



## NATIONAL CONGRESS OF AMERICAN INDIANS

### U.S. Senate Committee on Indian Affairs Oversight Hearing on the President's FY2020 Budget Request for Indian Programs President Jefferson Keel, National Congress of American Indians May 8, 2019

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### Introduction

On behalf of the National Congress of American Indians (NCAI), thank you for holding this hearing on the President's Fiscal Year (FY) 2020 Budget Request for Indian Programs. Founded in 1944, NCAI is the oldest and largest representative organization serving the broad interests of tribal nations and communities. Tribal leaders created NCAI in 1944 in response to termination and assimilation policies that threatened the existence of American Indian and Alaska Native (AI/AN) tribal nations. Since then, NCAI has fought to preserve the treaty and sovereign rights of tribal nations, advance the government-to-government relationship, and remove historic structural impediments to tribal self-determination.

Like all other governments, tribal nations strive to build strong economies and ensure the health and wellbeing of their citizens and all those who reside in their communities. As part of tribal nations' responsibilities to their people, tribal nations provide a range of governmental services. These include education, law enforcement, judicial systems, health care, environmental protection, natural resource management, and basic infrastructure such as housing, roads, bridges, sewers, public buildings, telecommunications, broadband and electrical services, and solid waste treatment and disposal. Tribal nations are assuming greater levels of governmental responsibility to meet their citizens' needs in culturally appropriate ways, but receive inadequate federal funding for roads, schools, police, and other public services.

Tribal nations seek only those things promised to them and their citizens by the solemn treaties and agreements reached between tribal nations and the United States. When tribal nations agreed to accept smaller land bases, the federal government promised to safeguard their right to govern themselves, and to provide them adequate resources to deliver essential services effectively. These obligations are the foundation of the government-to-government relationship that exists between tribal nations and the United States.

Funding decisions made by the Administration and Congress are an expression of this country's policy priorities, and the federal budget for tribal governmental services reflects the extent to which the United States honors its obligations to AI/AN people. The treaty and trust responsibilities commit the federal government to the protection of Indian lands; protection of tribal self-governance; and the provision of social, medical, and education services to Native people. NCAI calls on Congress and the Administration to uphold these solemn responsibilities to Indian Country by rejecting the cuts proposed in the President's FY 2020 budget request and instead providing significant increases for programs serving tribal nations.

This testimony addresses several overarching funding issues and provides focused analysis on certain specific areas of the President's FY 2020 budget request. To ensure Congress considers what it means to fund the federal treaty and trust obligations across the federal government, NCAI collaborates each year with national, regional, and issue specific tribal organizations to develop the comprehensive recommendations included in an Indian Country Budget Request. Therefore, we request that the FY 2020 Indian Country Budget Request titled, [\*Winds of Change: Protecting our Nations and People into the Future\*](#), be entered into the record of this hearing.

### **Broken Promises Report**

In 2003, the U.S. Commission on Civil Rights issued its report, *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country*. The *Quiet Crisis* report found that funding for programs serving Indian Country were “disproportionately lower than funding for services to other populations.”<sup>i</sup> In May 2015, a bipartisan group of twenty House members sent a letter to the U.S. Commission on Civil Rights requesting an update to the 2003 *A Quiet Crisis* report.<sup>ii</sup> In its letter, House members highlighted several ongoing funding concerns that contribute to the crisis throughout Indian Country and requested the updated report “to help ensure that the federal government is making progress in fulfilling its trust and treaty responsibilities.”<sup>iii</sup>

In December 2018, the U.S. Commission on Civil Rights released its report titled, *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*. The *Broken Promises* report found that in the past 15 years, efforts undertaken by the federal government have resulted in only minor improvements across Indian Country. Additionally, the report noted that federal programs serving Indian Country continue to be underfunded and in some ways, federal initiatives for Native Americans have regressed. Specifically, the Commission 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. The federal government has also failed to keep accurate, consistent, and comprehensive records of federal spending on Native American programs, making monitoring of federal spending to meet its trust responsibility difficult. Tribal nations are distinctive sovereigns that have a special government-to-government relationship with the United States. Unequal treatment of tribal governments and lack of full recognition of the sovereign status of tribal governments by state and federal governments, laws, and policies diminish tribal self-determination and negatively impact criminal justice, health, education, housing and economic outcomes for Native Americans.<sup>iv</sup>

Congress and the Administration must uphold its treaty and trust obligations to tribal nations through the federal budget process. The *Broken Promises* report provides a series of recommendations to make good on these promises to Indian Country. A key recommendation in the report is that Congress should pass a spending package to address all unmet needs, focusing immediately on the most critical items like core infrastructure. NCAI urges Congress and the Administration to give the report's recommendations serious consideration as they consider funding levels in FY 2020 and beyond.

