentleman said, the School Board or the administrators.

23 MS. GROSS: I can only talk from our experience,
24 because I think that has to be decided on each school
25 level of how much time they want to be in there. They

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1 can spend a lot of time in there, and the reports that
2 they want to run.

3 The FMIS system, and Jack Rever is here now, who
4 knows more about it than I do. But the FMIS system
5 allows you to run a multitude of reports for the School
6 Board, as well as your backlog entries all the time.

7 So, I think it's up to each individual school to
8 decide how much time you really want to put in there.

9 One of the things that will help, and we are doing
10 that right now is, we are assessing how much time that
11 we should be on the system inputting this information,
12 and the cost that it takes, because we don't have a
13 person designated to do this. One or two people do
14 work on this. How much time it does take those people
15 to do it, and the cost associated with that.

16 So, I think it is up to each individual school to
17 determine that.

18 MS. LONDONO: Exactly, but just an estimate of how
19 much is required to maintain the system, so that
20 management will be aware of that. I don't think -- I'm
21 not sure that management is aware of the work that it
22 takes, and the time that should be devoted to do that
23 as a minimum.

24 MS. GROSS: And we found that to be one of the
25 biggest problems in our area, that the administrators,

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1 superintendents, principals, were not aware of how much
2 time should be spent on there.

3 And, Jack, maybe you can answer that.

4 MR. REVER: Well, I think the answer to the
5 question, and I'll consult with my colleague, Johnnie
6 Pasham, who is next to me, the Regional Facility
7 Manager for the Eastern Region Office. I think it
8 depends on the amount of capability from individuals
9 who are working on the equipment, and the machines, and
10 what kind of information went out of that. I think you
11 determine how much you are going to use that system,
12 and it could be reactive to your needs.

13 Johnny, do you have a comment about that?

14 MR. PASHAM: I think there's probably a -- maybe a
15 minimal number of -- list of things for each school
16 location that you could -- a minimum list of things
17 each school could -- we could recommend they do on a
18 monthly basis, you know, like you said, they put in
19 their utility costs monthly, they review their backlog
20 list monthly, and list out those things. But the
21 amount of time is going to vary per school location,
22 depending on the size, and the age of it, that sort of
23 thing. The task, we might provide some type of task
24 list.

25 DR. YORK: Any other questions or comments?

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1 MS. LONDONO: Clarice Londono, again, from
2 Miccosukee Indian School.

3 I think what would work out well just a
4 recommendation on which -- the steps to make sure they
5 are done on a monthly basis to maintain the system.
6 So, I think that that guidance would help a lot, for
7 Managers to realize that it requires time to be devoted
8 to those steps. Thank you.

9 MS. GILBERT: Any other questions?

10 DR. YORK: Any other questions on this section?
11 I'll give you as much time as possible so we can get
12 all the questions and comments, hopefully some answers.

13 If not, we have Catherine Wright, Director of the
14 Hopi Board of Education, for the Hopi Tribe, and she
15 will be doing Part Two, the formulas for minor and
16 major renovation and facility replacement.

17 MS. WRIGHT: Good morning. I'm going to be,
18 basically, speaking about MI&R, the minor repairs.

19 This slide shows the "budget buckets". And under
20 the Bureau of Indians Education we've got maintenance
21 and operations funds, and maintenance is to be funded
22 at 100 percent of the need. And then the operations,
23 as I understand it this year was constrained to
24 53 percent.

25 But under the Office of Facilities Management

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1 Construction, OFMC, they generate the amount of -- they
2 generate the amount of funds that would go over to the
3 BIE for maintenance. But this section is actually
4 talking about the minor repairs, it's the next box
5 down. And those range from \$2,500 up to \$500,000, for
6 the individual backlogs, and that's the MI&R. That
7 does include special projects, as well, such as
8 portables, emergencies, energy, roofing, seismic
9 issues, demolition, condition assessments and others.

10 And then there is also the major FI&R, which is
11 anything over \$500,000, and that includes all the
12 backlogs for the school.

13 The next category of funds is for facility
14 replacement, and it is where all the backlogs are
15 greater than 66 percent of the full building value,
16 then that would be a replacement. And then under that
17 is the whole school replacement. That breaks down the
18 different kind of funds available.

19 The existing MI&R project selection process begins
20 with individual schools. We've been told that a data
21 call goes out and the schools identify the top backlog
22 items as a priority for funding, and the school sends
23 their top items to the regional OFMC facility person,
24 and they review the priorities from all the schools in
25 the region, and they pick out the ones that they deem

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1 to be the highest priority, and then they send it to
2 OFMC in Albuquerque. OFMC currently reviews the
3 projects from all the regions, identifies the
4 priorities and provides funding to the priorities until
5 the last dollar is spent. And that's how it's been
6 occurring, we've been told.

7 We looked at a lot of different things, and the
8 recommendations that the Committee came up with is that
9 OFMC should improve communication by emphasizing to
10 schools how important it is to input all the
11 deficiencies into FMIS, because if you don't have all
12 that information in FMIS, it's not going to get funded.

13 Annually publish the criteria that OFMC uses to
14 make MI&R decisions, including the weightings,
15 formulas, point of contact in each regional office, and
16 the person in each region who will prioritize from the
17 list sent.

18 We also recommended that OFMC issue an annual
19 report explaining each decision to remove a
20 school-proposed project from the list, because a lot of
21 schools say, "This is something that we wanted. Why is
22 it not on the list?" So, that would help with the
23 communication.

