



# NATIONAL CONGRESS OF AMERICAN INDIANS

## Testimony before the U.S. Senate Committee on Indian Affairs Hearing the President's Fiscal Year 2014 Budget for Tribal Programs

April 24, 2013

### Introduction

On behalf of the National Congress of American Indians (NCAI), I'd like to thank you for holding this important hearing on the President's Fiscal Year 2014 Budget for Tribal Programs. NCAI is the oldest and largest American Indian organization in the United States. Tribal leaders created NCAI in 1944 as a response to termination and assimilation policies that threatened the existence of American Indian and Alaska Native tribes. Since then, NCAI has fought to preserve the treaty rights and sovereign status of tribal governments, while also ensuring that Native people may fully participate in the political system. As the most representative organization of American Indian tribes, NCAI serves the broad interests of tribal governments across the nation. As Congress debates elements of various budget proposals for FY 2014 and beyond, leaders of tribal nations call on decision-makers to ensure that the promises made to Indian Country are honored in the federal budget. This testimony will address the impact of the sequester, and address specific FY 2014 budget issues including Indian Affairs, contract support costs, natural resources and environment, health care, public safety and justice, and homeland security. In addition to this testimony, NCAI has partnered with national, regional, and issue specific tribal organizations to develop comprehensive recommendations included in the *FY 2014 Indian Country Budget Request*, and we request for the document to be entered into the record.

### Sequester

Although we are submitting testimony on FY 2014, we must comment on the FY 2013 sequestration of discretionary programs. NCAI passed a unanimous resolution that trust and treaty obligations to tribes should not be subject to sequestration. Although the United States, businesses, and workers hoped that an economic recovery was finally taking off, the nation will begin absorbing automatic spending cuts known as sequestration in the next few months, creating an economic drag. The sequester cuts pose particular hardship for Indian Country and the surrounding communities who rely on tribes as employers, where the recession struck especially hard.<sup>1</sup> Tribal leaders urge Congress to protect the federal funding that fulfills the trust responsibility to tribes in the face of difficult choices. The sequester reductions to tribal programs undermine Indian treaty rights and obligations – treaties which were ratified under the Constitution and considered the “supreme law of the land.” At its most basic level, the economic success of the United States is built upon the land and natural resources that originally belonged to tribal nations. In exchange for land, the United States agreed to protect tribal treaty rights, lands, and resources, including provision of certain services for American Indian and Alaska Native tribes and villages, which is known as the federal Indian trust responsibility. Indiscriminate

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<sup>1</sup> Economic Policy Institute, *Different race, Different recession: American Indian Unemployment in 2010*, November 18, 2010

cuts sacrifice not only the trust obligations, but thwart tribes' ability to promote economic growth or plan for the future of Native children and coming generations.

The 2013 sequester and potential reductions due to the Budget Control Act caps will hurt law enforcement, education, health care and other tribal services, which have been historically underfunded and have failed to meet the needs of tribal citizens.

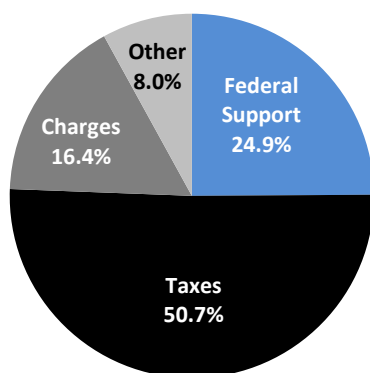
### Federal Cuts Disproportionately Impact Indian Country

In their role as governments, tribes deliver all the range of services that other governments provide. Tribal governments maintain the power to determine their own governance structures and enforce laws through police departments and tribal courts. Tribes provide social programs, first-responder services, education, workforce development, and natural resource management. They also build and maintain a variety of infrastructure, including roads, bridges, housing, and public buildings. Yet, tribes need adequate resources to exercise their self-determination and serve as effective governments. Government funds provide much-needed investments in tribal physical, human, and environmental capital.