Additionally, the President and members of Congress have recently reengaged discussing funding for a comprehensive infrastructure package. Consistent with the *Broken Promises* report, the federal government must honor its treaty and trust obligations to tribal nations by ensuring any infrastructure package provides significant direct investment in Indian Country and provides tribal nations the same financing and partnership incentives as state and local governments.

### **Authorize Advance Appropriations for Tribal Programs**

Due to fluctuations in federal funding and the uncertain federal budget process, many tribal nations have faced continued emergencies in meeting the public service needs of their citizens.<sup>v</sup> The 2019 government shutdown—the longest in United States history—is only the most recent example of the federal budget process jeopardizing the health, safety, and wellbeing of tribal citizens. Tribal nations regularly must overcome uncertainty when planning and providing services to their citizens because of political impasses related to federal spending. For instance, since FY 1998, there has only been one year (FY 2006) in which the Interior, Environment, and Related Agencies Appropriations bill has been enacted before the beginning of the new fiscal year.

These often partisan debates affecting the appropriations process have an outsized impact on the daily lives of AI/AN people who already face underfunding of health care, education, and backlogs in physical infrastructure—all of which fall under the federal trust responsibility. The Indian Health Service (IHS) and the Bureau of Indian Affairs (BIA) provide core governmental services for tribal nations, including but not limited to hospitals, law enforcement, child welfare programs, and social services. Congress must protect tribal citizens from the negative effects of uncertainty in the federal budget process. NCAI calls on Congress to pass legislation authorizing advance appropriations for the IHS and BIA.

### **The President's FY 2020 Budget Request**

The President released his budget request on March 11, 2019. The budget proposes reducing FY 2020 non-defense discretionary (NDD) funding by \$54 billion (9 percent) below the FY 2019 level, and by \$69 billion (11 percent) after adjusting for inflation. The proposed amount follows the cap set by the Budget Control Act (BCA) of 2011, which was lowered through sequestration. The proposed decreases to NDD accounts would undermine the ability of the federal government to meet its treaty and trust obligations, with the proposed budget cutting BIA and Bureau of Indian Education (BIE) by about 10.5 percent compared to the 2019 continuing resolution (CR) level. Other agencies would see cuts, including 12 percent for the Department of Health and Human Services, 18 percent for Housing and Urban Development, and 31 percent for the Environmental Protection Agency.

NCAI is strongly opposed to these drastic reductions in spending that will jeopardize the provision of programs and services that support the federal treaty and trust obligations to tribal nations. Although we are deeply concerned about the proposed cuts in the President's budget request, it is Congress that has final say on discretionary spending. Accordingly, we urge members of this Committee to work with their colleagues throughout the Senate to ensure that FY 2020 appropriations bills make significant investments in federal programs serving Indian Country.

**U.S. Census Bureau**

The census is a critical and powerful information source that will significantly influence American policy for the coming decade. An accurate count is necessary to ensure the fair distribution of billions of dollars to tribal nations and AI/AN people across the United States. Certain population groups are at higher risk of being missed in the decennial census—groups considered hard-to-count. Native people especially on reservations and in Alaska Native villages have been historically underrepresented in the census. In the 2010 Census, the Census Bureau estimates that AI/ANs living on reservations or in Native villages were undercounted by approximately 4.9 percent, more than double the undercount rate of the next closest population group.

The President's budget request was significantly lower than Secretary Ross's estimates of overall costs, and we urge Congress to ensure sufficient funding for a successful 2020 Census, including funding for Questionnaire Assistance Centers, which currently are not included in the Census Bureau's operational plan. With only half the number of Regional Census Centers and local census offices across the country, it will be important to expand the field footprint, to provide 'safe space' for people who do not have reliable internet access, are wary of using the telephone to respond, or need assistance filling out a paper form, to meet with sworn Census Bureau employees near where they live. NCAI recommends that Congress provide the Census Bureau with at least \$8.45 billion in FY 2020.

