

Statement of Martin Harvier
President Salt River Pima Maricopa Indian Community
U.S. House Committee on Natural Resources, Subcommittee on
Indian and Insular Affairs
Advancing Tribal Self-Determination: Examining the Bureau of
Indian Affairs 638 Contracting
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Chair Hageman, Ranking Member Leger Fernandez, and members of the Subcommittee: thank you for the opportunity to provide testimony on the important topic of tribal self-governance contracting and compacting. My name is Martin Harvier, President of the Salt River Pima Maricopa Indian Community (SRPMIC).

On behalf of our Community I am happy to share our history and experience with Self-Governance Compacts through the Department of Interior (DOI), Bureau of Indian Affairs (BIA) and to provide a few observations that may be useful for the Committee in its oversight capacity.

By way of background, the Salt River Pima Maricopa Indian Community was established by Executive Order on June 14, 1879 and is home to two distinct tribes, the An Auk Akimel O'odham (Pima) and the Xalychidom Piipaash (Maricopa). Today, SRPMIC shares borders with the fast growing cities of Scottsdale, Tempe, Mesa, and Fountain Hills. The reservation encompasses 52,600 acres and we have an enrollment of approximately 11,000 members.

SRPMIC is part of the fabric of the east valley of the Phoenix metropolitan area and in order to serve our citizens best, government services need to be delivered in a way that is interoperable with our neighboring jurisdictions.. Over time it has become clear that SRPMIC can best achieve this goal by taking on federal government functions through self governance.

That is why our Community entered into its first Title IV Self-Governance Compact on October 1, 1995. The first tranche of programs that were included in the Compact were:

- Tribal Scholarships
- Johnson O'Malley
- Tribal Courts
- Social Services (Indian Child Welfare Act, Welfare Assistance Grant)
- Housing Improvement Program
- Law Enforcement
- Road Maintenance
- Agriculture
- Real Estate Services
- Real Estate Appraisals

Over time the SRPMIC assumed the following additional programs:

- FY 2000 – Job Training and Placement
- FY 2002 – Tribal Transportation Planning
- FY 2003 – Indian Reservation Roads Program

- FY 2006 – Detention/Corrections
- FY 2007 – Juvenile Detention Education
- FY 2017 – Land Title Records Office
- FY 2022 – Section 105(l) Leasing Program

Among these, perhaps the most impactful has been the assumption of the functions of the Land Title and Records Office (LTRO). Through this, the Community has been able to improve transaction times for business leases, agricultural leases, home sites, right-of-way and probates. One of the key parts of the LTRO function is to have access to the BIA Trust Asset and Accounting Management System (TAAMS). Not only did the community bring the TAAMS system “in-house”, we also hired and trained several staff people that are certified on the system.

Along the way SRPMIC has gone through several Tribal Trust Evaluation audits (TTE) with the BIA. These periodic audits are meant to ensure the Community is faithfully upholding our responsibilities, but they also serve as an opportunity to both strengthen tribal programming as well as identify areas where the BIA and partnering Agencies can improve. For example, in the TTE completed in 2022, it was clear the pandemic greatly impacted the delivery of service. The audit highlighted a number of deficiencies, not with our process, but with BIA policy and procedure that we continue to struggle with today. This includes probate transactions, access to IT systems such as ProTrac and TAAMS, the security requirements for equipment and staff, and communication with other agencies and jurisdictions. More specific examples in these areas are noted below:

- Reliance on BIA-Western Region Office (WRO) Division of Probate Services (DPS) for Data Entry: In the Fall 2019, SRPMIC probate staff issued a monthly death report to all of the agencies and sent the physical hard copy probate cases to the BIA-WRO for data entry. BIA-WRO would complete data entry into a ProTrac database and send the completed probate package to the Office of Hearings and Appeals (OHA). Upon the departure of the two tenured SRPMIC staff members who knew how to navigate the system well, BIA-WRO requested that the new SRPMIC probate staff members assume the data entry role in ProTrac to assist BIA-WRO due to their growing caseload. While SRPMIC was eager to take on this data entry role, SRPMIC had limited access to the requisite ProTrac system.
- Department of the Interior Requires Training for Systems Use: SRPMIC staff are required to take various trainings to utilize DOI trust systems/databases (ProTrac, TAAMS, etc.) before staff are able to use the systems. During the 2022 audit time frame, there was no official probate training for SRPMIC probate staff to attend. WRO staff instead provided an informal training in March 2020 and it was never completed due to the pandemic related closures and work-from-home status of BIA staff.
- BIA/SRPMIC Office Closures and Remote Working Conditions: On March 19, 2020, the Community began its “work from home” status as mandated by SRPMIC Council. SRPMIC Offices were closed and only limited staffing was allowed in the buildings at any given time. The Community Council instituted an Emergency

Declaration for the COVID-19 Pandemic on April 1, 2020. This declaration remained in place through March 16, 2022.

