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 3 BIA MIDWEST REGION  
 4 PARTNERS IN ACTION  
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8 CONTRACT SUPPORT COSTS  
 9 CONSULTATION SESSION  
 10 THE 6TH DAY OF AUGUST 2014  
 11 AT MYSTIC LAKE CASINO HOTEL  
 12 PRIOR LAKE, MINNESOTA  
 13 1:28 P.M.

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20 Taken before Pauline Hanson, RPR

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APPEARANCES:

3

4 DIANE ROSEN - Midwest regional office

5

6 HANKIE P. ORTIZ - United States Department of the  
7 Interior, Bureau of Indian Affairs, Deputy Bureau  
8 Director, Office of Indian Services

9

10 SHAREE M. FREEMAN - United States Department of the  
11 Interior, Director, Office of Self-Governance

12

13 SUNSHINE JORDAN - United States Department of the  
14 Interior, Bureau of Indian Affairs, Indian  
15 Self-Determination Officer, Pacific Regional  
16 Office

17

18 MICHELLE McCORMICK-CORBINE - United States Department  
19 of the Interior, Bureau of Indian Affairs,  
20 Awarding Official/Self-Determination Officer

21

22 SABRINA A. McCARTHY, Attorney-Advisor, Office of the  
23 Solicitor

24

25

1                   DIANE ROSEN: Good afternoon. I'm  
2                   Diane Rosen. I'm the regional director with  
3                   the Midwest regional office. And I'd like  
4                   to welcome you to the Contract Support Cost  
5                   Tribal Consultation session. We're very  
6                   pleased to have it here this afternoon.  
7                   Also here are representatives from the  
8                   Office of Indian Services. Hankie Ortiz is  
9                   the Deputy Bureau Director with the Offices  
10                  of Indian Services. Hankie, raise your  
11                  hand. We also have Sabrina McCarthy,  
12                  attorney-advisor with the Department of  
13                  Interior with the Office of the Solicitor.  
14                  We have Sunshine Jordan, the  
15                  self-determination official, awarding  
16                  official, and Michelle McCormick-Corbine,  
17                  self-determination advisor, awarding  
18                  official for the Midwest region, federal  
19                  contract support workgroup representative,  
20                  and Annette Crowe with Great Lakes Indian  
21                  Fish and Wildlife Commission. She is the  
22                  tribal contract support workgroup  
23                  representative. And we have Sharee Freeman,  
24                  the director of the Office of  
25                  Self-Governance.

1           So for today's consultation we have a  
2           court reporter. So if you come up to the  
3           microphone to make comments, please state  
4           your name and, if possible, if you also make  
5           sure that you spell it or maybe as it's  
6           written on the sign-in sheet. So please  
7           state your name when you come up to the  
8           microphone. So I'd like to turn it over now  
9           to Hankie Ortiz, the deputy bureau director,  
10          for the Office of Indian Services. Thank  
11          you.

12                   HANKIE ORTIZ: Thank you very much,  
13          Diane. And thank you to you and your staff  
14          for setting up this consultation session. I  
15          really appreciate the effort. I know it  
16          took a lot of work, so thank you. And thank  
17          you to Michelle and everyone else that  
18          helped to get everything set up.

19                   My name is Hankie Ortiz. And I'm Caddo  
20          Kiowa Comanche from Oklahoma, but I am the  
21          deputy bureau director for the Office of  
22          Indian Services. I work in central office  
23          under Mike Black, the BIA director.

24                   And the reason we're out here today is  
25          to talk about contract support costs. We

1           have had several sessions, and we're  
2           continuing those discussions here. We look  
3           forward to hearing your comments.

4                        So what I'm going to do, I prepared a  
5           PowerPoint presentation that provides you a  
6           little bit of background information on  
7           where we've been with contract support  
8           costs, where we are, and then poses some  
9           questions at the end. The questions I hold  
10          from the previous consultation sessions that  
11          we've had. We got -- we're getting asked a  
12          number of questions, and then we've had some  
13          discussions regarding contract support  
14          costs. So these questions that I have up  
15          here are some of the most difficult  
16          questions that we're having to deal with and  
17          address. And we'd like feedback on those  
18          questions. But then I'm going to leave time  
19          at the end for you to comment on contract  
20          support costs and our policy or even the  
21          contract support costs legislation in the  
22          Indian Self-Determination Act, if you want  
23          to comment on that, or the processes that we  
24          use for paying contract support costs and  
25          how that's working. So we'll have time to

1 go through all of the comments that you want  
2 to make on those things. We have two hours.  
3 This session is scheduled to go until 3:30.

4 I would like to ask you, respectfully,  
5 if at each question if you could defer to  
6 tribal leaders that have comments, and then  
7 other people are also welcome to comment  
8 after the tribal leaders have had an  
9 opportunity to comment. And the reason for  
10 that is that this is a  
11 government-to-government tribal consultation  
12 session based on our relationship with each  
13 individual tribe and on our policy that  
14 established that relationship formally.  
15 So I'm not -- I don't know all the tribal  
16 leaders that are in the room. But hopefully  
17 they would know who they are and you would  
18 know who they are and they can come up to  
19 the microphones and ask questions. We have  
20 two microphones set up, one at the front of  
21 the room and one at the back of the room.

22 And then if you have questions as we go  
23 forward, we found that there are some  
24 questions that come up regarding contract  
25 support costs, not just comments, that's why

1           these ladies are sitting here to help  
2           respond to questions. Sabrina is a legal  
3           advisor. Michelle McCormick and Sunshine  
4           Jordan are both awarding officials and with  
5           a lot of expertise in the regional area, in  
6           the regions awarding funds and working with  
7           contract support costs. And Sharee Freeman  
8           is -- she has a lot of experience and  
9           knowledge with regard to the self-governance  
10          tribes. So this is why we're here.

11                   FY '14, the appropriations language,  
12          Congress put this provision in there that  
13          says that instructed us to formulate  
14          long-term accounting, budget and legislative  
15          strategies to address the situation. In the  
16          committee's view, each department solution  
17          should consider a standardized approach that  
18          streamlines the contract negotiation  
19          process, provides consistent and clear cost  
20          categories and ensures efficient and timely  
21          cost documentation for the departments and  
22          the tribes.

23                   So that's kind of what we're trying to  
24          do. We're trying to find ways to streamline  
25          the approach to make things more simple so

1           that we can get funds out more accurately  
2           and more quickly.

3                       I'm just going to put these all up here  
4           because these are all the different kinds of  
5           funds that go into a contract or compact  
6           funding agreement. We have the direct  
7           program funds and the indirect contract  
8           support costs and the direct contract  
9           support costs go together to provide the  
10          full contract support costs for each  
11          contract or funding agreement. And then we  
12          also have the start-up funds that may be  
13          available for new and expanded or for new --  
14          new or expanded programs.

15                      So the history of contract costs is  
16          this: In FY 2009 we provided contract  
17          support costs at 72.6 percent, in FY '10 at  
18          75.16 percent, and FY '11 at 97.46 percent.  
19          So we're getting pretty close to 100 percent  
20          in FY '11. And it went down in '12 to 94.86  
21          percent. The FY 2013 contract support is  
22          currently going through review and sorting  
23          process. And that is a long review period.

24                      So after it's gone through the review  
25          period, it is sent to Congress. Once it's

1 sent to Congress we publish that on the BIA  
2 website. So FY '12 and before we have the  
3 contract support costs reports published on  
4 the website. And then FY '13 will be added  
5 to that. We are not able to share that  
6 until it's published or sent to Congress.  
7 At that time anybody can access that  
8 information. For FY '14 contract support  
9 cost fund was appropriated at 241.9 million  
10 dollars. And BIA for FY '14 will fund the  
11 total current contract support cost  
12 requirement at 100 percent for Title I and  
13 Title IV agreements. And we're committed to  
14 doing that.

15 We have a group that we work with on a  
16 regular basis that called the BIA Contract  
17 Support Costs Tribal Worker. The workgroup  
18 was formed in 2007 and is comprised of both  
19 federal and tribal members. And we meet at  
20 least annually. We have met more recently  
21 because of the focus on contract support  
22 costs. We realize that this workgroup is  
23 not a substitute for tribal consultation,  
24 but they are experts in the area of contract  
25 support costs coming together to identify

1 issues and propose solutions to different  
2 contract support cost issues. And so we are  
3 working with that group.

4 In fact, after we complete our  
5 consultations, which would be -- the last  
6 consultation is on August 19th. And then  
7 we're going to meet with a workgroup the  
8 week of September 8th to review the comments  
9 and hopefully to help them -- let them help  
10 us sort through them and come up with some  
11 feasible recommendations that would be  
12 substantive in nature and help us to meet  
13 our goals streamlining and improving the  
14 contract contract support cost process.

15 The primary tribal representatives are  
16 identified here. And all of you should have  
17 this PowerPoint presentation. They were  
18 handing it out at the back table. If you  
19 don't have one, I encourage you to get it.  
20 It's very easy to read all the names so you  
21 can identify which representative might be  
22 closest to you. So if you have other  
23 concerns, you could always share them with  
24 your contract support cost worker  
25 representative by email, by phone. We also

1           have a list of alternate members. If the  
2           primary representative can't make a meeting,  
3           then they ask the alternate person to attend  
4           for them.

5                     And as you can see, we have a couple of  
6           vacancies, but I don't think there's any --  
7           if you're from one of these other regions  
8           that have vacancies, then -- then you should  
9           note that. And hopefully, if you have any  
10          recommendations, let the region, let the  
11          region know and we can work with them to  
12          identify an alternate representative.

13                    We also have federal representatives.  
14          The chair -- so we have a federal co-chair  
15          and a tribal co-chair. The tribal co-chair  
16          is James Mackay from Susanville Indian  
17          Rancheria. And the federal co-chair is  
18          Terry Parks, division chief for  
19          self-determination. And he's within the  
20          Office of Indian Services. So I also  
21          work -- serve on the committee. Michelle,  
22          Sunshine are on the committee. We have  
23          other representatives that are, primarily  
24          level two awarding officials. And then we  
25          have a representative from self-governance

1 on there.

2 So here are the questions. We're going  
3 to go through the questions that I talked  
4 about. In the following questions were  
5 raised from either previous consultation or  
6 from submitted comments. We have been  
7 taking written comments and continuing to  
8 take all comments until August 31st.