**Bureau of Indian Affairs and Bureau of Indian Education**

The BIA is one of the primary agencies responsible for providing services throughout Indian Country, either directly or through compacts or contracts with tribal governments. Unlike previous years, the President's FY 2020 budget proposes to establish the BIE as an independent bureau with a separate budget structure, and we look forward to working with the Committee to examine the merits of this proposal. The President requested \$1.85 billion for BIA and \$936 million separately for BIE. However, when combined, the budget proposes \$2.789 billion for BIA and BIE, a reduction in overall funding of approximately 10.5 percent when compared to the 2019 CR level.

Moreover, the President's budget proposes cuts across many BIA budget lines and would eliminate altogether funding for the Indian Guaranteed Loan Program, the Housing Improvement Program, Small and Needy Tribes, and Tribal Climate Resilience. A few programs would receive increases, including New Tribes funding to continue support for the six Virginia tribes recognized by Congress in January 2018, as well as an additional \$2.5 million for Law Enforcement Special Initiatives to expand BIA capacity to address the opioid crisis in Indian Country.

As part of the FY 2020 budget formulation process, tribal nations from each BIA region completed a survey to outline which budget lines they would prefer to provide increased funding to and why. The results of this process show that BIA Social Services, Indian Child Welfare Act (ICWA), Tribal Courts, Aid to Tribal Government, Scholarships and Adult Education, Criminal Investigations/Policing, Road Maintenance, Housing, Johnson O'Malley, Detentions and Corrections, and Welfare Assistance made up the top eleven.

For Public Safety and Justice Programs, one of the most fundamental aspects of the federal government's trust responsibility is the obligation to protect public safety on tribal lands. Congress and the United States Supreme Court have long acknowledged this obligation, which

Congress most recently reaffirmed in the Tribal Law and Order Act expressly acknowledging “the federal nexus and distinct federal responsibility to address and prevent crime in Indian Country.”<sup>vi</sup> In 2018, the U.S. Commission on Civil Rights found that there continues to be “systematic underfunding of tribal law enforcement and criminal justice systems, as well as structural barriers in the funding and operation of criminal justice systems in Indian Country” that undermine public safety.<sup>vii</sup> Recent experience demonstrates that addressing the lack of justice funding can make rapid and dramatic strides toward improving public safety.<sup>viii</sup> Tribal justice systems simply need the resources to put their tools to work so they can protect women, children and families, address substance abuse, rehabilitate first-time offenders, and put serious criminals behind bars.

The underfunding of tribal law enforcement and justice systems is well-documented. Most recently, the BIA submitted a report to Congress in May 2018 estimating that to provide a minimum base level of service to all federally-recognized tribes: \$1 billion is needed for tribal law enforcement, \$1 billion is needed for tribal courts, and \$241.8 million is needed to adequately fund existing detention centers.<sup>ix</sup> Based on recent appropriation levels, BIA is generally funding tribal law enforcement at about 22 percent of estimated need, tribal detention at about 41 percent of estimated need, and tribal courts at a dismal 4.5 percent of estimated need.

NCAI recommends an increase in base funding for tribal courts, for a total of \$83 million, which would include courts in PL 280 jurisdictions. NCAI also recommends an increase to BIA Law Enforcement of \$200 million, for a total of \$573 million.

BIA Social Services help to address the underlying conditions such as drug addiction, poverty, and violence that tend to create and perpetuate the circumstances that produce victims. Sub-activities include services in the areas of family and domestic violence, child abuse and neglect, and protective services. However, many tribes’ Social Services departments are understaffed and experience high turnover rates. As an example, in FY 2017, Osage Nation case workers averaged 25-30 cases a month each. This exceeds the standard of one case worker for every 15 cases administered. A lack of increased yearly funding tends to hinder these protective services. NCAI recommends \$55 million for BIA Social Services in FY 2020.

In addition to public safety and human services, infrastructure remains an area of high need. A transportation program that is vital to infrastructure in Indian Country is the BIA Road Maintenance Program, which is funded and authorized under the Department of the Interior. The BIA Road Maintenance Program is critical to BIA owned roads and facilities. Currently, BIA is responsible for maintaining approximately 29,400 miles of roads in Indian Country, including 900 bridges. The condition of these roads is increasingly concerning for tribal citizens and all surrounding communities. The lack of sufficient transportation infrastructure also hampers economic development opportunities for tribal nations and their citizens.