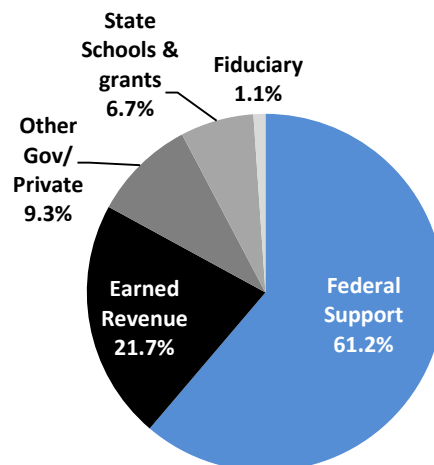
For many tribes, a majority of tribal governmental services is financed by federal sources. Tribes lack the tax base and lack parity in tax authority to raise revenue to deliver services. If federal funding is reduced sharply for state and local governments, they may choose between increasing their own taxes and spending for basic services or allowing their services and programs to take the financial hit. On the other hand, many tribes have limited ability to raise substantial new revenue, especially not rapidly enough to cover the reduction in services from the across the board reductions of the FY 2013 sequestration.

**Figure 1**

**Sources of State and Local Government General Revenue: 2010**



**Sources of Reservation Government Revenue, MT**



Sources: US Census Bureau: *2010 Annual Surveys of State and Local Government Finances* and *Monetary Contributions of Reservations to the State of Montana*; The Bureau of Business and Economic Research School of Business, University of Montana

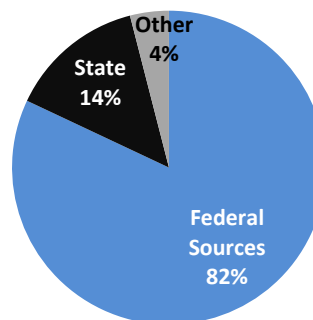
States and localities finance their own areas of spending and state and local taxes provide the majority of the funding for most of their services. The Census of Governments shows that half of

state and local government revenue is from their own taxes, while a quarter of their revenues come from the federal government. Like other governments, there is much diversity among tribes and regions in the proportion of federal sources of revenue to tribal taxes and tribal enterprise profits. As an example, Figure 1 shows tribal revenue sources for Montana's reservations compared to the average state and local government revenue sources. More than 60 percent of the revenue for tribal governmental services in Montana is from federal sources, 2.5 times higher than for state and local governments.

### Cuts Will Impact Regional Economies

Not only will reductions to discretionary programs violate the trust obligations to tribes, but cuts will hurt the regional economies in which tribes are major players. A tribal government in Southeast Alaska, representing more than 27,000 tribal citizens, attracted between \$25 million and \$27 million in annual funding to the region to support 200 programs and services that enhance the lives and well-being of tribal citizens, families, and communities. These services affect employment, health, education, and cultural identity. The \$22.5 million in direct expenditures generated an additional \$9 million in indirect and induced economic activity, for an estimated total regional impact of \$31.6 million.<sup>2</sup> Reductions to Bureau of Indian Affairs, Head Start, as well as to Departments of Justice and Education will exact a heavy toll on the region's economy.

**Figure 2: AK, Tribal Government General Revenue Sources**



In 2009, the five tribes of Idaho provided total employment statewide for 10,676 jobs, including multiplier effects.<sup>3</sup> The tribes report that they “receive federal government revenues to support tribal government operations, health services, education, fish and wildlife projects, law enforcement, environmental quality, economic development programs and projects, and other activities. U.S. federal agencies serving as funding sources include the Bureau of Indian Affairs, U.S. Fish and Wildlife Service, U.S. Department of Health and Human Services, U.S. Department of Energy, U.S. Department of Agriculture, Bonneville Power Administration, U.S. Environmental Protection Agency, and U.S. Department of Transportation. Those federal funds represent "high powered" spending when they enter the local economies, and provide a relatively large economic impact.”<sup>4</sup>

In Oklahoma, 38 tribal nations have a \$10.8 billion impact on the state every year, supporting an estimated 87,000 jobs, or five percent of all jobs in the state. Interrupting tribal revenue flow is likely to increase unemployment for the region. In Washington State, a recent economic analysis showed that, in total, \$3.5 billion of the total gross state product can be attributed to the activity on American Indian reservations. Also, tribes paid \$1.3 billion in payroll to more than 27,000 Washington residents, many of whom were non-Indian. Although some tribes have implemented

<sup>2</sup> McDowell Group, *Contributions of Central Council Tlingit and Haida Indian Tribes of Alaska*, (Juneau, AK), March 2010

<sup>3</sup> Steven Peterson, *2010 Economic Impacts of the Five Tribes of Idaho On Idaho's Economy*, 2010