9 Current -- this is the first question.  
10 I'm going to read the question and then  
11 we'll take comments on this question and  
12 we'll move on to the next question.  
13 Currently the contract support fund is  
14 identified in three pools. If BIA is paying  
15 full contract support costs, is a three pool  
16 approach still effective? Pool 1 includes  
17 start-up costs paid from the Indian  
18 Self-Determination Fund for tribes' programs  
19 starting new activity or expand an existing  
20 activity. Pool 2 is really the base  
21 funding. These funds are not to exceed a  
22 hundred percent of tribes' total contract  
23 support cost requirement for that year but  
24 should be the base of a designancy of a 100  
25 percent. Pool 3 increases contract support

1 cost appropriations are distributed using a  
2 bottoms-up methodology. So this is how we  
3 have been paying contract support costs.  
4 The bottoms-up methodology really helped us  
5 when we were not paying a hundred percent to  
6 try to bring the tribes that were less than  
7 a hundred percent or most underfunded up to  
8 a certain level. And that's how we use the  
9 bottoms-up approach. Now we're paying a  
10 hundred percent, is that still the best  
11 methodology to use for distributing contract  
12 contract support cost funds? That's the  
13 question we have. Does anyone have any  
14 comments on that?

15 Do you want to step to the microphone?  
16 And please state your name and spell your  
17 last name for the court reporter.

18 JESSICA BURGER: My name is Jessica  
19 Burger, B-U-R-G-E-R. I'm from the Little  
20 River Band of Ottawa Indians. I'm here with  
21 my tribal counselor, Mr. Mike Ceplina.

22 And I think that with a full cost, full  
23 funded cost scenario, I'm not sure that the  
24 Pool 1, 2 and 3 and the bottoms-up  
25 methodology would still apply. I think we

1           would look at the contract support cost  
2           shortfall reports and then fund at a hundred  
3           percent when the tribe reports and  
4           correction in the shortfall methodology.  
5           That's just my opinion, but it would seem to  
6           me that would be a logical approach.

7                         HANKIE ORTIZ: Thank you. Any other  
8           comments? Okay. Hearing none, we'll go to  
9           the second question. How can BIA clarify  
10          the indirect cost rate portion of the  
11          contract support cost policy? This question  
12          came up because it says that the BIA will  
13          apply the most current indirect cost rate.  
14          And we've heard that it could be interpreted  
15          a couple of ways. So we've identified two  
16          options. This is option A, and then I'm  
17          going to read you option B.

18                         Currently the indirect contract support  
19          costs for a tribe are calculated using the  
20          tribe's most recent indirect cost rate  
21          agreement. Then adjustments to the contract  
22          support costs payment are made when the  
23          tribe obtains a current indirect cost rate  
24          agreement within that period.

25                         Option B is that it could be

1           interpreted to say that we would use the  
2           most current negotiated indirect cost rate  
3           agreement in existence at the date of  
4           congressional appropriation or the first  
5           continuing resolution. This same rate will  
6           be reported in the contract support cost  
7           report. This does not apply to a newly  
8           negotiated indirect cost rate agreement that  
9           is negotiated for the following year.

10                   So the difference between the two  
11           options is in option A at the beginning of  
12           the year when, for example, we -- we have in  
13           the most recent years gone continuing  
14           resolutions. We did not get the full  
15           appropriation up front. So assuming we'll  
16           get a continuing resolution at the beginning  
17           of the year, we make the first distribution.  
18           Say, for example, a tribe had a rate of 11  
19           percent. We would use that 11 percent rate  
20           for that distribution because that's the  
21           most current rate. But if the tribe  
22           negotiated another rate within that same  
23           year and got that rate before we made  
24           another -- the final distribution or another  
25           distribution, and say the rate was 15

1 percent, under option A we would pay against  
2 the 15 percent indirect cost rate. So we  
3 would use the new updated rate.

4 Under option B, that clarification  
5 would state that whatever their rate is at  
6 the beginning of the year, that's the rate  
7 we're going to use the entire year. And so  
8 for every continuing resolution or final  
9 appropriation we get, we would use the 11  
10 percent rate in scenario I just described.

11 So are there any comments on the  
12 clarification of that or preferences for how  
13 it should be used? Please come to  
14 the microphone and say and spell your name,  
15 please.

16 DONNA SWALLOWS: Donna Swallows,  
17 S-W-A-L-L-O-W-S, Grand Traverse Band Ottawa  
18 Chippewa Indians. And I'm here with one of  
19 our councilmembers, Mark Wilson.

20 And one of the concerns that I have  
21 with these different rates that occur within  
22 the year is that the rates cannot be  
23 negotiated until almost six months of the  
24 year is already in effect. By the time you  
25 get your audit done, by the time you

1 negotiate the rate with NBC, IBC or whoever  
2 they're going to be doing it with, six  
3 months of the year is already at the very  
4 earliest is March. And quite frequently  
5 they will want this additional information  
6 and it's going back and forth, this  
7 negotiation.

8 We currently don't have a rate for  
9 fiscal year '14. We're still in the process  
10 of negotiating that.

11 HANKIE ORTIZ: Did you have a  
12 recommendation regarding this clarification?  
13 So that change happens in the middle of the  
14 year like you're saying, then you might have  
15 a different rate for the second half of the  
16 year than you did for the first half of the  
17 year. So would you be in favor of option A  
18 or B?

19 DONNA SWALLOWS: Option B because it  
20 would be the most current rate by adjusting  
21 it, but it has to be done consistently.  
22 It's my understanding that 638 tribes and  
23 self-governance tribes are treated  
24 differently. That whatever rate is in  
25 effect for the beginning of the year for

1           638, and I could be wrong on this, but this  
2           is my understanding, that that's the rate  
3           that they get. They get the lump sum and  
4           there's -- and self-governance tribes are  
5           having to provide additional information for  
6           adjustments.

7                         SHAREE FREEMAN: So why don't we start  
8           by having 638 explain their process in terms  
9           of the rate and I'll explain the  
10          self-governance and see the difference  
11          between the two. So who wants to go ahead  
12          and do that? Sunshine?

13                        MICHELLE McCORMICK-CORBINE: Michelle  
14          McCormick for -- as far as the 638 tribes,  
15          if you have a rate, if we're right now using  
16          a '13 rate, that's what's available at the  
17          beginning of the fiscal year, that's what's  
18          being awarded. However, as we're going  
19          along, if it's six months down the road and  
20          you're receiving the negotiated '14 indirect  
21          cost rate, we're recalculating and giving  
22          you the contract support based on that newly  
23          negotiated '14 rate. So throughout the  
24          year, your contract support cost need and  
25          your amount of funding is adjusted to

1 reflect the new rate.

2 SPEAKER: Michelle, are you saying that  
3 whatever the newest rate known during that  
4 calendar year is the one you'll go with?

5 MICHELLE McCORMICK-CORBINE: Yes.

6 SHAREE FREEMAN: My name is Sharee  
7 Freeman. I'm the director of the Office of  
8 Self-Governance.

9 We do precisely the same thing. We  
10 take the rate that is in effect at the -- at  
11 the first distribution, be it CR 1 or CR 2.  
12 We take whatever that rate is, if it's a  
13 2014 rate or old rate that goes back a year  
14 or two years, we take that rate, calculate  
15 on that rate and put the money out.

16 If your rate changes during that year,  
17 we make the rate changes accordingly. And  
18 one of the reasons why we feel so strongly  
19 about doing that is it gives tribes that had  
20 a lower rate that then gets a higher rate to  
21 be able to get their -- as close as possible  
22 to their full amount. We find that that's  
23 more often the case than the opposite  
24 direction where it -- the rate goes down.  
25 So we do the exact same thing.

1           The one thing that we do differently  
2           from them is we do not have tribal budgets.  
3           So we have to request from our tribes the  
4           pass-through, the exclusions, salary  
5           exclusions, the capital equipment  
6           exclusions. And what slows us down in the  
7           process of putting out the money or at least  
8           doing the calculation to put the money out  
9           is we're constantly waiting for our tribes  
10          to give us the information back that we've  
11          requested that gives us the ability to do  
12          those pass-through and the exclusions given  
13          that we do not have set budgets the way 638  
14          does.

15                 So this concept that there's a  
16                 difference between the two, at least for  
17                 these two regions with self-governance there  
18                 isn't. They do the exact same thing, making  
19                 sure that we get as close as possible to the  
20                 actual rate that comes out for that  
21                 particular fiscal year.

22                         HANKIE ORTIZ: Thank you all for the  
23                         explanations. Are there any other comments  
24                         on this question?

25                         IRVING PROVOST: Good afternoon. My

1 name is Irv Provost, P-R-O-V-O-S-T, from  
2 Oglala Sioux Tribe. We are one of the  
3 tribes that did be a party of the Ramah  
4 chapter case that's being resolved right  
5 now. And I wanted to share this with all  
6 the tribes here is that the reason why this  
7 big issue is here is because of this case,  
8 because of shortfalls in contract support.

9 This is very simple. You fund us at a  
10 hundred percent. That way you have reserve  
11 money there that's available in case you do  
12 have other ideas that need to come in or  
13 else start-up programs.

14 One of the biggest issues here is when  
15 we see this documentation, it puts  
16 departments ahead of tribes. The bureau has  
17 the responsibility. The tribes should come  
18 first, not the departments.

19 Within the contract support cost, IDC  
20 rates, one thing that's very shortfall to  
21 tribes right now is that medical care is not  
22 involved in this, plus retirement. These  
23 have to be considered.

24 And in regards to this too on this  
25 contract support, you always have that rate

1 the year before. You can always fluctuate  
2 that. One of the bad problems here is that  
3 we always blame the continuing resolution.  
4 Well, if you know what's coming, if you have  
5 a hundred percent cost rate, indirect cost  
6 rate, you can adjust to that because the  
7 shortfalls are hurting the tribes on the  
8 services. When I say services, you look at  
9 the department has GSA. They have other  
10 departments that supplement their services.  
11 Tribes don't.

12 So when you look at shortfalls, they  
13 have to be coming out of the fixed cost  
14 budget for GSA and other activities that the  
15 Bureau of Indian Affairs use to supplement  
16 their services.

17 So when you look at this as a whole,  
18 it's got to be a hundred percent. No doubt  
19 about it. We keep juggle around, don't want  
20 to do nothing. Let's get mandatory to  
21 Congress, we want a hundred percent contract  
22 support costs, bottom line. Thank you.