According to a recent GAO Report published in May 2017, *Better Data Could Improve Road Management and Inform Indian Student Attendance Strategies*,<sup>x</sup> BIA did not provide adequate documents on road maintenance and no process exists for tribal nations to properly report on road maintenance. The BIA conducted a road maintenance survey, which found that the cost of road maintenance more than doubled the allocated amount of funding for proper maintenance in FY

2018 and that deferred maintenance had risen to \$392 million for BIA roads. Further data on road maintenance is needed to adequately address the deferred maintenance of roads throughout Indian Country. Increased funding for the BIA Road Maintenance program is needed in order to begin to address public safety and commercial activity concerns that affect all Americans. \$50 million is requested to begin to address the deferred roads maintenance need in Indian Country.

As mentioned above, the President’s budget proposes funding BIE at \$936 million for FY 2020. It also proposes eliminating programs including Scholarships and Adult Education, Special Higher Education Scholarships, and Science Post Graduate Scholarships. Of particular note, the President’s budget would zero out Replacement School Construction, Replacement Facility Construction, and reduce Facilities Improvement and Repair and Employee Housing Repair funding levels. Instead, the Administration has again proposed legislation establishing a Public Lands Infrastructure Fund to support infrastructure improvements in National Parks, National Forests, Wildlife Refuges, and for BIE schools. Not only would the funding limits under this proposal produce insufficient resources for BIE Education Construction when compared to current funding levels, they could fluctuate considerably based on energy development revenue. Congress must provide consistent funding to fully address the dilapidated and unsafe conditions of BIE school facilities, and any new methods of funding school construction and maintenance must supplement rather than supplant existing appropriations avenues—especially considering the great need for school infrastructure in Indian Country

The budget proposes a few increases for BIE programs, including \$7.2 million for Education Management to optimize learning opportunities for students of all ages. NCAI recommends the funding levels in the following table for BIE programs.

<b>Agency</b>	<b>Appropriations Bill</b>	<b>Program</b>	<b>NCAI FY 2020 Request</b>
DOI	Interior, Environment	Tribal Education Departments (DOI)	\$10,000,000
DOI	Interior, Environment	Construction/Repair of Bureau of Indian Education (BIE) Schools	\$430,000,000
DOI	Interior, Environment	Johnson O'Malley	\$42,000,000
DOI	Interior, Environment	Student Transportation	\$73,000,000
DOI	Interior, Environment	Tribal Grant Support Costs (Administrative Cost Grants)	\$90,000,000
DOI	Interior, Environment	Facilities Operations (BIE)	\$109,000,000
DOI	Interior, Environment	Facilities Maintenance (BIE)	\$76,000,000
DOI	Interior, Environment	Indian School Equalization Formula	\$431,000,000
DOI	Interior, Environment	Education Management: Education IT	\$40,000,000

DOI	Interior, Environment	BIE Immersion Demonstration Grants	\$5,000,000
DOI	Interior, Environment	Juvenile Detention Education	\$620,000
DOI	Interior, Environment	Tribal Colleges and Universities' Institutional Operations, Titles I, II, and III of the Tribally Controlled Colleges and Universities Assistance Act	\$81,696,000
DOI	Interior, Environment	Institute of American Indian Arts and Center for Lifelong Education & Museum (AIANNH Culture and Art Development Act)	\$10,210,000
DOI	Interior, Environment	Haskell Indian Nations University & Southwestern Indian Polytechnic Institute (Snyder Act)	\$25,000,000
DOI	Interior, Environment	Tribally Controlled Career and Technical Institutions, Title V of the Tribally Controlled Colleges and Universities Assistance Act	\$10,000,000
DOI	Interior, Environment	Tribal Colleges and Universities Infrastructure Improvement	\$31,000,000

Overall, BIA and BIE provide funding for many public safety, education, human services, and natural resource programs that cannot be addressed fully in this testimony. NCAI supports the funding requests of other national tribal organizations, such as the National Indian Child Welfare Association, National Indian Education Association, American Indian Higher Education Consortium, and others who have also developed rigorous requests to address the treaty and trust obligations funded in the Interior-Environment spending bill.

