

Testimony for Nicholas Lovesee

Director of Policy for the Native American Finance Officers Association (NAFOA)

House Appropriations Subcommittee on the Interior, Environment, and Related
Agencies

Native American Public Witness Day - May 8th, 11:00am

Chairman Simpson, Ranking Member Pingree, and members of the House Appropriations Subcommittee on the Interior, Environment, and Related Agencies. Thank you for the opportunity to speak with you all this afternoon. My name is Nicholas Lovesee, I am the Policy Director for the Native American Finance Officers Association (NAFOA) and today I am here to advocate for important changes to tribal programs within the Department of Interior, as well as broader recommendations for the Administration's handling of tribal initiatives. NAFOA represents over 160 tribes located all around the country, from Alaska all the way down to Florida, and from the states of Idaho, Minnesota, Nevada, Texas, and Washington, to name a few.

We currently are in a very important transitional time in Indian Country, and for federal funding in general. With the country moving on from COVID, we are transitioning from a period of incredibly high federal spending back to more "normal" funding levels. In addition to battling a global pandemic, legislation such as CARES and ARPA helped address some of the previously underfunded, or in some cases unfunded entirely, mandates of Indian Country that historically have been left behind. This unprecedented spending has been a boon for many tribes, but now we need to make sure that it doesn't turn into a burden. As the funding amounts start to level-off or recede, it is important that Indian Country doesn't unfairly bear the burden of spending cuts and that tribal governments aren't left in a worse situation than they were pre-pandemic. To that end, NAFOA has several requests for this Subcommittee and the Appropriations Committee as a whole.

First, we request that a number of programs currently funded under the discretionary classification be changed to mandatory funding. Maybe the easiest, though least helpful "request" would be to simply ask for a normal appropriations/funding cycle. I don't need to tell anyone here that the consistent Continuing Resolutions (CR) and shutdowns has had a major impact in a negative way on any number of different issues. Reclassifying programs would help tribes with financial planning and make budget forecasting far more accurate, something that is very important to the business development of tribes which have an oversized reliance on federal programs and funds.

An example of one of the programs that should be looked for reclassification is Contract Support Costs and Payments for Tribal Leases. Both this year and last year's President's budgets have called for the reclassification of the programs, and S. Rept. 118-83 outlined why it is important to do so:

... payments for contract support costs and 105(l) leases appear to create a type of budgetary entitlement that is typically not funded through discretionary appropriations. For contract support costs, the Indian Self-Determination and Education Assistance Act [ISDEAA] of 1975 requires the government to enter into contracts and leases with any willing Tribe and requires that the government pay a Tribe's costs. Section 105(l) of the ISDEAA requires the Secretary, at the request of a Tribe, to enter into a lease with the Tribe for a building used to provide services under the ISDEAA. Reclassification of these costs from a discretionary appropriation to a mandatory appropriated entitlement has been under discussion since the Supreme Court issued its decision in 2012.

If inconsistent funding legislation is going to become the “new normal”, as unfortunately has been the trend over the last 20 years, then we need to adjust to that reality and make what changes we can to help tribal governments and members. In addition to the reclassification changes in the 105(l) program, the President's budget also makes a critical request for higher BIA staffing levels to meet increased demand for leases from tribes. This is an important recognition of a reality that tribes face a shortage of experienced staff and help at the various offices administering tribal programs.

To address that problem, funding needs to be made available, with authorizing changes attached, to ensure that **all** tribal programs, grants, loan opportunities, and more have across-the-board technical assistance to help answer all the questions that tribes and tribal entities might have.

In September of last year, NAFOA testified before the House Natural Resources Subcommittee on Indian and Insular Affairs, stating “Another major issue the lack of technical assistance that IRS and Treasury can offer tribes. ... Our understanding from IRS statements is that they do not have the legal authority to provide this assistance. There needs to be an authorization that will allow IRS to give in-depth information and technical assistance to tribes, similar to the types of technical assistance available with many other tribal programs, as well as a place where tribes can go to ask for guidance or clarification.”