23 THE COURT: Thank you for your  
24 comments. Okay. Question number 3, how  
25 should BIA determine indirect costs for

1 tribes without a formal indirect cost rate  
2 agreement?

3 Currently the BIA negotiates a lump sum  
4 amount for indirect type costs. Should the  
5 BIA continue to do this? And this I think  
6 applies primarily to very small tribes that  
7 may not meet the criteria for having to  
8 complete audits because they don't meet the  
9 financial thresholds, and then therefore  
10 don't have the audit to negotiate an  
11 indirect cost rate or maybe they -- they  
12 can't afford to hire someone to negotiate  
13 that rate or calculate that for them.

14 So what the BIA currently does with  
15 those tribes is negotiates a lump sum amount  
16 for indirect type costs. And so we're just  
17 saying should the BIA continue to do this or  
18 should we be doing something differently?

19 And I think this -- this applies to a  
20 lot of tribes in Alaska and California. So  
21 you may not have thought about this.

22 JESSICA BURGER: Thank you, Hankie. Do  
23 I need to give my name again?

24 HANKIE ORTIZ: Yes, please.

25 JESSICA BURGER: Jessica Burger,

1 B-U-R-G-E-R, Little River Band of Ottawa  
2 Indians.

3 I think an approach to this might be to  
4 take a national average of the average  
5 indirect cost rate, which is about 25  
6 percent for most tribes, and then to look at  
7 it for the smaller tribes and come up with a  
8 similar average. That would at least be a  
9 start. It would be fair and equitable  
10 across the board and be a lot more favorable  
11 to the tribes in the long run.

12 HANKIE ORTIZ: Thank you. Any other  
13 comments on this? Okay. Hearing none,  
14 we're going to move to question number 4.

15 Should small and needy tribes that have  
16 not negotiated a formal indirect cost rate  
17 agreement receive a flat rate of 30 percent  
18 for indirect costs? And that's just, I  
19 think, along the lines of what you were just  
20 suggesting but -- and I think the way we  
21 have defined small needy tribes in the BIA  
22 for the lower 48 states is tribes that have  
23 less than a \$160,000 in annual funding and  
24 have 1,700 or fewer members enrolled. And  
25 for the Alaskan native tribes they must have

1 less than \$200,000 in annual funding to  
2 qualify as small or needy. If they have  
3 less than those thresholds, we have small  
4 and needy line item that we use to bring  
5 them up to that level. So in the lower 48  
6 we try to bring small and needy tribes up to  
7 \$160,000 and the Alaskan native tribes up to  
8 \$200,000. So this proposal came up out of  
9 another consultation issue comment. And  
10 there was a proposal to just identify flat  
11 rate of 30 percent for indirect costs.

12 Are there any thoughts on that? Okay.  
13 Hearing none, I'm going to go to question  
14 number 5.

15 Currently the BIA uses 15 percent of  
16 program salaries to determine direct  
17 contract support costs, not indirect, just  
18 direct contract support costs. Should this  
19 be included in the contract support cost  
20 policy?

21 Right now that amount has been used  
22 across the board, but it was only in a memo  
23 from a former assistant secretary. And it  
24 was identified kind of as a placeholder  
25 until we could go back and determine how we

1 want to address this issue. So the BIA  
2 could negotiate direct contract support  
3 costs, but that wouldn't necessarily  
4 streamline the process. And we have  
5 comments that maybe it should happen this  
6 way, but maybe 15 percent isn't the correct  
7 number and we should identify what a more  
8 accurate number is. And then we've had  
9 comments that that's pretty close to what  
10 tribes would receive if they were  
11 negotiated. So that's the question.

12 Currently we do use 15 percent of  
13 program salaries. If they were negotiated,  
14 other costs would be included, not just  
15 program salaries. But should this be  
16 included in the contract support cost  
17 policy? Any comments? Sure.

18 SPEAKER: Can you make comments if your  
19 not -- if your leadership isn't here?

20 DONNA SWALLOWS: Donna Swallows,  
21 S-W-A-L-L-O-W-S, Grand Traverse Band.

22 And, again, this is my understanding,  
23 that there are some tribes that are allowed  
24 to include their facility cost within their  
25 direct contract support cost, and other

1 tribes when they negotiate their indirect  
2 cost they are not allowed to include  
3 facility cost within the indirect cost  
4 proposals. This then is somewhat of a  
5 duplication. If everybody is just given a  
6 straight 15 percent across the board. If  
7 there are tribes that are identified with  
8 the facility cost and their indirect cost  
9 proposal, maybe there should be a higher  
10 rate for those that don't have that included  
11 or a lower rate for those that are already  
12 including that in to reflect the  
13 duplication.

14 HANKIE ORTIZ: Okay. Thank you for  
15 your comment.

16 IRV PROVOST: I'm very inquisitive  
17 about how the BIA came up with 15 percent  
18 cost of program salaries. You know, with  
19 them salaries, you have a lot of other items  
20 go within the base pay or else your net.

21 When you say salaries, it's too  
22 generalized. You should have a  
23 justification for the 15 percent, because  
24 some tribes have a lot of fringe and have to  
25 provide services for employees. I think 15

1 percent needs to be more justified, not just  
2 a flat rate. I believe it should be a lot  
3 higher than that for the larger tribes.

4 HANKIE ORTIZ: Do you think it should  
5 be a higher flat rate or do you think it  
6 should be negotiated tribe by tribe?

7 IRV PROVOST: I believe it should  
8 negotiated myself because on fact that 15  
9 percent that's -- you're talking back in  
10 1960s. We're almost up there in the 2020  
11 here. And we're looking at that probably  
12 being a lot higher than that. That's way  
13 too small of a percentage.

14 AARON PAYMENT: So as I understand it,  
15 the 15 --

16 Aaron Payment, Sault Tribe of  
17 Sheboygan. Payment just like it sounds.

18 The percentage is not our fringe rate,  
19 but it's a starting point to do a  
20 projection. So the problem, though, with  
21 answering your questions for me today is  
22 that I know that the negotiations vary I  
23 think pretty widely depending on which tribe  
24 you're talking about and you're certainly  
25 for circumstances. And it probably should

1 vary, but it shouldn't depend on the ability  
2 of the tribe to be AN aggressive negotiator.

3 And we've asked for that -- I'm on the  
4 health contract support cost support group,  
5 IHS.

6 And it shouldn't be determined based on  
7 the tribe's ability or their ability to high  
8 attorneys to do this or to have accounting  
9 people that understand it very well, because  
10 it gets very, very complicated.

11 On the IHS side, because there's a  
12 lawsuit, they're not able to communicate the  
13 individual differences in variances among  
14 tribes. The BIA side I don't think we have  
15 that problem. But I think that one ever the  
16 things we've been looking for is information  
17 about the negotiations and what individual  
18 tribes are settling.

19 In Michigan and in the Midwest, we  
20 offer -- my tribe just settled. We got 70  
21 cents on the dollar. We started at 30 cents  
22 on the dollar, which was the offer from IHS.  
23 And we lent support to other tribes so that  
24 they would know that 30 cents, 40 cents on  
25 the dollar is not a good offer. But had we

1 not reached out to them, they potentially  
2 would have accepted it not knowing that.

3 And so this business about negotiating  
4 individually can put individual tribes at a  
5 disadvantage. It shouldn't be like that.  
6 It should be open. It should be  
7 transparent. That's Obama's transparency.  
8 And it should be predictable. So I like the  
9 idea that you came up with something that's  
10 a starting point of something that's  
11 predictable, but I don't think -- there  
12 should be flexibility to negotiate, but it  
13 should be predictable as well.

14 HANKIE ORTIZ: Thank you. Any other  
15 comments?

16 SARAH MAKI: I'm Sarah Maki. I'm from  
17 the Keweenaw Bay Indian Community. M-A-K-I.

18 I think it would be better to  
19 negotiate. And a possible solution might be  
20 negotiating with the National Business  
21 Center to learn how indirect costs are  
22 negotiated. And it would be helpful if each  
23 region had a program base which showed what  
24 the direct contract support costs were for  
25 the BIA agency in that area when they were

1 running the program before the tribe started  
2 contracting their own programs. And that  
3 would help tribes to negotiate the  
4 difference in costs.

5 HANKIE ORTIZ: Okay. Thank you.

6 CARRIE CARLSON: Hi. Carrie Carlson,  
7 C-A-R-L-S-O-N, from Little Traverse Bay  
8 Bands Tribe, Odawa Indians. I'm here with  
9 my friend Deb DeLeon.

10 And we would like to negotiate, mainly  
11 because at 15 percent, like this gentleman  
12 earlier said, that's been that number  
13 forever. Our costs aren't the same number  
14 they were 20 years ago.

15 HANKIE ORTIZ: Thank you. Any other  
16 comments on this question?

17 KIM GREINER: Kim Greiner from Bois  
18 Forte. I would like to see negotiations  
19 also. They are -- I'm the CFO and  
20 self-governance for Bois Forte. And I do  
21 IHS contract support negotiation too.

22 They share their numbers what it would  
23 cost for a service unit so we can compare  
24 the actual fringe to what they would be  
25 paying to what we would be paying. And it

1 is not 15 percent.

2 HANKIE ORTIZ: Okay. Thank you.

3 MIC ISHAM: Mic Isham, chairman from  
4 Lac Courte Oreilles. I-S-H-A-M. We agree,  
5 we like to negotiate. That's too low for  
6 us.

7 HANKIE ORTIZ: Thank you. Any other  
8 comments on this question? Jessica.

9 JESSICA BURGER: Thank you, Hankie.  
10 Jessica Burger, B-U-R-G-E-R, Little River  
11 Band of Ottawa Indians.

12 I think that there needs to be some  
13 percentage in the contract support cost  
14 policy. I guess that's one of the issues I  
15 have is with the lack of reconciliation  
16 between the agencies across the board on the  
17 policy to begin with. There's no  
18 consistency agency to agency. So the tribes  
19 are negotiating different -- under different  
20 sets of rules, direct contract support  
21 costs.