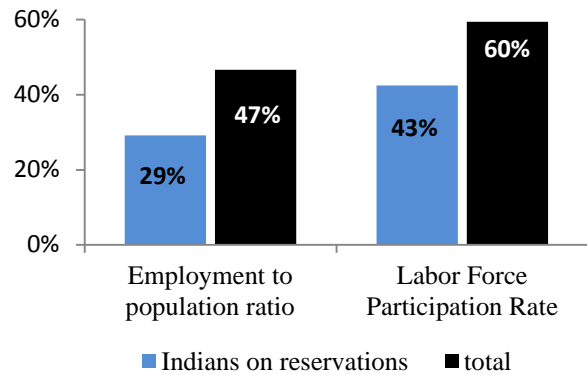
<sup>4</sup> Peterson, 2010

strategies that enhance economic development for their communities to *supplement* federal sources, that does not *supplant* the federal government’s duty to fulfill its trust responsibility.

Tribal Economies

The sequester cuts pose particular hardship for Indian Country and the surrounding communities who rely on tribes as employers, where the recession has struck especially hard. Census Bureau data show that each employed American Indian supported more than three others who were not employed. By contrast, the proportion for the entire US population is about one to one. Tribal leaders and planners have been working to address the economic inequity represented in the employment-to-population ratio.

**Figure 3**



The labor force participation rate—the proportion of able-bodied civilians of working age that are working—also shows much unmet potential for tribal citizens to enter into the economy. Four of 10 Indians receive a paycheck, versus nearly two-thirds of total population.

Impact on Employment

Sequester reductions in FY 2013 and beyond will likely a greater effect on employment in Indian Country than in other communities. Figure 4 shows industry sector of people who are employed for the entire population compared to the Native population on reservations. A third of Native people are employed in education, health care, and social services delivery. Many of the health, education, and social services in Indian Country receive federal funds, including through the Indian Health Service, Bureau of Indian Education, Impact Aid, and through the Bureau of Indian Affairs.

**Figure 4: Industry for the Civilian Employed Population**



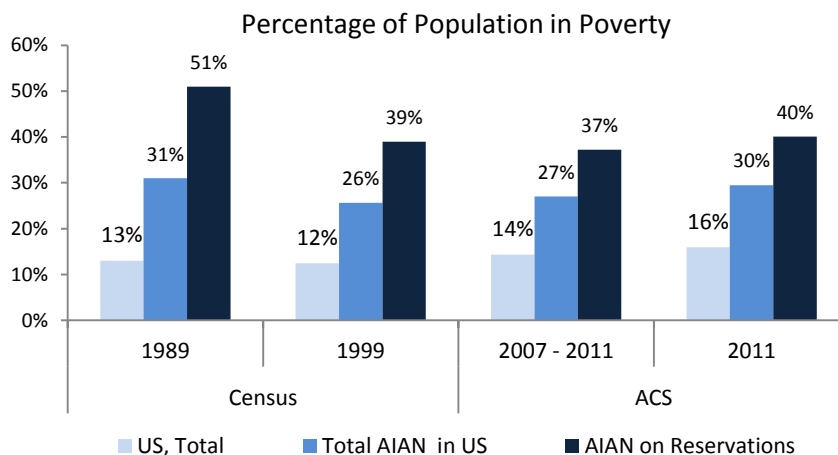
Source: 2006-2010 American Community Survey

The second largest sector employing Indian Country is public administration. One out of five employed American Indians on tribal lands works in public administration, compared to one out of 20 for the entire country.

### Impeding Recovery

Examining the trends in poverty rates on and off tribal lands is informative to the debate on how to address fiscal challenges. From 1990 to 2007, tribes reduced the percentage of tribal citizens in poverty on tribal lands by more than one-third. The poverty rate for all reservation American Indians and Alaska Natives (AIAN) in 1990 was 51 percent (see figure 6). That dropped to 39 percent in 2000, and was recently lowest at 33 percent in the 2008 Census American Community Survey (ACS) estimate. That has gone back up to 40 percent in the 2011 ACS 1-year estimate (see figure 6). The poverty rate for AIAN nationally, on and off reservation lands, was 20 percentage points lower in 1990 than the on-reservation rate, 10 percentage points lower in 2000, and 10 percentage points lower in 2010. So tribes dramatically lowered the gap between reservation and total AIAN poverty, but the recession halted the narrowing of the gap.

**Figure 6**



Source: U.S. Census Bureau, 2011 American Community Survey 1 and 3 year estimates, 1990 Census, 2000 Census

Tribes were reversing what were once considered insurmountable challenges, due to increased self-determination, but the recession undermined some of those gains. Tribes want to continue improving economic conditions so that young Native people will want to return to economies that provide work on their homelands.