**U.S. Department of Education**

Access to quality education is vital for competing and thriving in today’s economy. It is an essential strategy for creating jobs and securing the nation’s future prosperity— particularly in tribal communities. An educated citizenry serves as a catalyst to boost tribal economic productivity and growth through a more highly-skilled workforce, which can attract new businesses, reduce unemployment, stimulate reservation economies through direct spending, and foster growth in small businesses owned by tribal citizens as a path to individual and familial self-sufficiency.

For FY 2020, the President requested \$64 billion in discretionary funding for the Department, which is a decrease of \$7 billion or nearly 10 percent based on the 2019 CR levels. Cuts at the Department of Education will have adverse impacts for Indian Country, as the President’s budget proposes reducing funding for most of the programs serving Native students, and even proposes eliminating (or not reauthorizing) several programs serving Alaska Natives and Native Hawaiians. NCAI is particularly concerned that the President’s FY 2020 budget eliminates funding for the Alaska Native Education Program and the Native Hawaiian Education Program. The Alaska Native Education Program is an essential program that funds the development of curricula and education programs that address the unique educational needs of Alaska Native students, as well

as the development and operation of student enrichment programs in science and mathematics. The Native Hawaiian Education Program empowers innovative, culturally appropriate programs to enhance the quality of education for Native Hawaiians. NCAI recommends funding the Alaska Native Education Assistance Program at \$40 million and the Native Hawaiian Education Program at \$40 million for FY 2020.

NCAI opposes cuts to Indian education programs and instead recommends that Congress make a strong investment in the future of Indian Country by appropriating the amounts listed in the table below for programs at the Department of Education.

<b>Department Education Programs</b>	<b>NCAI FY 2020 Request</b>
Title 1, Part A (Local Education Agency Grants)	\$20,000,000,000
State-Tribal Education Partnership (STEP) Program	\$5,000,000
Title VII funding, ESEA (Impact Aid Funding)	\$2,000,000,000
Title VI funding, Every Student Succeeds Act (ESSA)	\$198,000,000
Native Hawaiian Student Education (Title VI, Part B)	\$40,000,000
Alaska Native Education Equity Assistance Program (Title VI, Part C)	\$40,000,000
Indian Education Language Immersion Grants (Title VI, Part D)	\$5,000,000
Special Programs for Native Student, Including Native Youth Community Projects	\$67,900,000
Title III-A Grants under the Higher Education Act for Tribal Colleges and Universities	\$65,000,000
Tribal Colleges and Universities: Adult / Basic Education	\$8,000,000
Tribally Controlled Post-Secondary Career and Technical Institutions and Technical Institutions	\$10,000,000
Native American-Serving, Non-Tribal Institutions (Higher Education Act, Title III-F)	\$10,000,000
Tribal Education Departments (Dept. of Ed)	\$10,000,000
<b>Total:</b>	<b>\$22,458,900,000</b>

**Indian Health Service**

The President’s FY 2020 budget request for IHS is \$5.9 billion, which is \$392 million or 7 percent above CR levels (2 percent above FY 2019 appropriations). The budget request places an emphasis on Clinical Services, with investments in Hospitals and Health Clinics, Accreditation Emergencies, and Purchased/Referred Care. The budget also requests \$356 million for Mental Health, Alcohol, and Substance Abuse programs, which is \$27 million above the 2019 CR levels. However, the President’s budget also proposes reductions in Preventative Health Education and Community Health Representatives, the Tribal Management Grant Program, and Health Care Facilities Construction. While NCAI is encouraged by increases to overall IHS funding, the elimination or reduction of IHS programs is not a position that NCAI can support—especially considering that in FY 2017 the IHS per capita expenditures for patient health services were just \$3,332, compared to \$9,207 per person for health care spending nationally.

For FY 2020, the IHS Tribal Budget Formulation Workgroup requested \$7.03 billion. This amount would include an increase to maintain current services and other binding obligations and allow for program expansions, as listed in the Workgroup’s FY 2020 report. NCAI appreciates the bipartisan



support for the IHS budget in Congress, and we look forward to ongoing support for providing much needed increases for the IHS budget.