22 Then we get to the problem of training.  
23 And I think that one of the things that  
24 would be really helpful, at least from the  
25 tribes' perspective, is some training that

1 includes being able to identify what direct  
2 costs are, being able to identify how to  
3 apply those to a negotiated rate, and then  
4 making sure that the personnel at the  
5 regional and central offices that we deal  
6 with have the same training so we're all of  
7 the same mind when we come into the room,  
8 because I'm -- right now speaking from the  
9 perspective of bureau and IHS, negotiated  
10 rate, just depends on who is in the room  
11 with you and what documents they want to  
12 apply in the process. And 15 percent is  
13 fine in one case, maybe, but in other cases  
14 it's not. It could be much higher or lower.

15 So I think there needs to be some  
16 training across the board and the tribes be  
17 able to access the training so we're all on  
18 the same page.

19 HANKIE ORTIZ: I think with the  
20 calculation of direct contract support  
21 costs, the BIA has not been doing that  
22 because we've been using the 15 percent  
23 across the board. We'd have to either get  
24 NBC to do that or identify staff and  
25 training staff to do that too so --

1           Any other questions on any of those  
2           five? Thank you very much. I think we  
3           received a lot of good comments, substantive  
4           comments. I really appreciate that. That's  
5           helpful.

6           Sharee, did you want to say something?

7           SHAREE FREEMAN: Yeah. I just want to  
8           put into the record as best we could, there  
9           is a self-governance advisory committee  
10          contract support workgroup. They met last  
11          week and spent some time talking through  
12          these issues. And I sort of wanted to have  
13          the opportunity to share with you some of  
14          their thoughts. I was hoping that folks  
15          from the audience would provide that, but  
16          since I've got the document, I might as well  
17          share that with you.

18          As for the 15 percent on direct  
19          contract support, they suggested that it be  
20          either the 15 percent of eligible salaries  
21          or that tribes have the option of  
22          negotiating their direct contract support.  
23          So it could be either/or.

24          And I think so that's the ease of those  
25          tribes that can't higher the accountants or

1 do all the work or get it all together,  
2 there's a change in terms of their  
3 leadership or whatever, that they could just  
4 plunk out that 15 percent and use it.  
5 However, in those cases where the tribe  
6 wants to go ahead and negotiate direct  
7 contract support, they would be able to do  
8 that.

9 They also said that they should task  
10 the contract support workgroup, the big  
11 workgroup, to determine the parameters to  
12 negotiate contract support, what would be  
13 involved, and then test those parameters  
14 with a sample group of a variety of tribes  
15 to develop a useful mechanism to negotiate.

16 So in addition to the comments here,  
17 one other way would go ahead and develop the  
18 parameters, working together with the BIA  
19 tribal workgroup, and then test it against a  
20 good number of different types of small,  
21 medium, large tribes with different issues,  
22 and then move forward with a mechanism.

23 They also said they'd like to have a  
24 transition phase in the negotiation to  
25 ensure across the board that the process is

1 working consistently and applied to all  
2 tribes consistently and that the agency has  
3 sufficient capacity to accommodate the  
4 negotiations.

5 One of their other comments was that  
6 pay cost status submitted by self-governance  
7 tribes to the region should also be  
8 forwarded to the office of self-governance.  
9 And they wanted a deadline established for  
10 sharing this data so that that could speed  
11 up the process.

12 And then lastly, they wanted to  
13 establish the self-governance tribally  
14 driven submission form and seek OMB approval  
15 in future years for the use of the form, so  
16 it wouldn't be kind of  
17 fly-by-the-seat-of-your-pants. It would  
18 have some sort of format to submit the data  
19 in.

20 That was the commentary with respect to  
21 direct contract support negotiation of  
22 costs.

23 One of the other -- I'll go ahead if --  
24 is it okay if I go ahead and put in the  
25 other comments they had?

1                   They had some other comments on  
2                   indirect cost rates. They wanted to  
3                   implement an equitable indirect cost rate  
4                   adjustment process for both contracting and  
5                   compacting tribes. They wanted to work with  
6                   NBC to expedite rate negotiations and  
7                   approval.

8                   And I think all of you know that it's  
9                   been told to us that there is a delay or  
10                  Donna Swallows had also talked about how  
11                  long it takes to get a rate. They want to  
12                  see if that can be expedited. Folks to  
13                  looked into that to see if they can get  
14                  expedited negotiations and approvals.

15                  They want to establish a mechanism for  
16                  adjustments, over and underpayments.  
17                  Something that's akin to, and I think some  
18                  of you know the welfare assistant -- welfare  
19                  assistance has assessment and kind of an  
20                  offset process in terms of funding. They  
21                  want to kind of look at that as maybe a way  
22                  to go about dealing with over and  
23                  underpayments. They want to address  
24                  overpayments so it provides tribes an option  
25                  to either repay the overpayment in the

1 current fiscal year or do the offset in the  
2 next contract support payment for the next  
3 fiscal year.

4 Training and technical assistance to  
5 tribes with both audit and finance issues  
6 that become barriers to negotiating.

7 Current IDC rates, they want to see a  
8 report of -- the aging report of 70 percent  
9 of tribes who are using old IDC rates, they  
10 want to see what that looks like, how many  
11 tribes are not using current rates so they  
12 can kind of judge what has to be done in  
13 order to make that -- those rates current.  
14 They want to establish a sentence for tribes  
15 to negotiate current IDC rates. They  
16 believe that outdated IDC rates cause the  
17 contract support payments to be inaccurate.

18 And they want to develop a requirement  
19 of the contract support policy to require  
20 contractors using multiple rate allocations  
21 to be transparent with all members of  
22 consortium they represent by providing  
23 tribe-by-tribe detailed allocations. This  
24 are mostly for those tribes in Alaska,  
25 consortiums.

1           That gives you a general idea. There's  
2           a document that they posted on their  
3           website, the tribalsef.gov.org. It's a  
4           letter to Kevin Washburn sets out the bulk  
5           of their recommendations with respect to  
6           contract support for self-governance tribes.  
7           And a lot of their recommendations cross  
8           over into self-determination as well.

9           HANKIE ORTIZ: Sharee jumped ahead  
10          through a couple of the questions coming up.  
11          The next question is, and I think she  
12          touched on it, how should overpayments be  
13          recovered to be fair to all tribes. That is  
14          a question that we have to deal with.  
15          Especially when we're paying a hundred  
16          percent, the likelihood that as we get right  
17          up against a hundred percent that is higher  
18          than we might go over. And so we want to be  
19          fair because it's not really fair, some  
20          tribes get a hundred percent and, you know,  
21          some tribes are getting 125 percent or  
22          something.

23          So some of the ways that we've heard so  
24          far in the consultation process to address  
25          those are to issue a bill of collection,

1           which I think is being done now, or offset  
2           the amounts the following year by  
3           percentage. If you get continuing  
4           resolutions at a certain percentage, then  
5           you would pay back or take a portion of what  
6           was overpaid from that percentage. So you  
7           would be taking all of the first continuing  
8           resolution.

9                        So that -- those are kind of some of  
10           the things that we've heard. We're open to  
11           other recommendations.

12                       AARON PAYMENT: Aaron Payment again.  
13           So I would support the second notion. Part  
14           of the problem is the -- what seems to  
15           tribes to be the discretionary approach of  
16           the administration to vary that in the  
17           negotiations is why we have such a we're  
18           here and the administration is here  
19           (indicating).

20                       I think as we go forward with  
21           transparency we're going to be here  
22           (indicating). And so the reconciliation  
23           won't be that significant. And I'd like the  
24           idea of covering it out of a subsequent  
25           year's appropriation as opposed to a bill,

1 getting a like a past-due sort of thing.

2 Nobody likes those.

3 HANKIE ORTIZ: Right --

4 AARON PAYMENT: And so I think as we  
5 tweak this and get better at it, but I'm  
6 hoping. I have some testimony later to do,  
7 just open presentation, because I think part  
8 of the problem that we are facing is that  
9 we're having to take it out of other program  
10 funds. And TIBC has a recommendation, NCI  
11 has a recommendation, I support those  
12 recommendations that we shouldn't be  
13 competing for those same dollars.

14 And I think if it's treated separately,  
15 I think that we will get better at it. The  
16 differences will be much smaller, so then  
17 reconciling in a subsequent year will be  
18 more palatable.

19 HANKIE ORTIZ: Thank you very much.  
20 And I should add that in addition to the --  
21 we are going -- we're going to have open  
22 comments at the end. I just have two more  
23 questions and we're going to open it up so  
24 we'll be able to do that.

25 And we do have -- we did add two

1 members from TIBC are going to be on the  
2 contract support cost workgroup and be  
3 reporting back to TIBC.

4 We're trying to bind the contract  
5 support cost worker to TIBC, because that's  
6 the financial consultation body for BIA or  
7 Interior. And so we are including them, and  
8 that's going to be helpful, I think, to  
9 bridge those gaps and help us find common  
10 solutions. So thank you for raising those  
11 issues.

12 Anybody else have comments on this  
13 question?

14 DONNA SWALLOWS: Donna Swallows, Grand  
15 Traverse Band.

16 I don't think that it should ever be  
17 sent to collections for overpayment. And  
18 Sharee can probably address this better than  
19 maybe even my memory. But I know at one  
20 point Grand Traverse had something that we  
21 had paid that somehow got put into the  
22 system as overdue, and it was holding up our  
23 funding from our self-governance funds.

24 So I think if you can avoid anything  
25 going into that collections through the

1 Treasury Department, because it will impact  
2 all of your other funds coming from HHS and  
3 DOJ. Everything else gets involved with  
4 that.

5 HANKIE ORTIZ: Okay. Thank you very  
6 much. Any other comments? We'll move on to  
7 question number 7. Should the BIA propose a  
8 change to Section 106(c) of the Indian  
9 Self-Determination and Education Assistance  
10 Act so that the annual contract support cost  
11 report is submitted to Congress later than  
12 the current due date of May 15th?

13 And the reason this question is on here  
14 is because that's the date in the statute,  
15 the Indian Self-Determination Act, we're  
16 supposed to submit to Congress. And,  
17 honestly, we've never met that date. It's  
18 not just that it's a delay in reporting.  
19 It's kind of a delay all the way from the  
20 beginning of when the tribes are gathering  
21 information to share with the regions. And  
22 then there's a back and forth between the  
23 region and the tribe to make sure that the  
24 numbers are accurate and identified  
25 correctly. And then after that's all

1 settled, then the region sends those numbers  
2 up to central office.

3 And it's hard to get correct numbers  
4 early on, particularly with calendar year  
5 tribes. So some tribes are fiscal year.  
6 Some are calendar year. And so it is the  
7 calendar year information is so new that  
8 it's hard to get all of that up early  
9 enough.