24 And all the information that is on the slide, all
25 the recommendations we just -- that I just went over

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1 should be posted on the Bureau's website, as well as
2 given to all school principals, Facility Managers,
3 ELOs, and distributed at Bureau conferences and
4 training, so everyone understands how the MI&R process
5 works.

6 The Committee also recommended that OFMC improve
7 engagement by having the regional office communicating
8 closely with the ELO in each region on how the
9 prioritization of the MI&R projects take place.

10 To require a written endorsement or rejection of
11 OFMC regional offices prioritization list by the ELO.
12 The regional official will include enforcements and
13 objections with the priority list submitted to
14 headquarters.

15 Alternatively, have OFMC regions host
16 "priority-setting" workshops to get advice and comments
17 on prioritization of MI&R projects. These are some of
18 the recommendations of the Committee.

19 The formula that the Committee is recommended is
20 that 2/3 of the funds allocated each year be
21 distributed to the regional offices, and that would be
22 based on square footage of all the schools, educational
23 and dormitory space, based on FMIS. The funds would be
24 allocated within the regions by a Committee, and we are
25 suggesting that the Committee should be made up of

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1 ELOs, regional facility managers, superintendents from
2 the schools, and facility managers.

3 Any projects that weren't funded by the regional
4 funds -- well, 2/3 would go to the regional offices for
5 those priorities, 1/3 of the funds will be given to
6 OFMC headquarters, and those funds will be used to fund
7 the regional priorities that were not funded with the
8 2/3, on the worst-first basis.

9 The planned MI&R funding in 2011. The total MI&R
10 funding in 2011, let's say it's \$14 million. And if
11 you take 2/3 of that pro-rata based on square foot, it
12 is \$9,333,333. The remaining 1/3 for OFMC would be
13 \$4,666,667. This chart shows how the -- with the
14 Committee's proposal, how it would work out. For
15 example, this region Eastern, the second line down,
16 it's the white one. There's 15 schools in Eastern, and
17 there is \$1,176,805 funded square feet within the
18 schools. Based on the 2/3 formula that we are
19 talking about, Eastern would get -- the region would
20 get \$622,467, which is an increase from how the amount
21 that this region got in 2010, which was \$536,918. So,
22 that would be -- if the formula -- if it's going to be
23 approved, this region would benefit from having broken
24 down square footage. Some of the regions don't fare as
25 well, such as Eastern Oklahoma. But, this is something

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1 that we -- that the Committee talked back and forth
2 about quite a bit. What would be the fairest way to
3 allocate the funds. And, basically, it is just on
4 square footage. And then within the square footage, it
5 would be which backlogs are the worst within the
6 region.

7 So, you can see the break down. Some regions end
8 up with basically the same, it wouldn't really affect
9 them. This was a fairly pretty contentious formula
10 that the Committee discussed. What we are proposing is
11 a 2/3, 1/3 split based on square footage.

12 Does anybody have any questions about that?

13 MR. ANDERSON: I have a submission for the
14 reporter from the Eastern Oklahoma Tribal Schools,
15 which is the Choctaw Nations. And I can read it if you
16 all would like. And I will submit this to the Court
17 Reporter for the record.

18 This is, again, from Eastern Oklahoma Tribal
19 Schools. "Summary: The current recommendation by the
20 Committee for MI&R funding is to distribute 1/3 of
21 funds nationally for critical backlogs and distribute
22 2/3 of funds to regions. The regions will receive the
23 proportion of funding based on schools and dormitory
24 area in region. This will result in a drastic
25 reduction MI&R funding for the Eastern Oklahoma region.

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1 Problem: The recommendation for MI&R funding
2 distribution seems fair at first glance.
3 Unfortunately, it oversimplifies fund distribution
4 based on a single criterion, *building area*. The use of
5 building area alone will not provide a fair and
6 equitable funding allocation for school facilities.

7 Reasons for objecting to the Committee's
8 recommendation: The recommended funding distribution
9 for MI&R funding does not take existing building age
10 and condition into consideration.

11 It is generally acknowledged that older buildings
12 require more funding to maintain in a healthy, safe and
13 code-compliant condition.

14 The recommendation bases MI&R funding strictly on
15 building area and makes no allowance for building
16 condition or age. It provides the same dollar amount
17 per square foot for a new building as one that was
18 constructed 50 years ago. The repair needs for these
19 buildings are not the same.

20 To be fair and equitable, the funding distribution
21 must take building age into account when allocating
22 MI&R funding.

23 The recommended funding distribution does not
24 discriminate between building types or uses.

25 The recommendation only states that dormitory and

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1 school building area will be used to assign funding
 2 levels. It's not known that if the area of support
 3 buildings will be included or not.

4 If support buildings are included: The
 5 recommendation does not allow different funding levels
 6 based on building type or use. It appears that a
 7 10,000 square foot storage building and a 10,000 square
 8 foot classroom building will receive the same amount of
 9 MI&R funding.

10 If support buildings are not included: It will
 11 limit the ability of the facility to provide support
 12 programs that are housed in these support buildings.

13 To be fair and equitable, the MI&R funding
 14 distribution must take building type and use into
 15 account when allocating the funding, and support
 16 structures must be funded as well.

