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Among those who testified before the U.S. Senate Committee on Indian Affairs at the Hearing on Contract Support Costs and Sequestration were Aaron Payment, chairman, Sault Ste. Marie Tribe of Chippewa Indians; Jefferson Keel, lieutenant governor, Chickasaw Nation; Karen Diver, chairwoman, Fond du Lac Band of Lake Superior Chippewa; Phylliss Anderson, Tribal chief, Mississippi Band of Choctaw Indians; and Bud Lane, Tribal vice chairman, Confederated Tribes of Siletz Indians.

urgent or emergent care or to prevent disease and disability and (2) surgeries such as carpal tunnel release, rotator cuff repair, knee surgeries, gastric bypass, inpatient psychological treatment, herniated disc repair and hysterectomies are deferred indefinitely.

Our Tribal Court, exercising limited jurisdiction, averages 500 civil cases a year and is staffed by a full-time court administrator, a part-time deputy court administrator, a part-time chief judge and four on-call judges. The 2013 court budget is \$197,000, most of which comes from Tribal revenue. Only \$36,271 – less than 19% – comes from BIA funds. A 2010 BIA assessment of Tribal Courts noted that this federal contribution was the lowest of 50 Tribal courts reviewed and recommended there be a significant increase in funding to the Tribe, but that has not occurred. Inadequate funding unnecessarily restricts the Tribe from fully exercising jurisdiction and sequestration is worsening this situation.

The Tribe has tried to absorb cuts in areas that do not affect direct services to Tribal clients – reducing travel and staffing. In this second round of sequestration, we continue not filling vacancies and there will be no COLA and no step increases for staff. Services to Tribal members will be affected in the second round of cuts.

The Health Department eliminated four positions – a pharmacy technician, a dental assistant, a community health advocate and the clinical applications coordinator. We will maintain Contract Health Services at the priority 1 & 2 levels and cancel two specialty provider contracts. The clinic personnel reductions will result in 200 less medical transports, 50 fewer home visits, elimination of child safety seat and bicycle safety helmet distribution programs, 240 less dental visits, lengthening the time to fill prescriptions and 12,000 fewer patient visits.

We are eliminating one of two Elders Program coordinators, the After-School Program coordinator and assistant positions, and our environmental planner. This will significantly reduce services to our

Elders, while increasing the workload for the remaining staff person. Elimination of the After-School Program staff requires that we close the program – impacting 20 children and their families who relied on these services. We are shifting the environmental planner duties to our Natural Resources staff – significantly more work than “other duties as assigned.” The functions of this position are essential for ensuring environmental compliance for purchasing, managing and developing land. As this committee knows, the land-into-trust process is cumbersome and time consuming on the federal side; for Siletz it will now take even longer due to sequestration impacts on staffing.

Additionally, three administrative positions being eliminated are Public Relations clerk, Records Management clerk and the Public Works supervisor. Again, we are shifting responsibilities of these jobs onto other staff. Our Public Information specialist will now be a one-person department, making it harder to keep up on projects and more difficult to maintain quality. The Records Management clerk duties have been added to another staff person’s duties. The Public Works crew are reorganized as a team to self-direct their work and report periodically to a manager.

Our Information Systems Department has been making critical upgrades to our operating systems on five servers, as well as the call manager for our phone system. The 2014 cuts will prevent completion of these projects, which means we will no longer have vendor tech support for these old systems. This is critical to ensure our clinic’s capability to meet HIPPA standards for electronic health records and accreditation standards.

The situation is even worse for Tribal law enforcement services, which cover Tribal lands and the City of Siletz where many Tribal members live. These services started out at 120 patrol hours a week under a contract with a neighboring city police department in order to save on costs. At \$95,391, the BIA funding covered just under a third of the costs (a 2010 BIA review of Tribal courts pointed out

that Siletz was the lowest funded Tribal court among 50 reviewed). The Tribe’s Housing Department funded another third and the remainder was subsidized by Tribal revenue. However, steady revenue decline from 2008 to 2012 required reducing law enforcement coverage from 120 to 80 hours a week. In 2013, BIA funding dropped to \$90,809 under sequestration and will be down to \$86,298 with the second sequester. In addition, new HUD guidance has reduced the amount Tribal Housing can contribute. And it is not feasible for the contracted police department to provide services. We are working with the City of Siletz to poll the community’s support to help fund these essential services; however, it is anticipated by the Tribe that these services will not be available in our community very soon.