10 We have -- there are deadlines  
11 identified in the contract support cost  
12 policy from when the region sends it up and  
13 when central office directs it. It's just  
14 very difficult to get those numbers right.

15 And so that issue has been raised as,  
16 you know, maybe could we push that date  
17 back? And we've heard comments like August  
18 1st, August 15th for submitting it to  
19 Congress just so we can submit it timely and  
20 have the accurate information.

21 The other problem, though, on the flip  
22 side of that we've heard is that if it's not  
23 submitted early enough, then it's not really  
24 considered for appropriations as they're  
25 dealing with the budget for -- budgets that

1 cycle runs two years ahead of time. So if  
2 it came too late, then it would be --  
3 actually wouldn't be available until the  
4 third year or the third year budget  
5 schedule. So that's an issue.

6 AARON PAYMENT: Okay. So that is a  
7 complication, because if we don't get the  
8 best estimate to be included in the  
9 appropriations, then we're playing catchup.

10 So, again, if we are better able to  
11 predict what those amounts should be -- what  
12 we should probably do is some kind of  
13 exceptions report to the contract support  
14 costs report, shortfall report. And that  
15 would be for tribes that have done something  
16 really different in the time from the  
17 previous cycle, like additional construction  
18 or, you know, they open up a health center  
19 or whatever. Otherwise, at some point it  
20 should get pretty routine that we can submit  
21 by a certain timeline.

22 So I understand and I appreciate the  
23 concerns that tribes have with wanting a  
24 later deadline, but the problem with that is  
25 that is kind of like a death note, because

1 then it doesn't get included in the  
2 appropriations.

3 And one thing, though, this is going to  
4 be part of my comments later is fully  
5 funding contract support should mean that it  
6 should be treated separately and not come  
7 from our other programs and services.

8 HANKIE ORTIZ: Okay. Thank you. Any  
9 other comments?

10 JESSICA BURGER: Jessica Burger,  
11 B-U-R-G-E-R, Little River Band of Ottawa  
12 Indians.

13 I'm going to say no, that we shouldn't  
14 set the date back further than May 15th,  
15 because I think the real issue is the  
16 transparency of the report. You know, the  
17 tribes get a request in October, November,  
18 sometimes as late as December to submit  
19 shortfall data. The data moves forward.  
20 And we're waiting and waiting and waiting  
21 and waiting for the transparency from the  
22 agency to tell us where the report is. And  
23 either it's embargoed, which I don't know of  
24 any statutory requirement to embargo the  
25 information.

1                   But, in any case, if we push that date  
2                   back further than May 15th we're not going  
3                   to get the appropriation cycle in, request  
4                   in before that October 1st start-up date.  
5                   So that I'm not in favor of.

6                   But I do think the report needs to be  
7                   more transparent and might be something that  
8                   the contract support cost workgroup could be  
9                   involved with so we're not waiting to see  
10                  what the data is going to be running over to  
11                  Congress and everybody is, again, on the  
12                  same page.

13                  If we're going to be in Partners In  
14                  Action relationship, then this is what it  
15                  actually is, and put the tribes through the  
16                  workgroup, and let's get that report done so  
17                  it's submitted on time and it's transparent  
18                  before May 15th.

19                  HANKIE ORTIZ: Thank you. Any  
20                  comments? Any other comments on question  
21                  number 7?

22                  Okay. The next question -- and I think  
23                  somebody mentioned training. And I want to  
24                  make sure that everyone is aware that we  
25                  have self-determination and contract support

1 costs training available. And we have it on  
2 the BIA website. It's on the first page.  
3 If you go to [www.bia.gov](http://www.bia.gov), there's a button  
4 at the bottom says self-determination  
5 training. You can click on that and lists  
6 the training handbook.

7 And since the beginning of 2013 we've  
8 offered 52 different training courses. Some  
9 of them are in-person training. Some are  
10 webinars. It just depends on the training.  
11 Some of the training is offered only once a  
12 year. Some are offered several times a year  
13 depending on what it is. But if you haven't  
14 looked at that and you are looking for  
15 training, hopefully here at the site you'll  
16 find it.

17 We wanted to put this question on here  
18 because we want to know what types of  
19 self-determination training or contract  
20 support cost training do tribes need that is  
21 not currently offered, because tribes can  
22 take advantage of all these training  
23 courses. It's also open to the federal  
24 staff. So both federal staff and tribes  
25 should be as educated on self-determination

1 and contract support costs as they can be.

2 And if there's something that's needed  
3 that's not offered, you know -- of course if  
4 we make changes to the way things are  
5 currently done, I think that, you know, one  
6 area that comes to the top of my head is  
7 super circular that is going to be  
8 implemented will replace the 87. With that  
9 change there will probably need to be some  
10 updated training on that. But if there's  
11 anything else that, I wanted to open it up  
12 to you now. If you had any suggestions  
13 we're definitely open to developing courses  
14 to meet your needs.

15 So did anyone have -- has anyone looked  
16 and said, hey, I'm looking for this and I  
17 didn't see it?

18 AARON PAYMENT: Aaron Payment again,  
19 Sioux tribe.

20 So this gets into the very technical  
21 realm, which I -- I have -- I'm glad that I  
22 have a generalized understanding. But there  
23 is a person on our IHS contract support cost  
24 workgroup, her name is Rhonda. She's also  
25 on the BIA side.

1           And one of the things that I've noticed  
2           is through the dialogue that we've had with  
3           the IHS contract support cost is it's -- we  
4           weren't speaking the same language. And I  
5           think that the more that we can do that on  
6           an ongoing basis and the result of both of  
7           those efforts should identify the, you know,  
8           getting on the same page sort of thing.

9           And one of the persons from the  
10          Oklahoma area for IHS shared a spreadsheet  
11          that she uses. And it -- and it -- it comes  
12          pretty close to being able to take the  
13          variances out of it and making it  
14          predictable. And I think once the contract  
15          support costs workgroups are done and they  
16          identify that area to, as much as possible,  
17          eliminate the discrepancy part of it and  
18          make it transparent, then that training  
19          should come forward from them and they  
20          should prescribe what that should look like.

21                 HANKIE ORTIZ: Thank you. Good  
22                 suggestion. Any other comments from the  
23                 training portion?

24                 ANNETTE CROWE: Annette Crowe,  
25                 C-R-O-W-E, Great Lakes Indian Fish &

1 Wildlife Commission.

2 And I just wanted to know if the  
3 funding for direct contract support costs is  
4 something that tribes can bank on? I mean,  
5 is it required to be distributed?

6 HANKIE ORTIZ: Yes, we're committed to  
7 paying a hundred percent of indirect and  
8 direct contract support costs.

9 ANNETTE CROWE: Okay, because direct  
10 contract support comes even later than  
11 regular contract support, so I was just  
12 wondering if it's something there that  
13 counts repayment.

14 HANKIE ORTIZ: Do you have any comments  
15 on that, Sunshine or Michelle?

16 MICHELLE McCORMICK-CORBINE: Typically  
17 the contract support cost need is calculated  
18 at the same time as direct contract support  
19 cost and indirect cost. And our current  
20 practice is we've been funding indirect  
21 first. So that's why it seems if direct is  
22 coming later.

23 ANNETTE CROWE: Okay. And I just want  
24 to say that it affects the way that the  
25 tribes do conduct their business, because

1 the allocation is so late, sometimes they  
2 could have been doing things that -- you  
3 know, it could have been completing their  
4 proposal activities before even the contract  
5 support costs arrive.

6 MICHELLE McCORMICK-CORBINE: And the  
7 contract support costs are distributed  
8 together. We've identified the need. And  
9 it's all one line item. And it's up to you  
10 if you determine if you need it for -- how  
11 you're going to use it, if you're going to  
12 use it for indirect or direct.

13 ANNETTE CROWE: Right. But then some  
14 tribes are not. They don't have the benefit  
15 of having carryovers in their request forms,  
16 so it affects the way business is done.

17 And I was just wondering if that could  
18 be done more efficiently?

19 MICHELLE McCORMICK-CORBINE: I guess  
20 my only comment is that as we're going and  
21 being funded at a hundred percent that  
22 should hopefully reduce that issue.

23 HANKIE ORTIZ: Thank you for your  
24 comments. Yes, sir.

25 BERNIE SHOT WITH ARROW: Hello. Good

1           afternoon. My name is Bernie Shot With  
2           Arrow, S-H-O-T, W-I-T-H, A-R-R-O-W, tribal  
3           councilmember for Oglala Sioux Tribe, Lakota  
4           nation. It's really good to be here. I  
5           like the consultations in Rapid City, so it  
6           would be good. I'm happy to be here in  
7           Shakopee. As you know, Wellesley tribe is  
8           probably one of the biggest tribes. Nation  
9           to nation, we talk about Obama has trying to  
10          work with the tribes.

11                 Being a councilman, my first time as a  
12          tribal councilman, it's tough because --  
13          this is really good. It's informative. But  
14          face a lot of problems in Indian country.  
15          We get elected to address the housing,  
16          education. These programs like everybody is  
17          talking about, I have to agree, it's like  
18          completing a circus.

19                 I'm sorry. You said we can address our  
20          concerns. Being a tribal leader, it's --  
21          it's good to go to these trainings, but I  
22          got people back home that need housing,  
23          education, but we're sitting here playing  
24          and this -- I know this is a contract  
25          agreement with the government so, I mean, I

1 wish, you know, hopefully we can get to the  
2 Washington or whoever is in charge, you know  
3 what I mean, to Congress so that we can quit  
4 playing games with this hundred percent and  
5 so we can go further as a tribe. And we got  
6 people that are homeless, a lot of lot of  
7 problems. That's why it's good to be here.

8 And that's my concern is that these  
9 trainings are good, but I think we need to  
10 finally find a way to get this hundred  
11 percent. Hopefully that Obama thing will  
12 get us situated.

13 That's kind of my issue as a  
14 councilman, I'm sitting here learning all  
15 this, and at the same time I'm trying to  
16 address concerns for my people. So thank  
17 you.

18 HANKIE ORTIZ: Thank you. And I know  
19 that that's a very difficult position to be  
20 in. You have a lot of responsibilities.  
21 And I just want to let you know in line with  
22 that, because some of the trainings are by  
23 webinar, they're also free of charge, just  
24 no registration cost, so that is available  
25 if you're interested.