17 The recommended funding distribution does not make
 18 any allowance for location, conditions and climate.

19 A location's climate and weather have an influence
 20 on the rate of wear of building components.

21 The recommendation treats buildings in a mild
 22 climate the same as a building in a more extreme
 23 climate.

24 To be fair and equitable, the funding allocation
 25 must reflect a facility's location, climate and

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1 were under-represented in this committee. Only
 2 representatives from the Choctaw Nation of Oklahoma and
 3 Muscogee (Creek) Nation were invited to attend. In
 4 contrast, other tribes had multiple representatives and
 5 tended to vote as a bloc on issues. According to
 6 Mr. Anderson, multiple representatives from two tribes
 7 made up a majority of the committee. There was not
 8 fair and equitable representation on the committee.

9 Signed, Tracey Hartman, Director, Eastern Oklahoma
 10 Tribal Schools."

11 DR. YORK: Thank you. Are there any questions or
 12 comments? If not, part three and four. We have Monty
 13 Roessel, recently retired from the position of
 14 superintendent of Rough Rock Community School. He is
 15 from the Navajo Tribe. Greg Anderson is the
 16 superintendent of the Eufaula Dormitory in Eufaula,
 17 Oklahoma. He is from the Muscogee Creek Nation of
 18 Oklahoma, and they will be presenting the FI&R and
 19 replacement.

20 MR. ANDERSON: What we have is the FI&R
 21 recommendations. OFMC should improve communication by,
 22 according to the Committee, annually publishing and
 23 distributing to schools, tribes, and regions. FI&R
 24 rankings and explanations of how they were obtained;
 25 list of projects that will be funded that year; budget

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1 weather.

2 Reducing MI&R funding to schools that are
 3 improving or maintaining building conditions through
 4 the MI&R program will only result in the deterioration
 5 of facility conditions. This, in turn, will lead to a
 6 reduction in the health and safety of students and
 7 staff that reside or work in the buildings.

8 It is a disincentive to demolish older, unused, or
 9 under-used buildings. If funding is based on area,
 10 schools will keep older buildings that could be
 11 demolished due to condition or disuse, as any reduction
 12 in area will result in a funding reduction.

13 The current MI&R system is not broken. The
 14 current system funds backlogs based on need and a
 15 school's ability to correct problems in a timely
 16 manner. It is a flexible system that serves the
 17 schools and students well. Changing the current system
 18 to a rigid, fixed-funding system in order to address
 19 the problems within a few Regions does not make sense.
 20 Instead, it will penalize schools that have trained
 21 their personnel and that have worked diligently within
 22 the rules and regulations to provide the best possible
 23 upkeep for their schools. It will reduce your school's
 24 ability to correct facility problems.

25 It is our opinion that the Eastern Oklahoma tribes

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1 for FI&R funding for that year; list of individuals
 2 responsible for ranking FI&R projects, and their roles
 3 and responsibilities. Any school project/selection in
 4 the FI&R program that is not explained solely by the
 5 location index/ranking will be explained with further
 6 detail in the Green Book.

7 OFMC should improve the FI&R funding process by
 8 including educational space deficiencies in the
 9 prioritization formula. To do this, OFMC must conduct
 10 a study of all schools, comparing space guidelines and
 11 state accreditation requirements to existing conditions
 12 to determine educational deficiencies. In parentheses
 13 it says, see catalog for further detailed
 14 recommendation. Educational deficiencies should be
 15 incorporated into the FI&R formula as Critical Health
 16 and Safety Capital Improvement (educational space
 17 deficiencies) backlogs, given a weighting factor of
 18 nine.

19 The chart on the overhead is the ranking backlogs
 20 by weight. For those of you who are not familiar with
 21 the DOI categories, on the left column it explains the
 22 acronym for the backlog type. And the OFMC category,
 23 which will be safety, health, emergency, et cetera.

24 Determining location score.

25 MR. ROESSEL: Okay. The simplest part of this --

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1 most of this is -- it looks a lot more complicated than
2 it actually is. We are trying to show how smart the
3 Committee is by putting the slide up here. But the
4 biggest -- the biggest thing, if you could go back
5 to the previous slide, the biggest change to the whole
6 FI&R formula has already taken place. And that is, if
7 you look at the second row there, it will say
8 educational facility deficiencies, is given -- is
9 added. It used to just end after improvement, but now
10 this formula takes into account the deficiencies of an
11 educational facility.

12 So, if you don't have a library, or if you don't
13 have a science lab, if you don't have one of these
14 buildings, it now also gives weight to that. And
15 that's nine points, which means it is given an awful
16 lot of weight. This has already been incorporated into
17 FMIS. It is not something that is waiting for the
18 report to end, but as we went through this process, and
19 I'm not exactly sure -- I think it might have been last
20 fall, OFMC already implemented this aspect, which is
21 the biggest change of the FI&R formula, and by far the
22 most important because now the lack of that space is
23 accounted for. And as you would go into the next
24 formula, the other thing is to note that each of these
25 formulas build on each other; MI&R, FI&R, and then the

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1 \$1.725 million, or whatever, it becomes complicated.
2 But if you just keep it very simple, and then the
3 times, the weight factor, which is that previous chart,
4 which had ten, nine, eight, seven for the different
5 critical factors in the building, that equals your
6 relative score. So, then you just add all of those up,
7 and that is the relative weighted score, plus relative
8 weighted score, plus relative weighted score, and that
9 equals your location score. Okay, so let's go to the
10 next slide.

11 So, once you get all that, you look at everything
12 that has been added up, and what is done then is ranked
13 based on location score. So, then each location score
14 of each school, so it's Navajo and Rough Rock, or Tuba
15 City Boarding School, whatever those schools are, they
16 are all ranked with the number of location score.