Addressing health care issues in Indian Country extends beyond funding for the IHS. NCAI has additional funding recommendations for improving health care in tribal communities in its FY 2020 Indian Country Budget Request.

### **U.S. Department of Agriculture (USDA)**

NCAI would again like to thank Chairman Hoeven, Vice-Chairman Udall, and our many other champions in the effort to ensure the 2018 Farm Bill included tribal priorities. The final bill created new authorities and improved existing programs in ways that will benefit tribal nations and citizens for years to come. Congress must now ensure that the significant progress for Indian Country embodied in the 2018 Farm Bill receives sufficient funding.

The President's budget proposes significant cuts that could impact the implementation of these hard-fought victories. When compared to the 2019 CR levels, the Food Distribution Program on Indian Reservations (FDPIR) would see a cut of \$23 million. FDPIR currently serves approximately 276 tribal nations and is a critical food assistance program, particularly in areas that do not have easy access to Supplemental Nutrition Assistance Program (SNAP) offices or authorized food stores. Since FY 2013, FDPIR participation has risen more than 17 percent. Between FY 2015 and FY 2017 alone, monthly participants rose from 88,000 to 100,000. The FDPIR program is projected to have no change in participation in 2020.

Reducing funding for FDPIR will increase food insecurity in tribal communities and will provide fewer resources for USDA to implement the expansion of Indian Self-Determination and Education Assistance Act contracting authority (638 authority) for the FDPIR program. Additionally, the President's budget proposes significant cuts to the SNAP program, which will make matters more challenging, as reduced SNAP resources have historically meant increased stress on the FDPIR program.

As such, Congress should appropriate not less than \$200 million for FDPIR, appropriate \$5 million to develop a traditional foods market for FDPIR, and appropriate \$5 million for the 638 Tribal Self-Governance Demonstration Program for Tribal Organizations. Congress should also provide a minimum of \$1.5 million for the Office of Tribal Relations and ensure sufficient funding for implementation of Tribal Forest Protection Act program 638 authority and the establishment of the Secretary's Tribal Advisory Council.

### **Department of Justice**

The public safety problems that continue to plague tribal communities are the result of decades of gross underfunding for tribal criminal justice systems; a uniquely complex jurisdictional scheme; and the historic failure by the federal government to fulfill its public safety obligations on AI/AN lands. Crime rates in tribal communities are among the highest in the nation and AI/ANs experience rates of violent crime that are 2.5 times the national average. Residents and visitors on tribal lands deserve the safety and security that is taken for granted outside of Indian Country. As discussed above, funding for public safety at the BIA is insufficient, and as a result, tribes are

increasingly relying on competitive grant programs at the Department of Justice to address these funding shortfalls.

The Crime Victims Fund (CVF) is the federal government's primary funding source for providing services to victims of crime. NCAI expresses our sincere gratitude to appropriators for providing a direct funding stream for tribal governments from the CVF for the first time in FY 2018 and again in FY 2019. For this funding to achieve its purpose, however, it needs to be recurring funds that tribal governments can plan on in order to ensure program stability for victims for the long term. We urge appropriators to keep disbursements from the CVF at the increased level and to direct an amount equal to 5 percent of overall CVF disbursements to tribal governments, which is the level requested in the President's Budget.

As it has for several years, the President's Budget also proposes bill language that would streamline and consolidate OJP tribal programs by allocating seven percent from all discretionary OJP programs to address Indian country public safety and tribal justice needs. In the FY 2020 President's Budget, this would amount to \$127.064 million, an increase of \$37.5 million from enacted FY 2019 funding levels. In past years, both the House and Senate CJS Subcommittees have supported this request, but it has never been enacted. One of the biggest shortcomings of DOJ tribal funding is that it is administered as competitive funding. In order to obtain this funding, tribal nations—on behalf of their tribal justice systems—must compete against each other under priorities and guidelines established by DOJ. As a result, tribal nations must develop projects that align with changing DOJ priorities and cannot count on funding continuing beyond the current grant period. A streamlined OJP tribal allocation would significantly improve the federal funding process by which tribal nations receive resources to establish tribal courts; assist in developing detention facilities; provide legal assistance; develop and maintain juvenile delinquency prevention programs; and provide substance abuse prevention programs. Further, the tribal allocation would give tribal nations the flexibility to develop a detailed strategic plan on how best to spend those resources. NCAI supports the President's Budget request for a 7 percent tribal set-aside from across OJP discretionary programs and a 5 percent set-aside from the CVF. NCAI also supports restoring funding for the Tribal Youth Program, which is zeroed out in the President's Budget, to its FY 2010 level of \$25 million and to significantly increase funding for tribal law enforcement programs under the COPS program, which was funded at \$27 million for FY 2019 and at \$8 million in the President's Budget.