1           And those are all the questions that we  
2           had pulled to kind of start the discussion  
3           on contract support costs. We'd like to  
4           keep this discussion focused on contract  
5           support costs and ask that, you know, you  
6           provide us with any comments you have on  
7           anything we haven't discussed, or if you've  
8           thought of something you wanted to say about  
9           a question that we've raised earlier, then  
10          please provide us your comments.

11           IRV PROVOST : In regards to contract  
12          support costs, we always seem the same  
13          products are or items we want to put in  
14          there. This is not necessarily the fact.

15           We got to get creative here. You know,  
16          all of us or most of us in here are elected  
17          officials, know the issues and concerns  
18          within our tribes and reservations and the  
19          bureau's services within our tribes and  
20          reservations.

21           One of the biggest concerns we have  
22          pertains to Bureau of Indian Education. But  
23          the biggest challenge, and I'll get to  
24          contract support cost on this, is our  
25          schools. Maintenance and upkeep of these

1 schools is atrocious. It's in a fixed cost  
2 budget. But when you start reading and  
3 researching, you look at some of these  
4 defense contracts, they're using contract  
5 support costs within their own contracts to  
6 maintain these buildings and these  
7 facilities to run their service. That's  
8 what I alluded to when you have certain  
9 departments that you have to go through to  
10 get buildings repaired.

11 Contract support costs should be added  
12 with building maintenance within Indian  
13 country, within these contract support  
14 issues. We keep running over the same  
15 philosophy, the same things that have to be  
16 in here.

17 Let's get creative. If you don't have  
18 a great building, kids are not going to  
19 come. You've got to have a healthy  
20 environment.

21 You know, our next generation is the  
22 future of our tribes. We have to give them  
23 the best opportunities and facilities to  
24 enrich themselves. So we've got to get  
25 creative here.

1                   You know, what I'm seeing here, it's  
2                   kind of little hesitant to take a look at  
3                   this. But we have to be demanding.

4                   You know, there's a few items here I  
5                   want to address from our tribe, Oglala Sioux  
6                   Tribe, some actions the Bureau of Indian  
7                   Affairs should take.

8                   We should be perform -- performance on  
9                   the true cost and self-determination of the  
10                  federal government including the cost of  
11                  services provided by non-BIA and IHS  
12                  agencies, such as the Office of Personal  
13                  Management, the General Services  
14                  Administration, the Department of Justice,  
15                  and any savings to these costs that result  
16                  in the Indian Self-Determination Act  
17                  contracting. In the absence of this  
18                  information, our discussions about cost and  
19                  funding for contract support costs is not  
20                  fully informed. So you got to realize this.  
21                  We got to see out there.

22                  You know, when we're talking with  
23                  appropriations and budgets from D.C., we got  
24                  to look at performance. You know, I was  
25                  part of EPA for a lot of years. And I was

1 part of that Gibler (ph.) initiative to  
2 measure how effective programs are.

3 And to me what we're looking at now is  
4 this United States government is going  
5 totally towards the contract or corporate  
6 world. Let's be honest. So we've got to  
7 have that mentality of contracting and the  
8 mentality of the corporate world, what we  
9 need to get done. If we don't think that  
10 way, we're not going to get any increases.

11 We should ask Congress for a permanent  
12 and definite appropriation to fund contract  
13 support costs. That comes from each one of  
14 us legislators getting to our Congress and  
15 Senators and demanding this with  
16 resolutions.

17 So I encourage you all you council and  
18 tribal people to put this as a priority to  
19 get a resolution supporting full funding.  
20 We need to do this. That's our  
21 responsibility as elected officials to do  
22 this. You know, there's one senator out  
23 there, Senator -- I hope I'm saying this  
24 right -- Begich, who introduced a bill,  
25 Senate bill 2669, having mandatory funding

1 on the widely supported -- widely supported  
2 Indian country. We need to support this  
3 individual.

4 We need to get this contract support  
5 cost going. We can't be timid. We've got  
6 to stand up. One of the biggest concerns I  
7 have -- and I felt this when I was on the  
8 Hill talking with individuals in Congress  
9 and Senate. They want to cut government  
10 bureaucracies.

11 Well, if we can go a comprehensive  
12 contract support cost within our contracts  
13 with the bureau of putting all our needs and  
14 requests in that and streamlining this, we  
15 can get something done. That means not  
16 having fixed cost budgets, everything being  
17 directly implemented from tribes, going to  
18 negotiate with OMB and having the  
19 capabilities to report to them.

20 One-stop shop. We don't need to have  
21 three stops along the way before our money  
22 gets to the Pine Ridge, because the cost  
23 efficiency of that is really not good in  
24 D.C. right now. They're saying we're  
25 wasting too much money on bureaucracies.

1                   So let's take a look at doing the  
2                   contracts fully supporting our needs with  
3                   our maintenance and upkeep of our buildings,  
4                   putting every item we can in there and  
5                   getting creative and requesting direct  
6                   implementation, what we can negotiate every  
7                   year biannually, because bureaucracies is  
8                   killing the needs and the services to our  
9                   next generation. Thank you.

10                  HANKIE ORTIZ: Thank you very much for  
11                  your comments.

12                  HANKIE ORTIZ: Mr. Payment.

13                  AARON PAYMENT: Okay, I apologize. I  
14                  am going to try to stick as closely because  
15                  I'm afraid what I will say if I don't. I  
16                  have a tendency of going off the rail  
17                  sometimes.

18                  I'm here to provide input as the  
19                  elected chairperson of the Sault Ste. Marie  
20                  tribe of Chippewa Indians. I also serve as  
21                  the vice president of the Inter-Tribal  
22                  Council of Michigan, United Tribes of  
23                  Michigan, Midwest Alliance of Sovereign  
24                  Tribes, and the Midwest Regional Vice  
25                  President of the National Congress of

1 American Indians.

2 As you know, pursuant to the Section  
3 106(a) of the Indian Self-Determination and  
4 Education Assistance Act, tribes are  
5 entitled to contract support costs for  
6 reasonable administrative and overhead costs  
7 in carrying out programs and services under  
8 the trust obligation or what I like to call  
9 prepaid treaty rights. The U.S. Supreme  
10 Court has twice upheld the obligation and  
11 ordered the federal government to fully fund  
12 CSC. These judicial outcomes are not  
13 subject to the current interpretation of  
14 Indian program funding as discretionary.  
15 And, therefore, the president's or OMB's  
16 direction to cap CSC is inappropriate at  
17 best and probably unlawful. In enacting an  
18 omnibus budget package earlier this year,  
19 Congress made clear the intent to fully fund  
20 CSC.

21 I recognize the Obama administration's  
22 need to balance the federal budget;  
23 especially at a time when Congress would  
24 rather recess than work. However, as I have  
25 advised HHS Secretary Sebelius, all of the

1 great accomplishments of the Obama  
2 administration are threatened to be  
3 overshadowed by the administration's  
4 previous direction to cap CSC and now the  
5 stress of using already underfunded program  
6 funds to make up for the shortfall.  
7 Ordering the full funding of CSC without  
8 sufficient funds to hold our programs and  
9 services harmless feels like a slight of  
10 hand. I almost feel as though we are being  
11 punished for repudiating the  
12 administration's direction to cap CSC and  
13 going directly to Congress for full funding.

14 Clearly, we have more work to do to  
15 educate both the administration and Congress  
16 that our funding should not be considered  
17 discretionary but is a contractual  
18 obligation. Other federal contracts are not  
19 subject to the interpretation of contract  
20 support costs as discretionary. Neither  
21 should funding to Indian country be  
22 discretionary. For my tribe, we recently  
23 settled for 70 cents on the dollar for what  
24 we believe is due to us for administering  
25 our health services as a self-governance

1           tribe. Previously we were offered 30 cents  
2           on the dollar. As a tribe with some level  
3           of healthy resistance, we endured until we  
4           received a better offer. Our settlement was  
5           \$1.3 million plus interest. Imagine the  
6           opportunity costs loss for the several years  
7           we were denied what is rightfully ours. We  
8           did okay, not 100 percent, but imagine also  
9           those tribes who more desperately need  
10          operational funds and settled for 30 cents  
11          on the dollar.

12                 I am on the IHS contract support cost  
13          workgroup. I understand that calculating  
14          CSC is incredibly complicated as it involved  
15          projections and reconciliations. However, I  
16          believe the first step in the right  
17          direction is to treat it separately as a  
18          line item to be funded and not as a  
19          component of our services funding. Federal  
20          funding for our prepaid treaty rights is  
21          already at a real dollar conversion to the  
22          Clinton era. In my tribe's case, we are  
23          only funded for our health services for  
24          contract health services delivery area at 56  
25          percent of our identified need. That is a

1 fraction of a fraction as only 38 percent of  
2 our members reside in our CHSDA. My tribe  
3 supplements the lack of federal commitment  
4 to the tune of \$18 million annually  
5 including covering the CSC shortfalls.

6 The United States government has a  
7 legal and moral duty to fully fund CSC, a  
8 duty which requires reliable and sufficient  
9 appropriations every year, without  
10 exception, which are not to be paid through  
11 cuts to federally funded Indian program  
12 budgets. This is like trying to run in  
13 quicksand. We should not be losing grounds  
14 as a result of a Supreme Court case or a  
15 Congressional mandate to fully fund contract  
16 support costs.

17 I support the recent Tribal-Interior  
18 Budget Council's proposed memorialized  
19 resolution passed on July 23rd, 2014 to:  
20 Enact permanent mandatory appropriations for  
21 contract support costs under the Indian  
22 Self-Determination and Education Assistance  
23 Act.

24 I also urge the Bureau of Indian  
25 Affairs, the Indian Health Services, the

1 Office of Management and Budget, and United  
2 States Congress to work to enact permanent,  
3 indefinite appropriations for CSC as  
4 non-discretionary as soon as possible to  
5 finally address the long-standing problems  
6 arising from the federal government's past  
7 treatment of CSC as discretionary. Thank  
8 you.

9 HANKIE ORTIZ: Thank you. So you have  
10 a copy of that. Can you provide that to me  
11 too?

12 (A discussion was held off the record.)

13 HANKIE ORTIZ: Did anyone else have any  
14 comments?

15 JOAN DELABREAU: Good afternoon,  
16 probably broke the mike here. Good  
17 afternoon. My name is Joan Delabreau,  
18 D-E-L-A-B-R-E-A-U. I'm a legislator for the  
19 Menominee Tribe of Wisconsin. Thank you for  
20 the opportunity to make some brief comments  
21 on behalf of my tribe on contract support  
22 cost policy. I also have a copy.