17 The worse condition school has the highest number,
18 and, therefore, ranks high on the list. But if that
19 number is more than 66 percent of the total building,
20 so, again, let's use our \$100 building, if it's \$66,
21 then they are not going to put any more repairs into
22 it. It goes into, you qualify for a replacement
23 school.

24 So, if you use simple numbers, that you can use
25 with your fingers, you know, it makes it a lot easier

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1 whole school replacement. Each of these is a stepping
2 stone. So, they are not isolated and different. If
3 you understand one, you kind of understand how you are
4 moving forward in the other, based on FMIS, based on
5 the need to use FMIS.

6 That cannot be stressed enough, that FMIS is the
7 foundation of this entire formula. There were some
8 questions earlier about, you know, the importance of
9 it, how difficult it is. We understand all that. But
10 rather than go back and create a new system, there is
11 no money for that. We are looking at if FMIS has the
12 foundation, stability to provide that information, we
13 just need to make it better, and this is one way.

14 And the location score, this is done, primarily,
15 already for you in FMIS. So, you don't necessarily
16 have to worry about coming up with these numbers and
17 adding everything up.

18 But what it really has is the cost of the backlog
19 divided by the total cost of all backlogs at the
20 school. So, for instance, if you have -- I think most
21 people here are knowledgeable of facilities. But say
22 you are going to build -- to make it real simple, you
23 have a \$100 structure, and the repair is going to cost
24 \$10, okay, so if you use real simple numbers, you can
25 understand this. If you start trying to use the

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1 to understand this formula.

2 Again, the major issue here that changed was the
3 including of educational need of the buildings. And
4 then the other part of this, which was the actual, what
5 is the relative weight of scoring, and how do you --
6 the importance of each building, if you look at the
7 API, which is the Asset Priority Index, that is talking
8 about, is the pump-house as important as a classroom?
9 And one of the things that -- because of the area, as
10 Mr. Rever was a big proponent of this, was making all
11 of those buildings equal. Because, you know, out in
12 Indian Country, a pump-house is as important as a
13 classroom. If you have no water, then the kids are in
14 a classroom, how are they going to learn if you have no
15 water, if you have no heat, whatever. So, we normalize
16 all of those buildings to come up to 100 points.

17 So, that means that every building within your
18 school system is equally important. And then you add
19 that, plus your relative weighted score, times
20 75 percent, and then your 100 points times 25 percent,
21 then you add those together, and you come up with your
22 overall project score.

23 Any questions? This is kind of already done, and
24 there is not a big emphasis on what schools can do, or
25 how this impacts them, other than to say FMIS is so, so

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1 important. We've been stressing this at every
2 consultation. There has to be a baseline level of
3 acceptable reliability of a number so that each school
4 is certain that what's in that backlog, they know
5 that's a fair number, so you are doing apples to apples
6 instead of apples to oranges. And we understand, and
7 we talked to OFMC about making sure that when this
8 formula comes out, that time is given so that schools
9 are given the resources, or the personnel, or the
10 access to the internet, whatever that might be, so that
11 everybody will have a level playing field. Without
12 that level playing field, without that baseline of
13 reliability, that formula is useless. And we recognize
14 that.

15 So, there has to be a baseline level of
16 reliability that we want to make sure is there. OFMC,
17 through the course of these consultation meetings, has
18 assured us that that is also their goal, and that they
19 understand that. And so there was some assumptions
20 that were made early on that, in order to make this a
21 viable formula, certain things have to happen, and this
22 is one of the primary, if not the most important thing.
23 And that is, if a school doesn't have connectivity,
24 they are given that. If they don't have the training,
25 it is there for them. If they need somebody to input

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1 it for them, somebody will input it for them. All of
2 those scenarios we talked about, all of those scenarios
3 were assured to us that they would be covered.

4 MS. GILBERT: Any questions?

5 MR. ROESSEL: Next one? Do you want to take a
6 break?

7 MS. GILBERT: Yes.

8 MR. ROESSEL: Regina said we're going to take a
9 break, 15-minute break. We'll be back at 10:30.

10 (Recess was had.)

11 DR. YORK: Let's get started again if we could.

12 MR. ROESSEL: Now we'll go into the school repair
13 and replacement formula. Before I go into that, I
14 think it's -- I just want to share, as I'm sure all of
15 you are very aware, you know, this is even doubly more
16 important, if you have been keeping track of the
17 budgets going on in Congress and the House Interior
18 Committee proposing additional \$50 million to try to
19 get through the 2004 list, and hoping and urging this
20 Committee, and Interior to come up with a formula.
21 And, hopefully, by 2013 to have a list for the new
22 construction. So, this is very poignant right now.
23 So, we will jump into that now.

24 Just as a recap, the current list of schools was
25 first formulated in 2004. There are four remaining

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1 schools on that list. I think two from Navajo; Cove,
2 Little Singer, Blackfeet Dormitory, Beatrice Rafferty.
3 So, those are the four that are on the list.

4 Prior to that 2004 list being done, there was --
5 there wasn't really -- there is no formula, but there's
6 a process. And, so, as you can tell, I'm not going to
7 read everything on the slide, that just gives you some
8 background. So, what we are doing is creating a
9 formula that can be used when this 2004 list is
10 completed.

11 The previous list, the Committee was -- the
12 Committee believed that there was no sense in
13 reinventing the wheel. They looked at the formula and
14 the process that was in place to create the 2004 list.