Insufficient contract support costs is not the only factor affecting the ability of Tribes to manage our contracts and grants. During a periodic monitoring of the Tribe’s housing programs, HUD staff disputed costs under our approved indirect rate. The law – Native American Housing and Self-Determination Act – clearly and unambiguously states that indirect costs rates will be determined by a Tribe’s cognizant agency (not by HUD or any other outside agency). For Siletz and most Tribes, that agency is the BIA through their National Business Center (NBC).

HUD conducted two monitoring reviews of the Tribe’s housing program in which they determined the Tribe’s indirect cost rate was not applied correctly to HUD programs. Unable to convince HUD that the indirect cost rate had to be applied consistently to all Tribal programs, the Tribe contacted the National Business Center (NBC), only to find that HUD had already been in communication with them and consequently the NBC was unwilling to defend their longstanding approval of our indirect cost proposal. Unfortunately, the Tribe felt it had nowhere to go as HUD was threatening to make their finding retroactive (back to 1998), so we agreed to settlement limiting the finding to one year, which was a significant amount – \$518,405.

Agreeing to settle had immediate fiscal impacts – it shifted two program manager positions from the indirect cost pool to direct costs, thereby increasing the Tribe’s costs to manage contracts and grants by an estimated \$200,000 a year. The only source to cover this is to reduce services under grants and contracts to cover these costs. We need these two positions but it is likely we can only afford one of them.

And how is it that a single federal agency, in conflict with literally the letter of the law, could do this in the first place? Will Tribes have to vet their indirect cost proposals to all federal agencies that they contract and compact with? Where was our trustee in defending the Tribe from this intrusive action and the resulting long-lasting harm?

It is important to recognize that sequestration has exacerbated the long-standing issue of insufficient funding for contract support costs. Often the only recourse to address this shortfall is to reduce services to Tribal members. For Siletz, we have seen Tribal child welfare

positions go unfilled while remaining staff carry caseloads two times higher than their state counterparts. In some cases the Tribe has to seek additional grants to fund salaries and services – our Natural Resources clerk has three funding sources. And this situation is not limited to BIA and IHS funding. We support staffing costs for our Elders Program through four sources of revenue – BIA, Title VI-A and C, and Tribal gaming revenue.

At some point, service reductions are not an option. For years, the Siletz Tribe has contributed funds to cover an increasing CSC shortfall for the Head Start program. In 2009, this cost reached a high of \$90,000; it is now down to just under \$60,000. This might appear to be good news but it is not – the cost has gone down due to declining appropriations. Two years of sequestration has taken \$100,000 from our program budget, directly affecting the education of our youngest members and their families. We have eliminated positions, reduced others to part time for salary and benefit savings, added duties onto other job descriptions and most offensive, have had to eliminate classroom days. While the collective sentiment may be that the children are our future, it is not reflected in federal appropriations.

Tribes are legitimate government contractors whose indirect rates are objectively calculated by the National Business Center (despite HUD’s opinion). Payment of these costs to Tribes is required by federal law (ISDEAA) and has been upheld by the U.S. Supreme Court (*Cherokee Nation v. Leavitt*). There are solutions to this long and ongoing problem and the Siletz Tribe urges you to consider the following actions: (1) appropriating more funds for CSCs to close the funding gap; (2) lifting the cap on CSC appropriations; (3) tapping into un-obligated BIA and IHS appropriations from prior years; (4) prohibiting the National Business Center from altering past rules for negotiating indirect cost rates; (5) extending the statute of limitations for Tribes to pursue CSC claims; and as an alternative to costly litigation, creating a CSC claims board to fairly compensate affected Tribes.

I hope I have adequately conveyed to you that sequestration is real and is negatively affecting Tribes. We have been as creative as we can in meeting this challenge but we are running out of options. In many instances services are contingent upon the staffing and the Tribe doesn’t have the numbers to lose positions and provide the quality of services needed by our members. Tribes have long been among the poorest, most vulnerable populations in the United States and historically been under-funded by the federal government. Sequestration is worsening this situation. On behalf of the Siletz Tribe, I implore you to take action to immediately exempt all Tribes and federal employees serving Tribes from the current and any future sequestration. Your help in crafting solutions to sequestration as well as our other funding problems is greatly needed.

On behalf of the Siletz Tribe, I want to thank you for allowing me to share our comments with you today and I would be happy to answer any questions.