23 HANKIE ORTIZ: Thank you.

24 JOAN DELABREAU: The Menominee tribe  
25 carries out contracts with both the Bureau

1 of Indian Affairs and the Indian Health  
2 Service to provide our members essential  
3 governmental services ranging from  
4 healthcare to natural resource management.  
5 Contract support costs provide essential  
6 funding to administer these contracts in  
7 accordance with the law and prudent  
8 management. Unfortunately, for many years  
9 BIA and IHS underpaid Menominee, and most  
10 other tribes, leaving huge shortfalls. The  
11 tribe had to backfill these budget holes  
12 with program money and scarce tribal  
13 resources, placing even more pressure on  
14 already underfunded programs. The Menominee  
15 tribe fought this policy of systematic  
16 underfunding, both as a member of the Ramah  
17 class action and through litigation against  
18 IHS that has gone on for many years,  
19 including two settlements and two trips to  
20 D.C. Circuit Court of Appeals.

21 This year, for the first time in recent  
22 memory, Congress lifted the contract support  
23 cost spending caps that cheated tribal  
24 contractors and subjected the United States  
25 to liability in the billions of dollars. We

1 are told that BIA and IHS will fully fund  
2 what tribes are due, both in FY 2014 and  
3 again in FY 2015. The Menominee tribe  
4 applauds the government for this decision,  
5 but we are concerned about how it has been  
6 implemented. The additional money needed to  
7 fully fund contract support costs has been  
8 taken, at least in part, out of Indian  
9 programs funds, programs that were already  
10 woefully underfunded and then further  
11 reduced by sequestration. Full contract  
12 support must not come at the cost of reduced  
13 program funding.

14 Moreover, it is not clear that the  
15 government's commitment to full contract  
16 support cost funding will persist beyond FY  
17 2015. As your consultation notice stated,  
18 Congress has called for permanent solutions.  
19 The Menominee tribe is convinced that such  
20 solutions must include federal legislation  
21 to establish contract support costs as a  
22 permanent, indefinite appropriation, like  
23 other legal entitlements. Payment of full  
24 contract support costs is mandatory, as  
25 Supreme Court has affirmed twice, so a

1           mandatory appropriation to fund these  
2           payments makes sense.

3                       The Menominee tribe supports S. 2669,  
4           a bill introduced by Senator Begich that  
5           would add contract support costs to the list  
6           of mandatory, permanent appropriations.  
7           This simple amendment would solve many  
8           vexing problems. At present, appropriating  
9           and budgeting for full contract support as  
10          part of an annual discretionary  
11          appropriation is almost impossible because  
12          of all the moving parts in a given fiscal  
13          year. Indirect cost rates change,  
14          facilities come online or expand, tribes  
15          take on or give back programs from the  
16          agency. If too much contract support is  
17          allocated in a given year, funds that could  
18          have been used for Indian programs go unused  
19          and revert to the Treasury. If too little  
20          contract support is allocated, tribal  
21          contractors go underfunded, services suffer,  
22          and the United States faces liability for  
23          contract claims. A permanent, indefinite  
24          appropriation would relieve Congress and the  
25          agencies of the impossible task of hitting

1 the moving target perfectly every year.

2 Establishing a mandatory appropriation  
3 separate from the agency's annual  
4 discretionary appropriation would also  
5 ensure that contract support costs do not  
6 compete with Indian program funding, as it  
7 has this year. The single biggest complaint  
8 we have heard from the tribes about the  
9 full-funding policy is that BIA and IHS  
10 filled the gap, at least in part, with other  
11 monies dedicated to Indians. This smacks of  
12 the kind of trickery that stains so much of  
13 the history of federal-tribal relations, and  
14 it is out of place in an era when the  
15 government-to-government relationship has  
16 advanced so far.

17 Finally, the Begich bill would have no  
18 net effect on spending levels since the  
19 entitlement to full contract support already  
20 exists. If not paid from the agency's  
21 discretionary appropriations, any deficiency  
22 can be recovered through contract claims  
23 against the government, as the Supreme Court  
24 has twice held. Any incidental increase in  
25 contract support spending, for example, from

1 the removal of the disincentive to contract  
2 that chronic underfunding created, would  
3 likely be more than offset by savings on  
4 legal expenses.

5 Mandatory appropriations would not  
6 solve every problem associated with  
7 implementation of contract support cost  
8 policy. For example, disputes will continue  
9 about how to calculate the full amount due  
10 to individual contractors in a given fiscal  
11 year. But this proposal is easily the  
12 single most effective, far-reaching step the  
13 government can take toward the desired  
14 long-term accounting budget and legislative  
15 strategies to work on solutions going  
16 forward. At no net cost, the government  
17 would save itself legal and budgetary  
18 headaches to protect Indian programs, and  
19 permanently establish the funding, not just  
20 the legal obligation, to fully pay tribal  
21 contracts now and in the future.

22 In closing, we urge the Department of  
23 the Interior, as well as our fellow tribal  
24 contractors, to strongly support legs to  
25 establish contract support costs as a

1 permanent, indefinite appropriation.

2 I'd like to thank you for the  
3 opportunity given to my tribe to provide  
4 these comments. Thank you.

5 HANKIE ORTIZ: Thank you very much for  
6 providing comments. Appreciate that.

7 Anyone else have any comments on contract  
8 support cost that they want to provide?

9 JESSICA BURGER: Thank you, Hankie.  
10 Jessica Burger. I'm with the Band of Ottawa  
11 Indians. My last name is spelled  
12 B-U-R-G-E-R. I guess I'll start with an  
13 Indian Self-Determination Act, Section 106  
14 requires that the BIA and IHS send their CSC  
15 reports to Congress no later than May 15th  
16 each year. Reports are usually concluded on  
17 time. The agencies get the information, but  
18 they're not submitted necessarily on time.  
19 We're not sure of the tribes, because  
20 they're always in agency review that will  
21 affect the part we spoke about earlier.

22 The problem with that is the reports  
23 impact the administration's budget request  
24 and Congressional action because no one  
25 knows what the true level of need is or what

1           the true number is to fully fund contract  
2           support cost. At best it usually ends up  
3           being some sort of estimate.

4                        So I guess there are some questions.  
5           As far as we know, that the data is  
6           accurate, how do we know it's reported on  
7           time? Who monitors how the submissions are  
8           moved forward?

9                        Well, I think that the reports  
10          submitted to Congress, which should be  
11          reflected in appropriations, should be  
12          shared with tribes through the contract  
13          support cost workgroup, that's going to do a  
14          couple of things. It's going to bring some  
15          transparency to the numbers that are being  
16          submitted for Congressional from the -- the  
17          president's budget request and hopefully  
18          make it into the Congressional  
19          appropriation. And it's also going to  
20          reduce a need for the tribes to go back to  
21          the litigation table. No one wants to do  
22          that. I mean, it's costly. Costs the  
23          tribes money. Costs the agency money. And  
24          leaves less money on the table for everyone.

25                        The other biggest problem that I see is

1           that there are differing policies between  
2           all of the agencies. I mean, which --  
3           what's applied? Indirect cost rate? Is it  
4           the pass-through dollars? How does that  
5           impact what's the direct cost calculation?  
6           If we can standardize and formalize the  
7           policies across the agencies, I think that  
8           will make everybody's life a lot easier.

9                        BIA and IHS need to reconcile the  
10           practices and policies so the tribes can  
11           respond with consistent information year to  
12           year so it's not a guess on our part and  
13           that report goes into Congress and reflects  
14           accurate information year to year. What  
15           you're going to see over time is a  
16           stabilization of the total amount because  
17           tribes are going to assume programs at a  
18           certain level, so the amounts are going to  
19           stabilize.

20                      It's also going to decrease the  
21           administrative burden on the tribes and the  
22           agencies because, you know, we're trying to  
23           negotiate these direct contract support  
24           costs and indirect cost rates. And, again,  
25           it all goes back to time and money and who

1 is involved to make that happen.

2 I just learned today, for example, that  
3 on a shortfall report, this is in the  
4 session I was in earlier, that the pay cost  
5 has an impact. And I was under the  
6 impression, based on where we've just been  
7 through in litigation under the Ramah class  
8 and the IHS's claims that we submitted, that  
9 there was an indirect cost rate and single  
10 audit direct cost reflection and then the  
11 pass-through. So that was new information  
12 to me. So if it's new information to me,  
13 it's got to be new information to the  
14 tribes.

15 I think there needs to be a seamless  
16 communication between the Interior Business  
17 Center, formerly known as the National  
18 Business Center, and any agencies so there's  
19 not a disconnect between the shortfall  
20 report and what it says and what the  
21 indirect cost agreements says. And then  
22 there should be a direct relationship  
23 between all of the information. Again, this  
24 goes to reconciliation of the current  
25 practices across the board. Understanding

1           that the agencies want to have their own  
2           policies, but also understanding that  
3           appropriations originated one committee for  
4           both agencies. So let's try to clean that  
5           up a little bit.

6                     And then I think there needs to be some  
7           training. We talked about that. But,  
8           frankly, it's really for the staff at the  
9           regional and central offices, because tribes  
10          know these policies. We have to know these  
11          policies because we have to protect our  
12          interest. But when you come in the room  
13          with the staff and bureaus and from IHS, you  
14          know, at best we're starting almost with an  
15          education program to get them up to speed  
16          with the information that we fully  
17          understand. So I think that would help as  
18          well.

19                    And I think one of the reasons we're in  
20          the state we're in with regard to litigation  
21          and settlement offers and budget requests,  
22          and that keeps base with the contract  
23          support cost need, is the direct line of  
24          engagement from the agencies of the tribes  
25          through the work-through process. Meeting

1           annually is not going to cut it. We need to  
2           have probably at best a biannual meeting,  
3           maybe even a quarterly meeting, until we get  
4           to a point that those contract support costs  
5           requests are reflected in a pretty stable  
6           less than a 5 percent change up or down in  
7           Congressional appropriations. The data has  
8           to be openly shared. It means the draft  
9           reports have to go out to the tribes so we  
10          can review them. And before the whole thing  
11          goes to Congress went to the workgroup and  
12          make sure everything was submitted with a  
13          true reflection of need. There's no  
14          statutory limitation on it. I think it's  
15          more an internal mechanism that holds up the  
16          transparency of the report. So you know,  
17          let's ease up on that.