15 In reviewing that, we saw that the list was -- or
16 the criteria was pretty good. It needed some tweaking,
17 and maybe the way that it was handled created some of
18 the problems. But if you look at this list, you'll see
19 the foundation of what we then had created, and what we
20 are presenting to everybody as our draft.

21 In beginning to start the process of the
22 formulation of the formula, there are certain things
23 that we wanted to have that, when we got through with
24 the formula, they had to meet certain criteria. One of
25 them was, it had to be a "worse first" case, so the

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1 school that was in the worse condition got funding. I
2 think that's something, you know, is sad but true, you
3 know, we all want to be worse.

4 Secondly, that formula must support health and
5 safety standards. In other words, those schools that
6 have critical needs in the health and safety area, that
7 would show up in the formula, and had been given weight
8 so that they then would be the "worse first" or higher
9 up on the list for that. And it also must account for
10 educational needs, or the lack thereof.

11 So, if you, again, example I keep using is, say
12 you have a high school and you have no library, or you
13 have no science lab, and you have a high school, and
14 it's required to have lab science at the high school
15 level. So, you have to account for the educational
16 need in that space.

17 Again, as I had mentioned earlier, it's only as
18 good as the FMIS data. It must be uniformly applied so
19 that what is good for the Plains is good for Navajo,
20 and vice versa.

21 That it can't be manipulated. Although we've had
22 people come in and say, "Now we are going to start
23 putting all of this information in the backlog of
24 FMIS," that's going to manipulate the data. Well,
25 there is still a system in place that is verified at

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1 the different levels; agency, regional, to Albuquerque.
2 So, there are checks and balances that are already in
3 that system. So, if all of a sudden things started
4 just showing up, and there was no accounting for that,
5 that wouldn't show up.

6 And, in addition to that, remember, as was
7 mentioned earlier, with MI&R and FI&R, there are
8 contractors that come out and verify this also. So,
9 there are a lot of checks and balances up here, but we
10 want to make sure that the formula could not be
11 manipulated.

12 We must be practical. We wouldn't want to get
13 into something -- again, it may look complicated on
14 paper, you know, one plus one equals two, it looks
15 complicated sometimes, if the numbers get bigger, but
16 it is usually pretty simple.

17 Defensible legally and technically, so that you
18 could understand it, and it makes sense, and it was
19 based on if there were regulations, if there were laws,
20 if there were different things that were important that
21 is based on that.

22 There are some areas that are more subjective.
23 And we point those out within the formula, but we also
24 try to give it as much as a quantifiable number and
25 process as possible. So, even though there may be a

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1 part, we'll get to that, that actually outlines more or
2 less like a red flag, this is subjective. So, people
3 know that.

4 But to get around that, the big change in this
5 whole formula is that once we get through, and we'll go
6 through the process of -- right after this slide, but
7 once the top ten schools are assigned, that they are
8 presented and they present their case in an open
9 meeting, which the transparency then takes some of that
10 subjectivity that may tweak a formula out of it,
11 because they happen to deliberate in public. So, that
12 was something that we were very concerned about.

13 The process is every five years or sooner,
14 depending on funding. A list of the created process
15 will be created.

16 Criteria will be given out to the schools. You
17 could have a replacement of a building or an entire
18 school and be based on what your need is. So, it is
19 not one -- it is not just, you know, you have to take
20 if you only need a cafeteria, you don't need to take a
21 whole school with it. It sounds obvious, but sometimes
22 it is not as obvious.

23 And one of the other things, too, is that we --
24 the Committee felt very strongly that the 2004 list
25 should remain, and those schools get funded, and then

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1 this new list be created.

2 The schools that are eligible for application
3 would only be those schools that are in poor condition.
4 Currently there are 60-something schools on that list,
5 and it's in your report, in the beginning, it's a
6 ranking. But it is -- as soon as Committee is done
7 with their work, that list is obsolete. But we use it,
8 and we have information in the report to give you a
9 reference point of what we are talking about. For
10 example, and then you could look at that list. But, of
11 course, when this new list is created, or this new
12 ranking is done, it will be based on updated
13 information.

14 You know, I would go so far as to say that list
15 every day changes that way. Maybe not the ranking, but
16 those numbers may change based on what is put into that
17 backlog. But only those schools in poor condition will
18 be eligible.

19 All of the schools will be ranked, so you have top
20 ten, and then the rest of the schools will be ranked
21 below that. But only the top ten will be considered.
22 The rest of the ranking, the idea was just to give you
23 an idea of where you stand, just kind of like the --
24 what you see in the first couple of pages of the
25 report.

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1 The application process will be heavily publicized
2 as well. During that process, when you are on the
3 list, you still will be eligible for MI&R and FI&R
4 monies. Primarily, FI&R work that came out of the
5 Rapid City meeting, will become added emergency
6 funding.

7 This is how the applicants will be reviewed. The
8 first 65 points would be through FMIS. It will be
9 handled by OFMC, the Review Committee, and will then
10 meet, and they will, more or less, administer the
11 remaining 35 points.

12 The publication of top ten will be in alphabetical
13 order. There is no ranking. Once you make that ten,
14 then you present to the Committee.

15 That Committee is something that we really need
16 some feedback on in terms of who should be on that
17 Committee.

18 The top five of that Committee, after the top five
19 will be chosen by that Committee in an open meeting,
20 and that five will be submitted to the Secretary for
21 final approval.

22 And, again, I would stop right here for a bit and
23 ask if there are any recommendations as to who should
24 be on that Committee, what kind of criteria, because
25 this is a very, very important part of the formula.