### **Specific Recommendations on the FY 2014 President's Budget**

With a basic overview of the role of federal funding in Indian Country covered, this testimony will address some specific funding priorities and address components of the President's FY 2014 proposed budget. NCAI, in collaboration with national, regional, and issue specific tribal organizations, has developed comprehensive program recommendations included in the *FY 2014*

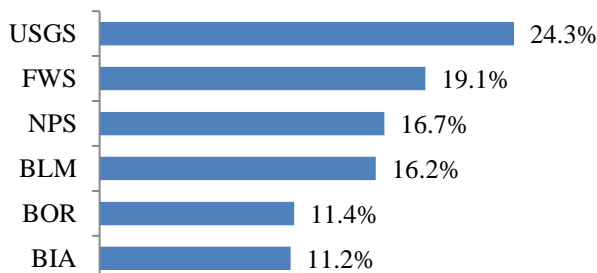
*Indian Country Budget Request*, and we request for the document to be entered into the record.<sup>5</sup> The document addresses many more programs and agencies than are included in this testimony.

### Bureau of Indian Affairs in Context

NCAI appreciates recent support for some tribal programs over the last few years, especially for the Indian Health Service and law enforcement. However, we must mention that comparing budget increases for the six largest Interior agencies between FY2004 enacted to FY2014 Presidents' Request shows that BIA has received the smallest percentage increase.

### **Budget Increases for the 6 Largest Interior Agencies FY2004 to FY2014**

	FY 2004 enacted	FY 2014 Request	FY2004- 2014 % Increase
USGS	\$938.8	\$1,167.0	24.3%
FWS	\$1,303.4	\$1,552.0	19.1%
NPS	\$2,258.6	\$2,636.0	16.7%
BLM	\$999.8	\$1,162.0	16.2%
BOR	\$942.9	\$1,050.0	11.4%
BIA	\$2,305.8	\$2,563.0	11.2%



The increase for BIA from the FY 2004 enacted level to the FY2014 President's requested level is about 11 percent, the smallest percent increase compared to the six largest Interior agencies over that same time period. The Department of Interior's budget overview acknowledges that "*the Congress has placed the trust responsibility for Indian matters in the Department of the Interior, primarily within the Bureau of Indian Affairs.*" The President's budget provides \$11.7 billion in discretionary funding for the Department of the Interior (DOI), an increase of over four percent above the FY 2012 enacted level. The DOI (without BIA) request for FY 2014 is a 5.1 percent increase of \$455,109,000, while the Bureau of Indian Affairs budget would increase by \$31 million, or 1.2 percent, or \$21 million without the indirect cost increase. A \$134 million increase to BIA funding would be needed *to be equitable to overall FY 2014 Department of the Interior increases.*

### Changes Proposed to Contract Support Costs

NCAI opposes the Administration's unilateral proposal, in its FY 2014 budget request, to fundamentally alter the nature of tribal self-governance by implementing individual statutory tribal caps on the payment of contract support costs. Contract support cost funding is essential to the operation of contracted federal programs administered under federally issued indirect cost rate agreements. No change of such a fundamental character should be implemented until there has been a thorough consultation and study process jointly undertaken by the Indian Health Service (IHS), the Bureau of Indian Affairs (BIA), and tribal leaders, informed by a joint technical

<sup>5</sup> National Congress of American Indians. (January 2013). Fiscal year 2014 Indian Country budget request: Supporting tribal economic security and prosperity. Washington, DC: Author.

working group and coordinated through NCAI. Such a consultation process must be scheduled to permit opportunity for full tribal participation. While NCAI believes that overall statutory caps on contract support costs should be eliminated, at the very least Congress should maintain in FY 2014 and FY 2015 the status quo statutory language enacted in FY 2013 so that tribally-developed changes in contract support cost funding mechanisms, if any, can be included in the FY 2016 Budget.

NCAI further recommends that the Committee either eliminate the current caps (as was the case with the IHS appropriation until FY 1998, and with the BIA until FY 1994), or raise the IHS cap to \$617 million and the BIA cap to \$242 million. Whatever funding levels are fixed in the bill, tribal contractors should not be denied the remedies that every other government contractor possesses, and which the Supreme Court in the *Ramah* and *Cherokee* cases confirmed protect Indian contractors, too.

