

Testimony by Bernie Teba, Executive Director
Eight Northern Indian Pueblos Council
to the
Senate Committee on Indian Affairs

April 28, 1999

Testimony by Bernie Teba, Executive Director
Eight Northern Indian Pueblos Council
to the
Senate Committee on Indian Affairs
April 28, 1999

Good Morning Mr. Chairman and members of the Senate Committee on Indian Affairs. My name is Bernie Teba, I am the Executive Director for the Eight Northern Indian Pueblos Council. The Eight Northern Indian Pueblos Council is a consortium of the Northern New Mexico pueblos Tribes of Taos, Picuris, San Juan, Santa Clara, San Ildefonso, Nambe, Pojoaque and Tesuque.

The Northern New Mexico Pueblo Tribes consist of four gaming-compact tribes, five small tribes with less than 300 members, three relatively large tribes with over 1800 members, tribes with natural resources and tribes with no marketable natural resources or gaming activity. We also have one tribe - the Pueblo of Santa Clara - a self-governance compacted tribe. The Northern Pueblo Tribes are served by the Bureau of Indian Affairs Northern Pueblos Agency. In some regards the Northern Pueblos are a microcosm of tribes from through out the country.

I am here today to express the concerns of the Northern Pueblos relative to the Bureau of Indian Affairs Mission. More specifically, the resource allocation process. Please bear in mind that criticism of the Bureau of Indian Affairs is an exercise in futility. The policies and practices of the BIA are firmly entrenched and recalcitrant to change. I speak from experience. I have worked for tribes and tribal organizations for the past twenty-three (23) years. I also served throughout the duration of the DOI/BIA/Tribal Task Force on Reorganization of the Bureau of Indian Affairs. As I had expressed and predicted to the Task Force members and tribes - the BIA would not and will not change regardless of the Task Force recommendations, tribal concerns and good management practices. I am still a proponent of Congressional action through legislation to mandate the BIA to change -such as the BIA Re-organization legislation introduced by Senator John McCain a few years back.

Quite often it is a double-edged sword to either criticize or request a mandate from Congress to change the Bureau of Indian Affairs. Either the BIA will passively resist and let time erode any attempts to change, or, because of our frustration - Congress will micromanage the BIA- both are not conducive to the effective delivery of services at the reservation level.

In this regard I am here today to advocate for change.

The fundamental problem is the lack of an adequate resource allocation and accountability model.

Annually tribes go through a meaningless exercise in providing comment on the BIA budget planning and allocation process for the resources to support the BIA mission. This year two tribal representatives from each of the twelve area offices are provided five minutes to identify priorities, concerns and issues. The Eight Northern Indian Pueblos Council has mandated that we think outside of the box called the BIA Budget process.

We want to offer today a budget process and accountability model that will involve tribal governments in identifying tribal community needs and establish quantified outcomes at the community level. This proposed process will address the issue of accountability to Congress on accomplishments with funds appropriated by Congress.

The ENIPC model is based on the concept that in order to be accountable, Congress must first acknowledge that there are indeed tribal needs that must be addressed over a period of time. Tribal needs are many, however, if the process is clearly identified to address needs then there is a clear expectation as to what is going to be addressed. The process does not foster the funding of the federal bureaucracy nor does it reward managers for expending funds.

The need for budget reform in the Bureau of Indian Affairs dates back over two decades. Since announcement of the Indian Self Determination Policy in 1970 and initiation of the "Tribe/Agency" component of the budget in the mid-1970's, little change has occurred in the methods by which the BIA develops their budget. Tribal input is at best token input. The amounts and number of programs subject to Tribal priority setting are seriously eroded, and the budget forwarded to Congress each year fails to address Tribal needs or priorities adequately.

Currently more and more tribes are contracting BIA operations under Self-Determination contracts as a consequence of improved tribal governmental operations. The past twenty years have seen the development of vital tribal government management and administrative capacities. Major portions of federal services are presently being delivered through tribal governments. The longer-term question is whether to target the direct distribution of funds to tribes for the delivery of essential services without eroding the Federal government's trust obligation and responsibility rather than trying to re-define or re-invent the

bureaucracy.