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1 As you can see, the initial idea as included is
2 that there will be outside experts in education, school
3 facilities, and Native American culture. What will be
4 the process? How will they be nominated? Will it be
5 like this Committee here? Based on some portion of
6 schools that they have, that the tribes have? It's
7 wide open at this point in terms of what this Committee
8 would look like.

9 Any ideas? Any suggestions from anybody?

10 If not, we'll go ahead and move on.

11 Yes?

12 MR. YAZZIE: Once again, good morning, or good
13 afternoon. My question will be -- actually, it's not
14 really relative to this Committee recommendation, but
15 the priority listings.

16 One of the things that -- what we found for us to
17 be here at today's meeting, for Borrego Pass School, I
18 believe we got renovated and with a new school building
19 around 1983, like an addition. And now our old school,
20 the original building that was built in the mid 40s or
21 50s, and it was renovated in the early 80s, now, today,
22 that building started cracking up. So, I know I was
23 just talking to my Facility Manager here, I know at the
24 time when you have the contractors come out to our
25 school, to actually do the inspection, we either choose

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1 between poor or good to do those reports.

2 A lot of times my Manager here, he was telling me
3 that he's been doing a report that has poor. But then
4 again, in return, I guess he was saying that if it's
5 poor, that the facility is not doing their job by
6 actually maintaining it, day-to-day, so, that's the
7 question that I have. Where will we actually fit into
8 this prioritized listing if our school has been listed
9 as an add-on and renovated to the original building,
10 which was in the early 80s? And I know a lot of these
11 schools now, like for example, I know that Atsa Biyaazh
12 (phonetic) Community School has been lobbying and
13 trying to get some funding for the new school building,
14 and I believe they have been getting some in other
15 schools. And I know that Crown (phonetic) Community
16 School, they received a whole new school building just
17 recently. And I believe it's their first year that
18 they actually occupied. And then Bread Springs Day
19 School, they are trying to occupy their school, but I
20 guess there are some areas that they have to pass
21 first, like a Certificate of Occupancy.

22 But back to our school, our question was, we were
23 wondering if we are able to fit on this list, hoping to
24 get a new school facility. And I don't know if this is
25 the Committee that we are supposed to present our

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1 resolution to, or it's another Committee that we need
2 to present our resolutions. I know that there are
3 other things I know I have been asking our facility and
4 our principal to work on, as additional information, to
5 get on the list here.

6 I know a lot of these skills I have been telling
7 them that their current schools that are getting new
8 school construction, were based out of that 2004
9 decision, that Negotiation and Rulemaking identified.

10 So, now with this new Committee here, I believe
11 you are looking at probably around 2013, somewhere
12 around there, and you guys are going to identify who is
13 going to get funding for upcoming years. I don't know
14 how long it is going to take to begin.

15 So, that is the question that we have is, are we
16 able to get onto this list, or is it possible? That's
17 the question that we have. So, that is why we decided
18 to come out here to this meeting today, and it's a
19 question that we have.

20 MR. ROESSEL: Okay. I will answer just what
21 actually has been said in other consultations, and I'll
22 let Jack respond directly.

23 When we were at the Phoenix consultation, there
24 was a school that presented, they were in good
25 condition. And when you looked at that ranking, they

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1 sat down with Margie Moore, and we looked at that and
2 said, okay, what would happen -- I mean, they were
3 working, bringing up problems with the building, and it
4 was -- I think it was a building that is old but has
5 been really maintained well. And they said that, you
6 know, we are in good condition, we are never going to
7 get on that list.

8 But as they brought up some of the issues, again,
9 this is what's going on, this is what's going on, this
10 is what's going on.

11 She looked and said, "All of those will be viable.
12 All of those will be accepted in the FMIS." And I
13 think the amount that she was from good to poor was
14 like \$187,000. And those things that were brought up
15 was more than \$187,000.

16 That is why we come back to, and we get into the
17 actual formula, which is very specific in terms of some
18 of the things that you are talking about; adequate
19 space, inadequate space, existing space. Those areas
20 that I think would have an impact, on a bigger picture,
21 you know. That's my answer.

22 For a more specific answer, I think Jack Rever
23 will probably be better to answer that.

24 MR. REVER: You're from Borrego Pass?

25 MR. YAZZIE: Yes.

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1 MR. REVER: I think you are already in. I'm going
2 to check, and I'll tell you as soon as I get a hold of
3 somebody to confirm that.

4 That makes you eligible for the replacement
5 school, to repair the project, like what the Committee
6 is recommending. I'll let you know shortly.

7 MR. YAZZIE: Okay. Thank you.

8 MR. ROESSEL: To answer your other question about
9 is this the Committee for the resolution? We'll accept
10 any resolution.

11 MR. YAZZIE: Okay.

12 MR. ROESSEL: Whether it's the right place or not.
13 But also, you know, again, as any other place,
14 Mr. Rever is here and you can take advantage of
15 everything.

16 MR. YAZZIE: All right.

17 MR. ROESSEL: Again, just kind of finishing up on
18 the process, the published -- the ranking of all in the
19 Federal Register, that will be the five, the final
20 five, but they will not be in order of, okay, number
21 one means that we are going to fund this school first.
22 At that point, this is -- again, this slide is just
23 dealing with the fact that even if you are one of the
24 11 and below, that doesn't mean that you are going to
25 get ranked. It will start over at five. If they are

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1 able to get through the first five within the funding
2 cycle, then they will start it up quickly.