NCAI also requests that the Committee take firm action to force the disclosure of IHS data that the Secretary has failed to share with Congress and the Tribes, contrary to federal law.

#### Other Recommendations for Indian Affairs

***Carciari Fix:*** Language to provide a no-cost economic development and jobs creation solution for restoring land to tribal governments impacted by the *Carciari* Supreme Court decision is included in the Department of the Interior general provisions of the President's budget. NCAI urges Congress to retain this language.

***Replacement Schools:*** The FY 2014 President's budget does not include funding for Bureau of Indian Education (BIE) replacement school or replacement facility construction. NCAI urges Congress to restore funding for this program. The FY 2013 Continuing Resolution increased Department of Defense school replacement by \$30 million above FY 2012 levels while zeroing out funds for new BIE school construction. Indian Country urges Congress to ensure that dilapidated BIE schools also receive much-needed attention. There must be parity between the two federally-funded school systems. BIE schools are in overwhelmingly horrific conditions across the United States. Rodent infestations, buckling walls, water leaks near electrical outlets, and exposed asbestos, lead paint, and mold are abundant in facilities that serve Native students. Providing safe and secure schools for Native students is a matter of basic equity and a fundamental element of the federal government's trust responsibility to tribes.

The President's budget eliminates the ***Housing Improvement Program*** (HIP) budget. NCAI opposes HIP's elimination because the program serves the neediest of the needy in Indian Country and losing the program altogether would be difficult for tribes to absorb or cover in other ways.

***Natural Resources and Trust Lands:*** Federal investment in tribal natural resources management helps to sustain tribal land and people, grow economies, and support continued prosperity. Many of the BIA Trust natural resources programs discussed in this section experienced substantial cuts over the past decade. Further reductions in FY 2013 under the Budget Control Act of 2011 would eliminate jobs, stymie economic activity at a critical time for tribes, and curtail combined tribal, federal, state, and community collaboration as well as the valuable perspective in natural resource management that tribes contribute to the national natural resources and the economy. The most

supportive role for the federal government is as a resource-provider and enabler—facilitating independent decision-making and true self-governance for tribal nations. When tribes are free to make decisions, they have the opportunity to align policy and planning with established tribal priorities.

One of the largest increases in the proposed FY 2014 BIA budget is for sustainable tribal stewardship and development of natural resources. The proposed budget includes increases of \$32.4 million for this initiative. The funding is proposed for resource management and decision-making in the areas of energy and minerals, climate, oceans, water, rights protection, endangered and invasive species, resource protection enforcement, and post-graduate fellowship and training opportunities in science-related fields. \$2.5 million of this funding will focus on projects engaging youth in the natural sciences and will establish an office to coordinate youth programs across Indian Affairs. Programmatic changes in Trust Natural Resources include increases of \$9.8 million to cooperative landscape conservation, \$7.7 million to Rights Protection Implementation, \$5.1 million to Forestry, \$3 million to Fish, Wildlife and Parks, and \$2 million to Tribal Management and Development. NCAI supports such increases, but the increases are below the recommended levels for various natural resources programs at BIA included in the *FY 2014 Indian Country Budget Request* which contains expanded tribal justification for each program.<sup>6</sup>

### Environmental Protection Agency

***Tribal General Assistance Program (GAP)***: The President requested an increase of approximately \$5 million over FY 2012 appropriations to \$72.6 million for the Tribal General Assistance Program. Program capacity building is a top environmental priority identified by tribes as part of the EPA National Tribal Operations Committee National Tribal Caucus. GAP is unique among federal programs in that it provides a foundation which tribes can leverage to support other greatly-needed programs, such as planning for natural resource management, energy efficiency activities, and small scale renewable energy projects. However, GAP funding has not kept pace with the growth of tribal environmental programs over the years, forcing tribes to perform the increased duties of maturing programs with fewer funds. Furthermore, the average cost for tribes to sustain a basic environmental program was set at \$110,000 per tribe in 1999 and has not been adjusted for inflation since then. Tribal demand for program implementation across various media includes a very pressing need to establish climate change adaptation plans. A \$175,000 per tribe distribution (totaling approximately \$98 million) reflects an equitable adjustment. Tribes request \$96 million for GAP funding in FY 2014. Expanded justification on tribal EPA programs can be found in the NCAI *FY 2014 Indian Country Budget Request*.