The existing budget process and why it does not work:

- The current process is not based on service needs as defined by the tribes. Instead it is based on the BIA interpreting the needs first as a means of perpetuating the BIA, and secondly, services to the tribes.
- Managers are rewarded for expending funds. Accountability for meeting tribal needs does not exist.
- The budget process is based on historical levels of funding the agency, which may or may not have any correlation to tribal needs.
- The budget system, by design, pays the bureaucracy first and the tribes second.
- The Albuquerque Area Office spends 80% of budgeted funds for federal employee personnel costs.
- The process does not provide appropriation expenditure type accountability to the tribe(s).
- The budget process is designed to meet the needs of the BIA organization, which in most instances have a limited relationship to tribal needs.
- The process does not provide accountability to the Congress on which tribal needs are met or not met.
- Participation in the budget process is a frustrating exercise since tribal leaders' decisions are lost as they proceed up through the BIA Area and Central Offices, Office of Management and Budget, Interior Department and on to Congress.
- The capability for tribal leaders to track their decisions does not exist.

The existing Federal BIA budget process does not fulfill the Federal government's trust responsibilities to the Indian tribes. The budget process makes the mission meaningless relative to resource allocation decisions based on tribal needs and accountability for meeting needs.

Examples that the current process does not work include the following:

1997 BIA Northern Pueblos Resource Assessment

The following summary is taken from page 3 of the 1997 BIA Northern Pueblos Agency (BIA-NPA) Resources Assessment (Attachment A) conducted by the Eight Northern Indian Pueblos Council.

Of the \$3.197 million received by the BIA-NPA, 62.6% of the \$3.1 million was utilized to provide services to other governmental entities while only 37.4% of the resources were provided to meet tribal services. Tribal

governments received 19.9% of resources for services. Of the 19.9% of resources to tribal governments, the Northern Pueblo Tribes received 15.8% of resources. Indian individuals, Indian organizations and Indian Companies received 17.5% of resources for services. If tribes received only twenty cents on the dollar for services how can tribal needs be addressed. Or, to put it another way how can the BIA meet its mission if only 20 to 37 percent of the resources are being allocated to provide tribal services. Their biggest customer is the bureaucracy.

A similar Resource Allocation Assessment was conducted on the BIA Albuquerque Area Office in 1993. In that survey we found that twelve cents on the dollar was allocated to Area tribes for services. The **1993** assessment was one of the reasons why the Area Tribes wanted to re-organize the Albuquerque Area Office to a technical assistance center to allow the majority of resources to be allocated to the tribe/agency level.

Tribal Priority Allocation (TPA)

Congress annually appropriates Tribal Priority Allocation (TPA) account funds with the perception that Tribes are the direct beneficiaries. Since by definition TPA funds are to be used for essential tribal services. This is not the case at the Albuquerque Area Office where approximately two million dollars is allotted for BIA Area Office operations. The rationale being that tribes receive TPA services from the Area Office. TPA services can be more effectively and efficiently addressed directly by the tribes. Professional services and expertise can be procured either through a joint cost sharing effort by tribes or through the private sector for such services as transportation planning and design, school construction planning and design, environmental assessments, archeology, property appraisals and the list goes on. In the current environment, personnel costs, pay increases, personnel benefits, etc., must be paid regardless of services being provided or needs met. As I stated earlier, the bureaucracy pays itself first.

The FY 1999 Omnibus Appropriations Act directs both a report to Congress on alternative distributions of Tribal Priority Allocation (TPA) funding, based on tribal needs as well as revenue, and a report on a survey of tribal insurance coverage.

The TPA provision, included as Section 129 of the Omnibus Appropriations Bill, requires the BIA, working with the Standard Assessment Methodology Work Group, to develop alternative methods to fund TPA base programs in future years which will consider tribal revenues and relative needs of tribes and tribal members. No later than April 1, 1999, the BIA is to submit a report to Congress containing its

recommendations and other alternatives.

The TPA study will attempt to offer important information regarding the continuing overwhelming needs in Indian country, in contrast to the economic success of a relatively small number of tribal governments.

The Northern Pueblo Tribes strongly feel that the section 129 report to Congress will not do justice to tribes in defining tribal needs. The current BIA Budget and Appropriation processes do not target scarce resources to meet tribal needs.

BIA Transportation

The Stewardship Agreement between the Bureau of Indian Affairs Albuquerque Area Office and the Federal Highway Administration to administer the development of adequate transportation systems for the Indian reservation, Indian lands and communities in the Albuquerque Area is another example. Indian Reservation Roads funding is based on a Relative Needs Formula (RNF). The BIA is utilizing RNF information and data that was developed in 1974 and 1978. The basis for determining tribal transportation needs and the subsequent resource allocation should not be based on information that is more than twenty years old.

