



Testimony of
United South and Eastern Tribes Sovereignty Protection Fund
House Appropriations Subcommittee on Interior, Environment, and Related Agencies
FY 2020 Native American Public Witness Hearings
March 15, 2019

Chairman McCollum, Ranking Member Joyce, and members of the Subcommittee, the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) thanks you for this opportunity to submit testimony on the FY 2020 Interior Appropriations budget.

USET SPF represents 27 federally recognized Tribal Nations from Texas to Florida to Maine. USET SPF member Tribal Nations are within the Eastern Region and Southern Plains Region of the Bureau of Indian Affairs and the Nashville Area of the Indian Health Service (IHS), covering a large expanse of land compared to other regions. Due to this large geographic area, USET SPF Tribal Nations have great diversity in cultural traditions, land holdings, and resources. From an economic standpoint, some of our member Tribal Nations have highly developed economies, while others remain dependent upon the federal government to provide essential services to their citizens.

Federal Appropriations for Indian Programs are a Key Part of the Federal Government's Trust Responsibility. As was acknowledged by the 100th Congress, the United States owes a "historical debt" to Tribal Nations. This debt includes the many injustices that Native peoples have suffered as a result of federal policy, including federal actions that sought to terminate Tribal Nations and assimilate Native people. It also involves the ceding of our land holdings and natural resources, oftentimes by force, to the United States resulting in a perpetual trust obligation to Tribal Nations. These resources are the very foundation of this nation, and have allowed the United States to become the wealthiest and strongest world power in history. Federal appropriations to Indian Country are simply a repayment on this debt. This is not merely a question about addressing poverty or needs. Our relationship is more than this. This is ultimately a question about honor, about fulfilling commitments and promises.

U.S. Commission on Civil Rights Again Finds Substantial Funding Shortfalls. In December 2018, the U.S. Commission on Civil Rights issued *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*. In this report, the Commission updated its 2003 report, *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country*, which found that Federal programs designed to support the social and economic wellbeing of Native Americans remain chronically underfunded and sometimes inefficiently structured, which leaves many basic needs in the Native American community unmet and contributes to the inequities observed in Native American communities. Unfortunately, 15 years later, the U.S. Commission on Civil Rights found virtually no improvement:

"Federal funding for Native American programs across the government remains grossly inadequate to meet the most basic needs the federal government is obligated to provide. Native American program budgets generally remain a barely perceptible and decreasing percentage of agency budgets. Since 2003, funding for Native American programs has mostly remained flat, and in the few cases where there have been increases, they have barely kept up with inflation or have actually resulted in decreased spending power."

It is not acceptable that Federal funding continues to be so inadequate in relation to the trust and treaty obligation owed to Native communities by the United States.

In his FY 2020 Request, the President Continues to Dishonor the Trust and Treaty Obligations and Responsibilities of the United States. As of the writing of this testimony, we do not have the President's full FY 2020 budget, but overall what we do have paints a disturbing picture of an Administration that has largely deemed Indian Affairs and the federal government's trust obligation to be of minimal significance, especially in contrast to its other priorities.

Specifically, the Administration has proposed cutting Indian programs by nearly 10%. This includes cutting funding for the Bureau of Indian Affairs (BIA) by 3%, from the FY 2019 level of \$1,510,020,000 to a proposed FY 2020 level of \$1,462,310,000, cutting funding for the Bureau of Indian Education (BIE) by 4.1% from the FY 2019 level of \$904,557,000 to a proposed FY 2020 of \$867,416,000 and, most staggering, cutting funding for BIE Education Construction by a staggering 71%, from FY 2019 level of \$238,245,000 to a proposed FY 2020 level of \$68,858,000. These cuts are being made even though existing funding levels are seriously deficient, as the U.S. Civil Rights Commission noted.

In his 2017 Native American Heritage Month proclamation, the President stated,

"My Administration is committed to tribal sovereignty and self-determination. A great Nation keeps its word, and this Administration will continue to uphold and defend its responsibilities to American Indians and Alaska Natives. Together, we will strengthen the relationship between the United States Government and Native Americans."

A great nation does keep its word. The first step toward fulfillment of America's promises are not just words, but action. While this Administration professes to prioritize Indian Country, this Budget Request reveals otherwise. At all levels of the Administration, from the Office of Management and Budget (OMB) to BIA to IHS, Tribal Nations and others objecting to this draconian budget request are being told that the request is just a "messaging document." If this is a messaging document, then the message is wrong.

The Administration continues to send a powerfully negative message to Indian Country. For example, in reducing, eliminating, and calling into question the constitutionality of federal Indian programs, this Administration is ignoring and undermining its trust responsibility to Tribal Nations. Moreover, the message that this sends to all American citizens is one of disregard and dishonor, further exacerbating the challenges we face in educating the nation on our history, sovereignty, and the continued obligation to Tribal Nations. Finally, the agencies most directly charged with delivering on the fiduciary trust responsibility—BIA and IHS—are demonstrating no accountability for budget request numbers and instead, are directing Tribal Nations to advocate for funding with Congress. This is a failure on the part of the Administration to take seriously its role as trustee.

Funding Requests and Mechanism do not Reflect Trust Obligations. Because of our history and unique relationship with the United States, the trust obligation of the federal government to Native peoples, as reflected in the federal budget, is fundamentally different from ordinary discretionary spending and should be considered mandatory in nature. Inadequate funding to Indian Country needs to be viewed as unfulfilled treaty and trust obligations and should not be vulnerable to year to year "discretionary" decisions by appropriators. Recently, some in Congress have called for mandatory funding for IHS. USET SPF strongly supports this proposal, which is more consistent with the federal trust obligation, and urges that this be expanded to include all federal Indian programs.

We further note the long-lasting effects of continued underfunding for federal Indian programs. The President's FY 2020 Budget Request fails to reflect a prioritization of trust obligations and the related promises that are at the core of our special and unique relationship.

Constitutionality of Federal Indian Programs. Several times now, this Administration has called into question the constitutionality of programs or targeted accommodations for American Indians and Alaska Natives (AI/AN). As this Subcommittee well knows, all federal Indian programs are based on a political, government-to-government relationship between the U.S. and Tribal Nations. Appropriations that support programs and services such as this are provided in perpetuity in exchange for the millions of acres of land and natural resources ceded, often times by force, to the U.S. In addition, the Executive Branch, regardless of party, has a decades-long history of policy-making that includes exemptions or accommodations from federal actions for Tribal Nations and Native people.

This Subcommittee has Long Served as One of Indian Country's Great Defenders. USET SPF asks that the Subcommittee go beyond just defending Indian programs, which you have done so well, and instead adopt funding that would radically support the ability of Indian Country to build self-sustaining economies and health populations, which would not only be a fulfillment of the Trust Responsibility, but would bring vitality to surrounding non-Indian communities, as well. Bottom line, strong and vibrant Tribal Nations, sovereigns that exist within the domestic borders of the United States, ultimately have a positive impact on America.