18                 Who better to advocate the agencies'  
19          needs, and especially as relate to ensuring  
20          full funding for contract support costs,  
21          along with the programs, because I agree  
22          with Chairman Payment and I agree with the  
23          legislator from Menominee, contract support  
24          costs should not be funded at the expense of  
25          programs. Part of that is because we just

1           need to make the request. Who better to  
2           help you with that than the tribes? Who  
3           better to help you with that than the tribes  
4           who are fully engaged helping you meet your  
5           trust obligations to our people?

6                     And I had one last thought. All of the  
7           tribes in the Midwest region operate  
8           programs under some mechanism, some 638, we  
9           have a lot to gain by having full contract  
10          support cost funding, especially in the  
11          region that historically has the least level  
12          of need funded of all of the other regions  
13          in the country. And while we understand  
14          that the agency cannot necessarily lobby  
15          Congress for these dollars, you can help us  
16          by meeting just as active in educating the  
17          impact of reducing program dollars to meet  
18          the full funding level, the full funding  
19          level that was directed by the Supreme Court  
20          of the United States and has been directed  
21          at least twice by Congressional language.  
22          You don't have to lobby, but you can  
23          educate. And we'll help you with that. We  
24          often hear from the agencies that the tribes  
25          need to come with a unified voice. You want

1 to hear our stories. You know, my challenge  
2 to you is to take those stories forward also  
3 with a unified voice of the tribes to say,  
4 you know, if we have to switch out the pot  
5 to put full money in contract support cost  
6 bucket and take out of the program bucket,  
7 this is going to be the impact on how we  
8 live up to our trust obligation.

9 There's no justifiable reason for cap  
10 appropriation in this regard. The request  
11 has to be made. The tribes are doing it.  
12 We're lobbying Congress. We're talking to  
13 our home representatives, our legislators.  
14 We're trying to be as inclusive as we can on  
15 the agencies' behalf. You know, our federal  
16 trust relationship requires that we need to  
17 help us and we need to help you; but,  
18 moreover, we need to depend on you.

19 And I just got some information earlier  
20 this morning about some things that are  
21 running through Congress with regard to  
22 appropriations. The House came on to the  
23 House -- let me see here. I've got too many  
24 devices. And I apologize. This came out of  
25 the House Appropriations Committee and it

1 was the report on committee. And granted  
2 they went on recess so, you know, where  
3 we'll see the action on this, I don't know.  
4 The House Appropriations Committee said that  
5 it would fully fund the BIA contract support  
6 cost requirement at 246 million. That's  
7 about 4 million over the 24 -- the 2014  
8 enacted level. On the Indian Health Service  
9 side they added 10 million to make up for  
10 the act in directors reductions to fully  
11 fund contract support costs and restore some  
12 of the program reductions. They're also  
13 going to fund on the IHS side a 617.2  
14 million dollar level contract support cost  
15 requirement as 30 million dollars over for  
16 2014 enacted level. This is Congressional  
17 mark. And they've asked that IHS and BIA  
18 submit a reprogramming request and committee  
19 the final calculated contract support costs  
20 exceed the amounts that have been put into  
21 their legislation and to make sure that by  
22 doing so they can go back to the board and  
23 make sure the contract support cost are  
24 fully paid.

25 There are some other pending

1           legislations out there. One is to make  
2           contract support costs a mandatory  
3           appropriation, and then two other ones that  
4           are -- one in the House and one in the  
5           Senate that are going to put some onus on  
6           the agencies. But I'm going to encourage  
7           that the agency work with us on  
8           standardizing the policy and that the agency  
9           work with us to make sure that we meet the  
10          middle ground in the programming requests.  
11          We ask for full funding. We ask for it not  
12          at the expense of programs. And at the end  
13          of the day I think we'll all come away from  
14          the table a whole lot happier, a lot less  
15          litigation involved. Thank you.

16                   HANKIE ORTIZ: Thank you for your  
17                   comments. Does anyone else have any  
18                   comments they would like to share?

19                   JIMMIE MITCHELL: Jimmie Mitchell,  
20                   Little River Band of Ottawa Indians. You  
21                   know, I can't help but feel a little angry  
22                   when I think about all the immense work  
23                   that's gone into defending these costs for  
24                   the tribes and just thinking to calculate  
25                   the billable hours and amount of time spent

1           just to come up with the argument that these  
2           costs were truly part of what the tribes'  
3           responsibility to our people were in  
4           defending them. I guess my anger comes in  
5           thinking that looking at in contract support  
6           costs, basically the way it's being looked  
7           at from folks with inside the bureau is that  
8           it was really just a budget modification.  
9           Budget modification, redraw the lines a  
10          little bit, throw some money in some other  
11          buckets and we're all supposed to be happy  
12          about it. And I think, you know, as  
13          everybody gets their dollars and their  
14          respective costs, back home you have to  
15          think, well, where did that money come from  
16          because the budget didn't get any bigger?  
17          And I think that everybody should be greatly  
18          offended by that because, as we know, not  
19          only is that happening at the same time  
20          we've got sequestration happening. We have  
21          all these rescissions coming down happening.  
22          So as that balloon, if you will, of funds  
23          that are sitting out there starts to deflate  
24          more and more, you know, the effects back  
25          home within our tribal communities are what?

1           And if anybody isn't offended by that, I'd  
2           like to hear how I could look at it  
3           differently, because it doesn't matter if  
4           it's on the bureau side or the tribal side.  
5           When human needs are somehow trivialized to  
6           a point that we can place some slight of  
7           hand and take some money out of a pocket and  
8           put it in another and say look what it did  
9           for you. I'm greatly offended by that.

10                   I understand that there's a lot of  
11           folks up there from the president on down  
12           talking about honoring the tribes and giving  
13           the respect due. Well, if this is the kind  
14           of respect that's due, we need to send a  
15           different message. Everyone in here should  
16           be upset. When you go to D.C., they should  
17           be making sure they get into everyone -- in  
18           front of every person they can that needs to  
19           hear this message, because I know a lot of  
20           times when we go in front of these  
21           Congressional people, we start explaining  
22           our situations, it's like deer in the  
23           headlights. They don't know what we're  
24           talking about. We're talking a foreign  
25           language. And then they're looking at their

1 watch waiting, trying to find a reason to  
2 get us out of the room. It's really hard  
3 sometimes when you're sitting there and  
4 spending, you know, eight, 10 hours a day up  
5 on the Hill. And just like you can just  
6 tell the disconnect between those people who  
7 should be the supreme protectors and taking  
8 care of our needs, and they don't really  
9 know.

10 So this is really hard for us. And I  
11 don't see it getting any easier any time  
12 soon. But, again, I think we need to change  
13 the message, and it needs to be shared with  
14 the president on down, things aren't good in  
15 Indian country. And with that, again, that  
16 balloon deflating more and more, things  
17 aren't going to get any better anytime soon.  
18 Thank you.

19 HANKIE ORTIZ: Thank you for your  
20 comments? Any other comments on contract  
21 support costs? Okay. Seeing no additional  
22 comments, we're going to move forward. This  
23 slide that's provided in your presentation  
24 identifies the consultation sessions that  
25 we've had. So we've had some since -- the

1 first three we had jointly with Indian  
2 Health Service. And it was with the  
3 Assistant Secretary Kevin Washburn and the  
4 acting IHS Director Yvette Roubideaux. So  
5 those were three national consultations  
6 sessions that we had, two of them in D.C. or  
7 the D.C. area, and one in Anchorage. And,  
8 as you can see, this is the second to the  
9 last one, we have one more coming up on  
10 August 19th. That's going to be held at the  
11 Best Western Ramkota Hotel in Rapid City,  
12 South Dakota. And so if you know of anyone  
13 who would like to attend or might be  
14 interested, I'd appreciate you sharing that  
15 information. It did go out in a Federal  
16 Register notice over a month ago and also in  
17 a dear tribal leader letter. So hopefully  
18 that information has been shared. I'm glad  
19 you all heard about it and were able to  
20 attend this session.

21 I think we received a lot of  
22 substantive comments. And I think -- you  
23 know, I don't know if you were expecting us  
24 to pose questions and maybe you have -- you  
25 know, you'll have some more time to think

1           about those questions or come up with some  
2           other comments that you'd like to provide.  
3           And I just want to let you know again that  
4           we're accepting comments until August 31st.  
5           So you can submit your written comments to  
6           consultation@bia.gov or mail them into the  
7           U.S. Department of Interior, Bureau of  
8           Indian Affairs, attention Terry Parks. And  
9           there's the address for our office in D.C.  
10          So if you had -- you know, you had prepared  
11          comments, I would encourage you to email  
12          those to us or mail them to us in addition  
13          to -- I understand we got some other  
14          comments in. They'll be in the record. If  
15          you want to share additional comments,  
16          you're welcome to do that. We're keeping  
17          the comments open until the 31st. And  
18          that's our cutoff date, because we are  
19          planning to meet again with the  
20          consultation -- I mean, the contract support  
21          cost workgroup on the week of August 8th.  
22          We're going to meet three days that week.  
23          So the 8th and the 12th are travel days, and  
24          we're meeting Tuesday, Wednesday and  
25          Thursday. So -- and, you know, we have been

1 meeting with the workgroup more frequently.  
2 This will be our third meeting since last  
3 September. So there's been a strong focus  
4 on contract support costs. And they've been  
5 very helpful. And the people in our group  
6 are extremely knowledgeable about contract  
7 support costs, pretty much the experts in  
8 the field. And contract support cost is not  
9 an easy subject. There's a big learning  
10 curve. And it's -- there are all these  
11 differences, you know, variables that make  
12 it very complicated.

13 So I do appreciate your interest in  
14 contract support costs and sharing your  
15 comments with us today. And I'd like to  
16 thank you for coming.

17 (The proceedings came to a close at  
18 approximately 3:03 p.m.)

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1 STATE OF MINNESOTA)

2 COUNTY OF RAMSEY )

3 I, Pauline H. Hanson, do hereby certify the  
4 foregoing is a true and correct transcript of the  
5 proceedings taken by me in stenotypy and thereafter  
6 transcribed by me to the best of my ability.

7

8 Dated this 14th day of August 2014.

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Pauline Hanson, RPR