### **Department of Treasury**

Of great concern to Indian Country is the budget's proposal to eliminate funding for the Community Development Financial Institutions Fund's (CDFI Fund) discretionary grant and direct loan program. The President's proposal would eliminate funding for the Native American CDFI Assistance program (NACA) and the three other discretionary CDFI Fund grant programs.

The Native Initiative of the CDFI Fund is an important program that expands access to capital for individuals and small businesses in Indian Country. Each year, Congress funds the NACA program, which includes financial and technical assistance components. The NACA program makes awards that assist community development financial institutions (CDFIs) in increasing their lending services and financial products, and in building their own internal capacity to serve their target markets. Native CDFIs provide a wide range of loans to microenterprises, small businesses,

consumers, and for housing and homeownership. Native CDFIs also offer financial education and entrepreneurial development training, homebuyer education and foreclosure prevention counseling, credit counseling, small business planning, debt relief counseling, counseling to improve financial capability, match savings programs called Individual Development Accounts, and free tax preparation services in Native communities across the country. In many areas, Native CDFIs provide the only affordable alternative to predatory financial services providers.

NCAI urges Congress to provide a minimum of \$20 million for the NACA program in FY 2020 and make permanent the waiver of the non-federal match requirement for the NACA financial assistance program.

### **Conclusion**

Thank you for the opportunity to testify on the President's FY 2020 budget and share our recommendations on how the federal government can uphold its treaty and trust obligations to tribal nations through the federal budget. We look forward to working with this Committee on a bipartisan basis to ensure federal commitments to Indian Country are honored in the FY 2020 budget.

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<sup>i</sup> U.S. Commission on Civil Rights, *Broken Promises: Continued Federal Funding Shortfall for Native Americans*, <https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf>

<sup>ii</sup> Letter from Rep. Derek Kilmer to then-Chair Castro, Vice Chair Timmons-Goodson, and Commissioners on May 14, 2015; <https://kilmer.house.gov/news/press-releases/-kilmer-seeks-to-shine-a-spotlight-on-disparities-facing-tribal-communities>

<sup>iii</sup> *Id.*

<sup>iv</sup> U.S. Commission on Civil Rights, *Broken Promises: Continued Federal Funding Shortfall for Native Americans*, <https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf>

<sup>v</sup> See NCAI Resolution ATL-14-084: [Recommendations for Address the State of Emergency in Federal Underfunding of the Trust Responsibility](#)

<sup>vi</sup> 34 U.S.C. § 10381(j)(1)

<sup>vii</sup> U.S. Commission on Civil Rights, *Broken Promises: Continued Federal Funding Shortfall for Native Americans*, <https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf>

<sup>viii</sup> Michael S. Black, Acting Assistant Secretary – Indian Affairs, U.S. Department of the Interior, Testimony, Briefing Transcript, p. 136; see also Dep't of the Interior, press release, March 4, 2014, [https://www.bia.gov/sites/bia.gov/files/assets/public/press\\_release/pdf/idc1-025752.pdf](https://www.bia.gov/sites/bia.gov/files/assets/public/press_release/pdf/idc1-025752.pdf) (announcing Tiwahe Initiative to promote the stability and security of Native American families)

<sup>ix</sup> Bureau of Indian Affairs, Office of Justice Services. "Report to Congress on Spending, Staffing, and Estimated Funding Costs for Public Safety and Justice Programs in Indian Country," May 2, 2018, *available at* [https://www.bia.gov/sites/bia.gov/files/assets/bia/ojs/ojs/pdf/2016\\_TLOA\\_Report\\_FINAL.pdf](https://www.bia.gov/sites/bia.gov/files/assets/bia/ojs/ojs/pdf/2016_TLOA_Report_FINAL.pdf)

<sup>x</sup> U.S. Government Accountability Office, 2017, Publication No. GAO-17-423