### Indian Health Service

NCAI urges Congress to uphold the federal trust responsibility by protecting the IHS budget and developing a long-term plan to fully fund the IHS, including an advanced appropriations scheme. These recommendations parallel the National Indian Health Board's testimony – which NCAI supports – and are high priorities of tribal governments and tribal leaders.

Indian Country recommends that Congress fully fund IHS contract support costs (CSC) in FY 2014, either by eliminating the current caps or raising the IHS cap to \$617 million. The choice of

<sup>6</sup> National Congress of American Indians. (January 2013). Fiscal year 2014 Indian Country budget request: Supporting tribal economic security and prosperity. Washington, DC: Author.



tribes to operate their own health care systems and their ability to be successful in this endeavor depends upon the availability of CSC funding to cover fixed costs. Without full funding, tribes are forced to reduce direct services in order to cover the CSC shortfall. Adequate CSC funding assures that tribes, under the authority of their Self-Determination Act contracts and Self-Governance compacts with IHS, have the resources necessary to administer and deliver the highest quality health care services to their members without sacrificing program services and funding.

NCAI also recommends that this Committee reject the Administration's proposed restructuring of the appropriations Act.

Most importantly, full funding of contract support costs is a contract obligation that the federal government must honor by law. The total amount required to fully cover contract support cost requirements in FY 2014 was estimated to be \$617 million

### Public Safety and Justice

The problems that continue to plague public safety providers on tribal lands are the result of decades of gross underfunding for tribal criminal justice systems; a uniquely complex jurisdictional scheme; and a centuries-old failure by the federal government to fulfill its public safety obligations on American Indian and Alaska Native lands. In recent years, a broad representation of tribal leaders highlighted the shortcomings in the current justice system during numerous government-to-government consultations, informal dialogues, conference calls, meetings, and Congressional hearings. At each turn, they emphasized that the current lack of resources for law enforcement on tribal lands poses a direct threat to Native and non-Native citizens alike, and to the future of all tribal nations. These concerns culminated in the passage of the extremely comprehensive Tribal Law & Order Act (TLOA) in 2010.

Highly-functioning law enforcement and basic police protection are fundamental priorities of any government; tribal governments are no different. Tribes have some of the most valuable resources in the nation – natural and human – and tribal lands are prime locations for new business ventures and economic development. Yet, issues of perceived safety on the reservation continue to hinder successful growth of tribal economies. Further, the severe lack of public safety resources has served as a welcome mat for criminal activity on the reservation.

**BIA Office of Justice Services:** The President's budget includes a \$19 million increase for BIA public safety and justice. These increases will provide \$5.5 million to hire additional tribal and Bureau law enforcement staff and \$13.4 million to staff recently constructed tribally-operated detention centers. An increase of \$1 million is for tribal courts, which are expected to see an increase in case loads. \$3.0 million is to meet the needs of tribal communities with elevated levels of domestic violence.

NCAI welcomes these increases, but notes that a \$1 million increase for tribal courts is far below the amount needed. It is well-documented by entities such as the US Commission on Civil Rights and the American Bar Association that tribal courts have been historically underfunded by the federal government and that this underfunding negatively impacts their law enforcement operations. Although there have been federal grants issued – particularly through the US Department of Justice– to address discrete justice and safety concerns, those grants are time-

limited and do not support the ongoing and daily operating needs of tribal courts. Enacted in 1993, the Indian Tribal Justice Act authorized an additional \$50 million per year for each of seven years for tribal court base funding. Despite numerous congressional reauthorizations of the Act over the past couple of decades – most recently through FY 2015 in TLOA – not a single penny has been appropriated. The promise of this much-needed base funding must finally be fulfilled.

Further, the method by which BIA supplemental court funding is distributed is seriously flawed and needs to be overhauled. Currently, in order to obtain necessary additional operating funds, a tribal court must undergo – and fail – a court evaluation. This deters tribes from seeking additional funding because they must be assessed as being sub-standard; and this information becomes public, undermining the reputation and credibility of the tribal court. In addition, the innovative tribal courts that achieve success with pilot programs are unable to obtain funding to continue the programs or to allow for replication as best practices by other tribal nations. A confidential evaluation process and award system that allow for under-functioning courts to receive additional funding and also support successful pilot programs should be developed and implemented.

**Department of Justice:** The President’s FY 2014 Budget requests \$389.5 million for the Department of Justice (DOJ) public safety initiatives in Indian Country (including \$369.5 million in discretionary funds and \$20 million from the Crime Victims Fund, a mandatory account). This is a significant increase compared to the President’s FY 2013 DOJ request, and it demonstrates the Administration’s continued commitment to improving the criminal justice system on tribal lands.