3 You'll notice that when we go through this wheel,
4 trying to make the formula as easy as possible, one of
5 the recommendations that came to us is that we have it
6 on the web so that people can just punch in the
7 numbers, and that is not there. One of the issues that
8 had been with the past, is that people with the best
9 grant writers got the schools, and the people that
10 didn't, didn't get a school, even though their needs
11 may be greater. And we kind of explain how we address
12 that.

13 Primarily this is a formula that could be started
14 up quickly. And then in terms of after the application
15 process, I think the most important thing to look at
16 here is, there is an expectation that schools should
17 have going in that they have to be ready. You know,
18 one of the problems that has plagued, I think, the
19 construction of new schools, in any country, has had
20 nothing to do with the BIE, but it had to do with our
21 schools. And that is, we are given money, but we're
22 not ready, and other schools suffer when that happens.

23 And I think in this school with the five, that the
24 schools do need to be funded for construction based on
25 three things; the ranking, the readiness and the

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1 budget. So, if you have a school that needs
2 \$20 million, another school \$10 million, then you have
3 a school and you only have \$10 million, you know,
4 you are probably going to go to the \$10 million first.
5 But those three areas would be addressed in the ranking
6 of the school.

7 And this is all just a breakdown of that process.
8 I think the most important thing is that in, number
9 two, which would be the 45 days to respond, if you
10 notice number one and two, we're saying that, okay, on
11 this date the applications will be taken, beginning on
12 this date for 45 days. So, it is not one day. They
13 are all due on this date. But there's a window where
14 applications are accepted, and that also there will be
15 notification three months prior to that window opening,
16 applications will be accepted and continually notifying
17 schools, during that three-month period, that there is
18 a window of 45 days if you want the school to go
19 through this process. Okay. That's just the process,
20 and I'll give it to Greg to go over the formula.

21 MR. ANDERSON: Formula for allocating new
22 construction funds. The method for calculating: The
23 first slide you'll see the points and the criteria.
24 Condition of the facilities and educational
25 deficiencies.

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1 Method: Overall school location score from FMIS
2 (out of 1,000) times the 0.065 data fixed on date
3 application is due. That's 65 points.

4 The second one will be the crowding, five points
5 for that category. Actual students per square foot
6 divided by standard for that school in Space Guidelines
7 (times 100). Award points based on Chart 2.

8 It's determined by:

9 1. Calculating students per square foot per grade
10 (based on three year average enrollment (per NASIS),
11 divided by total square feet core educational space.

12 2. Compare this ratio against standard for that
13 school in the Space Guidelines (times 100).

14 3. Awards based on chart below.

15 Application will lay this out in a simple way for
16 applicants to fill in. OFMC will confirm.

17 Criteria for declining/constrained enrollment
18 associated with poor facilities. Five points. Awards
19 based on narratives provided and its criteria.

20 The declining/constrained enrollment: Poor
21 facilities may cause declining or constrained
22 enrollment. Schools should explain how the condition
23 of facilities is decreasing enrollments, inability to
24 utilize existing space.

25 Five points if the school has closed a building

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1 due to poor conditions.

2 Three points if a school can demonstrate students

3 transferring away from school because of poor

4 facilities and/or if school has a waiting list on day

5 11 of school according to NASIS.

6 All lists and data would be verified by Selection

7 Committee prior to finalizing ranking.

8 Again, we'll highlight the point that we would

9 like feedback from tribes and schools regarding the

10 Selection Committee.

11 Chart 4 -- I'm sorry, Chart 3. Inappropriate

12 educational space (5 points). Based on percentage of

13 students taught (based on the last three year average)

14 in portables, dormitories, or leased facilities.

15 Chart 4. Accreditation risk (5 points).

16 Citations in accreditation named by the accreditation

17 body (the documentation should be provided). And the

18 points awarded will be five, four, three, two, one,

19 zero.

20 The accreditation at highest risk, would be the

21 numerous or severe citations, five points.

22 Accreditation at high risk, (numerous citations, some

23 severe), will be four. Accreditation at risk (some

24 citations, some severe), two or three points.

25 Accreditation citations, not extensive nor severe, will

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1 Isolation factored into transportation and other

2 formulas. Unimproved roads, often unimproved sidewalks

3 as well. Availability of alternatives?

4 Questions on replacement school formula.

5 MR. ROESSEL: Getting back to the question that

6 you had asked, if you had an older building you're

7 getting points for that older building.

8 If you have students in, say, a renovated part of

9 a building, it wasn't originally -- let's say you have

10 classrooms being made out of the dorm, you get points

11 for that. So, in other words, there are areas that

12 have that extra -- the lack of educational space is not

13 only in the FMIS, and the Committee felt it was really

14 important, but it's also a separate point value in the

15 formula. So, you get it twice, almost like you're

16 double-dipping, because that is really important. You

17 need to have those educational facilities in order to

18 educate.

19 If you take all of that, one of the things that

20 was done by OFMC, six months ago, I guess, is that they

21 ran a pilot project of this formula. They picked five

22 schools and they ran it through this formula. And

23 those weighted factored of those points did jump, or

24 did have an impact.

25 So, you know, those schools that might be good,

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1 be one. No citations will be no point.

2 Chart 5. School age. Average age of school

3 building or dormitories to be replaced or renovated

4 under the application. Over 60 years of age will be

5 ten points; 50 to 59, 8; 40 to 49, 6; 30 to 39, 4; 20

6 to 29, 2; below 20 years of age will be zero.