I have just come back from the NAFOA conference a couple of weeks ago, and one of the issues we hear over and over at our conferences since COVID is about applying and accessing different programs. The feeling in Indian Country is that there seems to be many wonderful funding sources and programs offered but no ability to actually implement them.

One of the best examples of federal assistance and outreach is the Office of Tribal and Native Affairs (OTNA) at the Department of the Treasury. The OTNA is set-up to work with Tribal governments and members of Indigenous communities with the goal of promoting economic prosperity. Overseen by Chief Lynn Malerba, the first Native American to hold the position of Treasurer of the United States, the OTNA was established in September of 2022. As outlined by the Department of the Treasury, the OTNA is established to: (1) to advise on Tribal policy and program implementation; (2)

coordinate Tribal consultations; and (3) manage the Treasury Tribal Advisory Committee (TTAC).

However, the OTNA is not operating under permanent funding authority and without a reauthorization in the FY 2025 funding legislation faces termination. Currently the Office has a budget of \$2 million and employs 8 staff, and even in the short time the OTNA has been in existence it has already had a positive impact far exceeding its cost. NAFOA strongly encourages Congress to make the OTNA permanent and ensure that it continues to receive funding at its current level. Without a permanent authority, the office could face termination or underfunding.

Next, there needs to be a strong investment in tribal business and economic development programs. Using broadband as an example, there are a number of different programs that various departments and agencies within the Administration offer to help tribes develop either their own networks, add-on to existing networks, enhance access and reliability, and more, and they use different methods such as competitive grants or guarantees for loans. This is a good recognition that tribes face unique challenges with their own unique circumstances. The USDA's ReConnect Loan and Grant program is currently open for its fifth round of funding and is offering up to \$150m in total available grants to ANCs, tribal governments, Colonias, Persistent Poverty Areas and Socially Vulnerable Communities. Tribal members need reliable, fast internet access to compete in the 2024 business marketplace.

At the Department of Interior, the Indian Loan Guarantee Program (ILGP) is another example of a successful program that needs more support. The amount that loans are for has increased dramatically over the past few years and, since the program constantly reaches its maximum authority, this dramatically reduces the amount of loans overall that can be offered. The ILGP has been a major economic benefit to tribes of all sizes, helping to establish credit which in turn fuels even more growth and creating new job opportunities that would otherwise not exist. Given the program's success across the board, Congress should significantly raise the cap for how much is available for tribes to borrow. Additionally, the program does not currently interact with the New Market Tax Credit, unnecessarily limiting the good work the ILGP could be doing, especially in areas it could make the biggest difference. Making this small change would have an outsized positive impact on Indian Country and allow for more loans and better opportunities for economic growth without a spending increase.

Lastly, ILGP is another example of the havoc that inconsistent funding and Continuing Resolutions wreak on tribal programs. Temporary CRs only fund part of the ILGP lending authority. This creates a situation where banks either don't make a loan due to only partial availability of necessary funds or it makes a loan taking on the risk that there might not be further funding, either a CR or full appropriations measure.

Looking at the President's budget for the Department of Interior, NAFOA supports a number of specific funding increases. Overall, the 2025 President Budget includes a \$514m increase over '23 enacted across the board to the Department of Interior's tribal programs, which is a step in the right direction of honoring the commitment made by the

federal government to Native Communities. NAFOA also supports the proposed \$71m increase over '23 enacted to Tribal Public Safety and Justice funding at Interior. Justice and safety for indigenous communities has long been an important issue for tribal governments and many tribes face a shortage of resources addressing public safety concerns. NAFOA supports increases in other areas the President's Budget highlighted:

- \$26m for climate resilience and natural resource management
- \$77m for education programs at BIE schools
- \$38m for tribal human services programs
- \$12m native language and cultural revitalizations programs

Thank you again for your time and invitation to testify. I am available for questions and if there is anything additional that I or NAFOA can provide now or in the future, please let me know.