

Trump Budget Proposal Leaves Tribes On Their Own

By **Larry Roberts**

Law360, New York (June 16, 2017, 4:37 PM EDT) --

A year ago, President Barack Obama proposed to increase the U.S. Bureau of Indian Affairs' budget by over \$137 million. President Donald Trump cuts it by over \$303 million. Obama's final budget reflected an enduring commitment to prioritize tribal nations and tribal sovereignty by increasing funding to better address trust and treaty obligations that had gone unmet for decades. Trump has shoved the pendulum backward with his first budget proposal by slashing \$443 million from President Obama's final budget proposal.



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Congress ultimately did not act on Obama's final budget, instead choosing to carry forward funding at essentially 2016 levels. Rather than increasing existing funding to tribes, as Obama proposed, Trump's proposed \$303 million cut from current funding levels essentially tells tribes they are on their own, that treaty and trust responsibilities do not matter to him. As a result, tribes will need to turn to the courts and Congress for justice.

A president's budget is not a meaningless gesture. According to Trump himself, the budget is "[o]ne of the most important ways the Federal Government sets its priorities[.]" Trump's budget not only disrespects tribal sovereignty and the nation-to-nation relationship by proposing draconian cuts, it attempts to lower the bar for the federal trust responsibility. Budget cuts to tribal schools, social services and law enforcement would have been unfathomable just one year ago. Suddenly, a flat budget or one with more modest cuts may look like a win to some. But the sharp harm of a flat budget will be felt throughout Indian Country by families, children and elders that depend on important tribal services.

The United States' trust and treaty responsibilities to tribal nations are not optional. The U.S. Supreme Court's 2012 *Salazar v. Ramah Navajo Chapter* is the most recent in a long line of cases affirming this point. Trump's budget shirks the federal government's responsibilities. This will invite a return to litigation between tribes and the United States — a Bush administration hallmark that plagued Indian Country and our nation-to-nation relationship with the United States. Secretary Zinke and his team should not be doomed to repeat that legacy.

Secretaries advocate within the administration for funding, but at the end of the day the president and his White House team decide the budget. We see this reflected in Trump's budget as he takes aim at Secretary Zinke's Indian Country priorities as well as tribes in the Rocky Mountain region, which includes Secretary Zinke's home state. While Secretary Zinke lost the first battle, tribal leaders, Congress and the courts can change the outcome.

Turn to nearly any page of Trump's budget justifications and the President's narrative is ominous — we know what's important to the health and welfare of tribal nations and we're cutting it — \$303.9 million in cuts to be exact.

Trump's budget undermines Secretary Zinke's commitment to tribal self-determination. The budget justification, commonly referred to as "The Green Book," describes the basis for the president's funding proposals. Trump's Green Book highlights the importance of tribal priority allocation (TPA) funding as an "opportunity to further Indian self-determination by establishing their own priorities and reallocating Federal funds among programs in this budget category." Even after recognizing the importance of TPA funding, Trump cuts it by \$63 million — a destabilizing 20 percent of the total cuts to Indian Affairs budget.

Trump is saying "you're fired" to tribal employees with the budget justification stating that his cuts will reduce tribal staff for law enforcement, social services, forestry, fish and wildlife.

Self-governance fares no better, as the cuts "will affect all program areas, including welfare assistance, roads maintenance, and law enforcement." His cuts to forestry don't just fire employees. The Green Book admits it will cause tribes to lose revenue, stating that these cuts "could result in a loss of up to \$7.9 million ... to tribal beneficiaries."

Let's look at land into trust. Trump's budget justifications acknowledge the importance of restoring tribal homelands, stating "The acquisition of land from fee simple status into trust is essential to tribal self-determination and one of the most important functions the Department of the Interior undertakes on behalf of Indian tribes. Homelands are essential to the health, safety, social and economic welfare of tribal governments." Yet, Trump proposes to slash funding for this work, stating that the "reduction of funding will eliminate nationwide support for land into trust activities." Cutting every real estate services program within Indian Affairs, with the exception of the Navajo-Hopi Settlements Program, Trump's budget effectively proposes a moratorium on the restoration of tribal homelands. This is clearly another battle where Secretary Zinke will need the assistance of tribal leaders, Congress and the courts to avoid this outcome.

Treaty rights, tribal water rights and subsistence rights fare no better. The President's budget proposal states that the "primary mission of Indian Affairs is to honor the Nation's trust, treaty, and other responsibilities to American Indians and Alaska Natives and improve the quality of life in tribal and native communities." But, once again, Trump's budget cuts funding and walks away. Trump eliminates legal funding to Tribes "to assist them in establishing or defending tribal rights or protecting tribal trust resources that are guaranteed through treaty, executive order, statute, court decision, or other legal authority." Trump cuts funding for tribal rights implementation by nearly 24 percent, explaining that this funding "has helped tribes to produce professional tribal fish and wildlife management programs that are achieving high results for their communities." By cutting funding to protect tribal water rights, Trump expects "less or delayed studies and investigations" to support tribal water rights negotiations and litigation.