7 Cultural space needs (5 points). Up to 5 points

8 could be awarded for cultural space needs. In the

9 application the school should answer the following

10 questions:

11 1. Is there a requirement for native

12 language/cultural education? Please provide the Tribal

13 Council requirement/resolution.

14 2. Is there a lack of adequate or sufficient

15 space to support this program and/or requirement?

16 If yes to both, you get four points. One

17 additional point if school also has a program in place.

18 Again, that may be provided by the Tribal Council

19 as requirement resolution.

20 Factors not considered. Cost share not used

21 (equity and fairness?) in ranking. Question to the

22 tribes and schools in ranking. Make sure clear in

23 write-up only after ranking choices in final planning

24 and construction.

25 "School isolation" in original statute.

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1 once you get there, maintain it and try to get every

2 point you can. And, so, I think one is keeping your

3 FMIS project, and your FMIS updated is one thing, but

4 also really understanding your facility, the crowding

5 factors. We tried to make this formula simple based on

6 FMIS, and abide by all of those kinds of things that

7 are, if you spend a little time, are not overwhelming,

8 and in its totality it kind of feels that way, but

9 actually if you look at it step-by-step, it is fairly

10 simple.

11 Portables. All portables are considered

12 inadequate space, or deficient space.

13 So, if you get that, you know, square footage

14 percentage, so it's very important to make sure you

15 know exactly how old this part of the building is.

16 MR. YAZZIE: Thank you for clearing that up,

17 Monty. The other question that I probably have is, the

18 formula that we are talking about is mainly the

19 facility by itself, right?

20 Now, what about lagoon and infrastructure? The

21 reason why I'm asking is, we started looking into this,

22 our school facility, around two or three years back.

23 We come to find that our water had a high number of

24 uranium. So, what we ended up doing is shut down our

25 water well and we ended up tapping into our neighboring

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1 water supplier, and they started supplying. But the
2 problem was that there's a lot of erosion that took
3 place at our school's waterline, so it ended up
4 removing everything to the point they stopped using our
5 lagoon.

6 What I'm asking, does that come into play also as
7 part of it, to get a new facility? Do we get a new
8 lagoon and all that along with it? That's the question
9 that I have, because the location of our school right
10 now, we came to find out that we used to have, years
11 ago, uranium mine around there, and the restoration was
12 like that too, and now some of those are starting to
13 impact where the location of our school is, to the
14 point that as administrator, we are thinking about we
15 might have to move our school to a new location, a new
16 site, because the uranium that we might have, and we
17 don't want -- I don't know if we already have exposed
18 our kids to uranium, I'm not sure, to the point that
19 the water is actually creating a problem to our staff
20 that lives in the housing, to start having like rashes
21 on their body. So, they ended up shutting down that
22 water supply. So, that will be one of the factors in
23 the formula that we are talking about here. Are we
24 only talking to the building, or the other areas
25 around?

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1 MR. ROESSEL: Jack, could you answer?

2 MR. REVER: Sure. We need to get together after
3 the meeting and talk about how to approach that
4 problem. The uranium content in groundwater and
5 drinking water is a major problem, which is being
6 addressed separately at another facility.

7 So, the answer to your basic question is, yes, of
8 course, and to the extent that it affects schools,
9 hospitals, and other things provided by the Federal
10 Government to the Navajo, and then here comes the
11 problem that we address.

12 So, why don't we get together after the meeting,
13 we'll talk about it, we'll make a couple phone calls to
14 see what is being done about it to approach your
15 concerns the best, and to insure ourselves, and it is
16 certainly one of the qualifying issues for school
17 conditions, as we go through this process.

18 MR. YAZZIE: Okay. Thank you.

19 DR. YORK: Possible results of Committee's work:
20 Could be adopted into statute; adopted into formal DOI
21 regulations; adopted into formal DOI policy and
22 practice; or there could be no federal action taken.

23 And we added, could be used by tribes to support
24 lobbying and educational efforts at the local level.

25 In addition to the meeting here, you could submit

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1 written comments that will be accepted through July 29,
2 2011, and it could be sent via mail or fax, sent into
3 Michelle F. Singer, Director, Assistant Secretary,
4 Indian Affairs, Office of Regulatory Affairs and
5 Collaborative Action, 1001 Indian School Road, Suite
6 312, Albuquerque, New Mexico, zip code is 87104. Send
7 fax, 505-563-3811.

8 Are there any comments or questions before we
9 close?

10 If not, we would like to express our appreciation
11 for your attendance, and your comments, and your
12 concerns, your questions. Again, we advise you to
13 submit a written comment and it's open until July 29,
14 2011. Thank you very much.

15 (Tribal consultation adjourned at 10:51 a.m.)
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1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA)
3 COUNTY OF DADE)

4
5 I, JANICE AGUIRRE, Registered Professional
6 Reporter, do hereby certify that I was authorized to and did
7 stenographically report the NO CHILD LEFT BEHIND TRIBAL
8 CONSULTATION of July 19, 2011; that a review of the
9 transcript WAS requested; and that the foregoing transcript,
10 pages 1 through 55, is a true record of my stenographic
11 notes.

12 I FURTHER CERTIFY that I am not a relative,
13 employee, or attorney, or counsel of any of the parties; nor
14 am I a relative or employee of any of the parties' attorney
15 or counsel connected with the action, nor am I financially
16 interested in the action.

17 DATED this 21st day of July, 2011 at Miami, Dade
18 County, Florida.
19
20

21 _____
22 JANICE AGUIRRE,
23 Registered Professional Reporter
24
25

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