This substantial increase in requested funding for Indian Country initiatives within DOJ is due in large part to the new **\$20 million set-aside for tribal victim assistance** within the **Crime Victims Fund**. The Crime Victims Fund, administered by the Office for Victims of Crime (OVC) within DOJ’s Office of Justice Programs (OJP), was initially established to address the need for victim services programs, and to assist tribal, state, and local governments in providing appropriate services to their communities. The Fund is financed by collections of fines, penalty assessments, and bond forfeitures from defendants convicted of federal crimes, but until now, tribes have only been eligible to receive a very small portion of the discretionary funding from the Fund. Over the past year, OVC and OJP officials have recognized the great need to strengthen victims services on tribal lands and, thus, are proposing this new set-aside to help meet that need. The new tribal funding is requested as part of OVC’s Vision 21 Initiative, a strategic planning initiative based on an 18-month national assessment by OJP that systematically engaged the crime victim advocacy field and other stakeholder groups in assessing current and emerging challenges and opportunities facing the field. The initiative focuses on supplemental victims services and other victim-related programs and initiatives in areas like research, legal services, capacity building, national and international victim assistance, and—of course—tribal assistance.

Similar to the President’s 2012 and 2013 requests, the Department again proposes bill language for a **7 percent tribal set-aside** from all discretionary **Office of Justice Programs** to address Indian country public safety and tribal criminal justice needs. Under the FY 2014 request, the 7 percent set-aside totals approximately **\$102.5 million**—more than a \$20 million increase from last year’s request and far more comparable to the numbers found in the President’s 2012 budget request. Although the details of how these funds will be administered are yet to be determined, the goal is to provide a more flexible grant structure for tribes. To offset this new policy, the

Department proposes to eliminate bill language contained in prior years' Appropriations Acts that had specific funding amounts for traditional tribal justice programs – such as tribal prison construction, tribal courts initiative, tribal alcohol and substance abuse reduction assistance, and tribal youth.

The President's DOJ budget requests \$412.5 million for the **Office on Violence Against Women (OVW)**, **\$42.7 million** of which will be aimed at addressing the high victimization rates of American Indian and Alaska Native women for the crimes of domestic violence, sexual assault, dating violence, and stalking on tribal lands. Of these funds, about \$35.3 million is requested for disbursement through the VAWA Grants to Indian Tribal Governments Program, while \$3.6 million would be funneled to tribal coalitions through the VAWA Tribal Coalitions Grants Program and \$2.3 million would go to tribes under VAWA's Sexual Assault Services Program. Also within these OVW funds, the President has requested that \$500,000 be available for an Indian Country Sexual Assault Clearinghouse that will offer a one-stop shop for tribes to request free on-site training and technical assistance. The FY 2014 budget request also sustains funding for Analysis and Research on Violence Against Indian Women at \$1 million.

This year's DOJ budget also requests a total of **\$1.6 million** for the **Office of Tribal Justice (OTJ)** to, among other things, help fund a total of six attorney positions in FY 2014. This request for additional staffing resources was made in recognition of the increased workload and duties of OTJ staff in recent years, particularly since the Tribal Law & Order Act of 2010 established OTJ as a permanent component of the Department. Hundreds of federal cases, in addition to other conflicts needing resolution are generated in Indian country each year, and OTJ serves as the primary point of contact between all 566 federally recognized tribes and DOJ on these matters. OTJ coordinates these complex matters, the underlying policy, and emerging legislation between more than a dozen DOJ components active in Indian country. As such, it is imperative that OTJ has the necessary resources to sufficiently fulfill all of these obligations.

Additionally, the FY 2014 budget request for tribes under the **Community Oriented Policing Services (COPS)** program to fund tribal law enforcement expenses is **\$20 million**, the same as the FY 2013 requested amount. This program provides funding and resources to meet the public safety needs of law enforcement and advance community policing on tribal lands. The President requested \$15 million for tribes under the COPS Hiring Program, identical to his FY 2013 request, but substantially lower than his request in FY 2012 (which was closer to \$42 million). These funds are critical for the hiring and retention of tribal law enforcement officers.