I could cite additional examples of the lack of timely and accurate information which is currently being used to justify budget planning and appropriations requests. However, I think that the point has been made that if the BIA is to meet its mission an adequate resource allocation process needs to be implemented.

A Proposed Solution - Northern Pueblos Budget and Accountability Model

The proposed Northern Pueblos Needs-based budget and accountability model is based on the following concepts:

- Bases the budget formulation process on a tribal needs assessment system.
- Tribes will identify all resources for addressing tribal needs. The “alphabet soup” of federal and State resources will be accessed.
- Tribal enterprise revenues will be considered as a resource for meeting tribal needs.
- The tribal needs will be determined by the respective tribal leaders and tribal governments.
- The tribal leaders will have an opportunity to update their needs assessment at the beginning of each year.
- The tribal needs assessment system will be by tribe and based on common assessment factors.
- Annual appropriation expenditures can be evaluated by comparing the planned to actual needs met using the tribal needs assessment system.
- Semi-annually the planned needs met will be compared to actual needs met with the results being reported to the AS-IA and used to update the tribal needs assessment system.
- A comparison of actual needs met to unmet needs will replace the budget base that is currently used to formulate the BIA budget.
- The tribal needs assessment system will maintain the unmet needs as Budget Year and Planning Year.
- The met and unmet needs status will be input to the budget justification and formulation process.
- The BIA will account to Congress using tribal needs as opposed to funds obligated.
- The Congress will have access to planned needs met, actual tribal needs met, planned versus actual needs, and tribal needs status to fund expenditure comparisons.

Currently the Eight Northern Indian Pueblos are in the process of developing a Needs Assessment Database. The intent of the Eight Northern Pueblos is to propose a process that will begin to modernize the Federal budget process as it pertains to the Pueblo Indian governments. The model can be replicated through the 89 BIA Agency offices. The proposal addresses the evolving frustrations of Pueblo Indian Leadership and the United States Congress. Attachment B provides an overview and diagram of the entire process.

This initiative transforms the budget process into one that is responsive to the tribal government needs while providing the accountability measures required by Tribes and the U.S. Congress. It brings both parties closer to a realistic Government to Government relationship.

The fundamentals of the proposal are:

- The Northern Pueblos will adopt a three-year Budget cycle using a dynamic needs base system.
- The Pueblo governments will assume all service delivery responsibilities and decide how each will be provided based on availability of funding.
- The Assistant Secretary for Indian Affairs (AS-IA) will approve the initial Needs Assessment study and the Needs Data Based system.
- The AS-IA will provide an oversight function that will protect the interests of the Federal Government.
- The Agency Superintendent will become the Trust Compliance Officer who will work with the Pueblos to ensure that trust responsibilities of the Federal Government are enforced.
- The Trust Compliance Officer will serve as the government's P.L. 96-638 contract authority.

To date the Eight Northern Pueblos Council and the Pueblo of Nambe have met with the Office of Management and Budget (OMB) and the Assistant Secretary for Indian Affairs

In conclusion, in order to effectively address the issue of the Bureau of Indian Affairs mission, Congress must mandate significant changes to the BIA resource allocation process.

Request to Congress

The process, as it pertains to the Federal and Indian government relationship, needs to be modernized. A prerequisite to the modernization effort would be the transformation of the paternalistic bureaucracy from a service provider to an oversight and trust responsibility compliance function.

- The Eight Northern Indian Pueblos Council is requesting authorizing legislation to establish the Northern Pueblos Budget and Accountability model as a pilot, demonstration project.
- Resources would be identified and allocated based on tribal needs.
- Resources/appropriations would be earmarked to meet tribal needs over a three-year appropriation, budgeting and planning period.
- The Northern Pueblos, the BIA and AS-IA would clearly define measurable outcomes.
- A report to Congress would be provided which would quantify and account for which tribal needs have been met with the resources appropriated.
- Resource allocation and accountability data would be information driven.

In closing I am requesting that Congress consider the Northern Pueblos Budget and Accountability Model as a pilot, demonstration project and approve authorizing language to implement this pilot project for a three year demonstration period. We are also requesting that Congress earmark appropriations for this project in the current appropriation bill presently making its way through the appropriate Congressional committees.

With the assistance of Senator Pete V. Domenici we will provide specific language and funding amounts for consideration.

Mr. Chairman and members of the Senate Committee on Indian Affairs I want to thank you for this opportunity to provide this information and request.