Time and again, Trump's budget pointedly tells Alaska Natives that they are on their own. Funding for small and needy tribes — eliminated. Funding for tribal courts in Alaska — eliminated. Tribal climate resilience funding — eliminated. Alaska Native Programs funding — eliminated. Trump unabashedly describes the impact of eliminating the Alaska Native Programs funding as resulting "in an inability to provide support for subsistence rights of Alaska Native people, Tribes, and Native organizations, which

are constantly challenged by commercial and sport (recreational) fishers/hunters, as well as natural resource development entities.” Trump’s budget makes clear that Alaska tribes will need to use every mechanism available (courts, Congress and the Cabinet) to ensure their rights are protected.

Families, elders and children in tribal communities will be less safe if Trump has his way. Trump seeks to eliminate 174 current police officer positions at the same time he acknowledges that law enforcement is already understaffed. Make no mistake about the federal government’s current unmet obligation here: even at current levels, it’s estimated that \$1 billion is needed for law enforcement in Indian Country and \$1 billion for tribal courts. Knowing this, Trump chose to reduce public safety and justice funding by more than \$30 million. Trump doesn’t stop at taking police officers out of Indian Country, he also wants to fire more than 54 social workers, including 14 from Secretary Zinke’s Rocky Mountain region. Those families that find themselves in need of emergency assistance due to a burnout or flood of their home will be on their own as Trump proposes to eliminate the emergency assistance program.

What about important tribal initiatives like Tiwahe? Eliminated. Tiwahe, which means “family” in Dakota, is a program tribes implement to shape social services, public safety and job and parent training to best serve their communities rather than an uncoordinated silo approach. The immediate harm of eliminating Tiwahe is that it will impact families within tribal communities from Minnesota to Alaska. The long-term harm will impact all of Indian Country. No longer will there be a track record of results to support increased investments by Congress. Tiwahe, and other initiatives that Trump wants to eliminate are not one-off frolics; they are ideas that came from Indian Country and, in Secretary Zinke’s words, those on the “front line” to promote families and build the foundation for long-term investment.

Native education and housing? Trump breaks the federal government’s fundamental promises and treaty obligations as well. The BIA Housing Program — eliminated. Education at juvenile detention centers — eliminated. Special higher education scholarships and science post graduate scholarships — eliminated. Investing in teachers to obtain National Board Certification — eliminated.

Trump’s budget takes more than \$64 million from teachers and Native children while claiming that the budget “continues to invest in activities that promote educational self-determination for tribal communities.” Trump proposes to close dormitories, consolidate or eliminate selected classes and reduce instructional and support staff. Trump’s cuts don’t stop at the classroom, he pours salt in the wound by cutting school construction by over \$57 million. The physical condition of BIE schools is a national crisis — 78 schools educating Native children are in poor condition. Congress, recognizing the crisis, has consistently increased funding. It looks like it will be on Congress to continue to do so over Trump’s objection.

Last year, Obama proposed a \$3 billion budget for Indian Affairs within the U.S. Department of the Interior. Secretary Jewell made sure that Indian Country was a priority. President Trump proposes hundreds of millions of dollars in cuts. Indian country has not seen these types of cuts proposed since 2008 — a time when there wasn’t a Supreme Court Carcieri decision, Senator Stevens was the senior Senator from Alaska, Cobell was still in litigation, and Congress was in the process of rejecting the Bush administration’s proposed cuts of \$100 million from Indian Affairs.

The path forward will be multifaceted, and it starts with Secretary Zinke and his Cabinet colleagues. They need to ensure that Indian Country is a priority. Secretary Zinke and Vice President Pence recently traveled to the Crow Nation. Now more than ever Secretary Zinke and his Cabinet colleagues need to frequently visit Indian Country. Go to Spirit Lake to talk with the dedicated social service workers that Trump has asked to do more with less. Go to Cheyenne River and see how this budget fails BIE Eagle

Butte students. Go to Riverside, Flandreau, Chemawa and Sherman BIE boarding schools to meet the incredibly bright lights of Indian Country who deserve their dedicated focus and support.

Based on their actions, Congressional appropriators will have Indian Country's back. Appropriation leaders such as Chairman Calvert, Congressman Cole and Ranking Member McCollum in the House and Chairwoman Murkowski, Ranking Member Udall and Senator Tester in the Senate will undoubtedly continue to support Indian country as a budget priority. It will continue to be critical for tribal leaders to inform their champions in Congress on how this administration is supporting or hindering tribal priorities.

Litigation will continue to be a path forward. The courts have a significant role in ensuring that this administration performs its trust and treaty obligations. Already many of Trump's actions have proven to be legally unsustainable. Trump and his administration's actions will show whether they stand shoulder-to-shoulder with Indian Country to continue meaningful steps forward for current and future generations or whether they will force tribes to expend resources on litigation to protect their reserved sovereign rights. Tribes are certainly hoping for the best while engaging quality legal counsel to prepare for the worst.

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