DOJ's FY 2014 Budget Request for Indian Country programs is a substantial increase over its FY 2013 numbers, which is particularly encouraging given the current budget climate in Washington, DC. Moreover, DOJ's request provides tribes with more flexibility in how they spend their DOJ grant dollars, demonstrating the Justice Department's continued commitment to tribal self-determination and the improved administration of justice on Indian lands.

#### Department of Homeland Security

Tribal government homeland security and emergency management capacity has increased in recent years despite inequitable funding and support by the Department of Homeland Security (DHS). NCAI and the tribes were successful in having DHS create the Tribal Homeland Security Grant Program (THSGP) but it has been severely underfunded. In the FY 2013 budget request,

DHS proposed the creation of the National Preparedness Grant Program (NPGP) which would have eliminated the tribal program and placed tribes in competition with states for funding, and asked some tribes to submit grant proposals to states and have the funds managed by state governments. NCAI strongly urged DHS to not implement NPGP until tribal consultation took place but consultation has not occurred.

The DHS is re-proposing the NPGP for FY 2014. The NPGP gives high preference to states with Emergency Management Assistance Compacts (EMAC). While tribes are beginning to develop emergency assistance compacts with surrounding jurisdictions there are currently no state-tribal EMACs. The NPGP also utilizes a complicated process for assessing regional and national capability requirements through the Threat and Hazard Identification and Risk Assessment and capability estimation processes.

The DHS FY 2014 budget document request states that tribes will continue to apply directly to the Federal Emergency Management Agency (FEMA) under a competitive process and that FEMA will ensure a portion of the overall funding is dedicated to tribal nations. However it also states that tribal funding is contingent on tribal governments proving they are contributing to overall national preparedness and the main criteria is that tribes have established memoranda of understanding or the protection of national critical infrastructure and that they have completed their own THIRA.

Tribal concerns persist that tribal funding may be inadequate. However, based on tribal/FEMA relations in the recent past there is a significant possibility of a positive outcome. Tribes, NCAI, and the Federal Emergency Management Agency worked together to secure passage of legislation that authorizes tribes to seek a direct presidential disaster declaration under the Stafford Act. Currently tribes are submitting comments on implementation of the Stafford Act tribal provisions, but FEMA has yet to reach out to tribes regarding tribal eligibility in myriad programs contained in the Hurricane Sandy Relief Act which included the tribal amendments.

#### Federal Communications Commission

The FY 2014 budget request of the Federal Communications Commission (FCC) is \$359.3 million. This proposed budget will enable the FCC to support ongoing reforms of the Universal Service Fund, maximization of spectrum allocation, ensure consumer protections, and promote public safety communications services.

In August of 2010 the FCC created the Office of Native Affairs and Policy (FCC-ONAP) as the responsible entity for the FCC's consultation and training efforts with tribal nations. However, this office was never provided a dedicated, annual budget to ensure continuity in its consultation efforts on behalf of the FCC. During NCAI's 2013 Executive Council Winter Session in Washington, DC tribal leaders became aware that FCC-ONAP has relied primarily on the FCC's travel budget, which as of March 1, 2013 has been frozen due to sequestration. Unfortunately, the FCC has not mentioned whether it will provide FCC-ONAP with FY 2014 funding.

Reinstatement of an operating budget for FY 2013 and providing a dedicated, annual budget beginning in FY 2014 is crucial to advancing the government-to-government relationship between tribes and the FCC. Numerous proceedings have been initiated since FCC-ONAP's creation in 2010, which have included reforms to universal service programs impacting tribal nations.

Implementation of the Mobility Fund, Tribal Mobility Fund, Tribal Government Obligation Engagement Provisions, Intercarrier Compensation benchmarks, and reforms to the Tribal Lifeline and Link-Up Programs necessitate the continued existence of this office. The FCC is also positioned to increase much needed tribal nation access to commercial wireless spectrum.

### Conclusion

Reductions in funding to meet trust obligations to tribal nations – public safety, education, health care, social services, and tribal governmental services – are reductions to “high powered” spending for local economies, which will impede economic recovery in addition to causing increased poverty and hardship for Indian Country.

The stakes are high for tribal governmental services and programs in the federal budget that support the trust responsibility, only some of which are highlighted here, but trust obligations should be protected from further reductions. Tribal programs, as part of the discretionary budget, have already done their part to reduce the deficit through the bipartisan Budget Control Act. Continued cuts will have severe consequences for every tribal citizen. Tribes urge the President and Congress to uphold the solemn promises of the trust responsibility throughout the federal budget in FY 2014 and future years.