- SRPMIC Technology Needs for Laptop Procurement and Imaging: SRPMIC staff worked diligently to ensure that work continued during the COVID-19 Pandemic. During this time, SRPMIC staff needed BIA support to gain remote access to the DOI trust systems/databases. SRPMIC needed to procure BIA-approved laptops to allow for work from home status during the pandemic. It took time to confirm the specifics for the laptops with the BIA and additional time to receive the laptops due to supply chain issues during the Pandemic. Once the laptops were received by SRPMIC, it took weeks to have the BIA-WRO staff image the equipment. This delay caused challenges for staff to complete and view work product for probate and all trust functions. Additionally, we experienced issues with the laptops being removed from the BIA network and patch issues which required SRPMIC staff to take laptops to BIA-WRO for repair and re-imaging.
- Department of the Interior Systems Clearances for Staff and Access to trust systems: SRPMIC staff is required to have DOI Security Clearance to utilize the electronic BIA trust systems (ProTrac, TAAMS, etc.). This process takes a new staff member between 6 to 24 months to gain access. During the pandemic, the process on the BIA side came to a halt and receiving the credentials necessary to bring a new staff member online and functional still continues to be an issue for new staff. SRPMIC does not have authority to request access to additional trust systems in Identity Information System (IIS) and DOI Talent database. The Superintendent is considered the Supervisor in multiple databases and he/she is responsible for this approval, exacerbating delays. SRPMIC is not in control of any of these functions and the Community must rely on BIA's approval and processing of DOI Security Clearance processing.
- Internet and Systems Connectivity from the BIA Salt River Agency and the SRPMIC Office: Prior to the pandemic, SRPMIC had continual Internet connection issues between the BIA Salt River Agency Office and the Community Government. The BIA owns the internet connection and system, and their connection did not provide consistent or reliable access for SRPMIC staff to conduct trust related work. In late 2019, the former BIA-WRO Director authorized an upgrade at the BIA Salt River Agency offices at SRPMIC's expense to create consistent and constant Internet connectivity. It must be noted that prior to December 31, 2019, an SRPMIC staff member working in the DOI trust systems would be bumped from the system several times a day due to the system's poor connectivity capacity. The connection upgrade did not take place until March 2020.
- Dependence on Various outside Agencies: Per the Code of Federal Regulations, specific supporting documentation is required to be included in a completed probate packet. Some of the delays in completing cases during the reporting period were due to dependence on other jurisdictions to provide the information. For instance, probate staff rely on the WRO to provide the IIM account balances and documentation which must be included as part of the probate packet. SRPMIC must request birth certificates, death certificates, marriage/divorce and certification of Indian blood of relatives through other probate agencies, other tribes or other local/state jurisdictions. Receiving supporting documentation from other states is challenging due to jurisdictional rules and requirements to obtain documents. For example, California has been historically difficult to obtain documents from and in these cases staff have to request family members to

request the documentation from the State of California. During the pandemic, there were staffing delays in neighboring jurisdictions and in other jurisdictions where SRPMIC members lived. As an example, from March 2020 to January 2022, it took Maricopa County between 5 to 16 weeks to receive a death certificate. SRPMIC probate staff also rely on the Southwest Land Titles and Records Office (SWLTRO) and other LTRO's for certified land inventories when Community members own land at other Indian reservations. In some instances, LTRO's sent the inventory immediately to SRPMIC probate staff after receiving the notification of death. However, by the time SRPMIC probate staff have a final and complete probate package, SRPMIC staff would have to request an updated land inventory (BIA informal guidance is that certified inventories cannot be older than 6 months).

While it is clear the pandemic caused an extreme dislocation of services, the SRPMIC believe there are ongoing issues at BIA that, if addressed, would today improve their service and to make transactional work much more efficient. As such, the SRPMIC made the following recommendations to the BIA.

- The Office of Hearings and Appeals (OHA) needs to hire more judges.
- OHA needs to develop a plan to address the SRPMIC and the overall probate backlog. The probate backlog existed before the pandemic and is only more extreme today. Community requests that BTFA look at the backlog of probate cases by WRO and other regional offices to compare the backlog during the Pandemic in relation to the numbers noted in this audit for the SRPMIC.
- WRO Probate Staff needs to provide and be a technical assistance resource to SRPMIC and other Self-Governance tribes. WRO Probate Staff need to clearly understand that the SRPMIC only holds a small partstep of the Probate process and that SRPMIC can be a resource to further support the BIA probate process.
- BIA needs to provide a more efficient process to obtain DOI Systems clearance and provide timely training for Self-Governance tribes. From the SRPMIC's experience we had to fight for access to the database and then beg for quality training on how to use the database. Waiting 6 to 18 months to have a new staff person be functional is unproductive and very inefficient. The SRPMIC has requested additional support to assist with clearance and training on numerous occasions over the last decade with only limited and temporary relief.

The SRPMIC embraces the accountability that needs to be placed on both the respective Tribe and DOI-BIA. To date, the SRPMIC recommendations have had no follow up from the agencies on how they can improve their programming. As a result, there may be similar findings with the 2024 TTE that has recently started.

As this hearing is focused on the advancement of tribal self-determination through P.L. 93-638 contracting and compacting, it is clear there is a tremendous amount of technical support that is needed with functions such as LTRO. The SRPMIC has shown it can successfully assume many federal functions of the BIA and we want to make sure our federal partner is also committed to this success. Similarly the DOI Inspector General Report in 2023 touched on the demands that are required by the BIA to make sure federal funding is used in the most effective way. We

agree with the findings that greater internal controls are necessary to track the flow of federal funds and to the extent there are unspent savings we would support any redistribution of funds to tribal programs or bolster its internal requirements for programs such as LTRO and probate activity.

More generally, we believe the BIA must uphold its federal trust responsibility to tribes to meet the needs of critical government important services that are provided throughout a reservation. As it was noted previously, the SRPMIC is located close to one of the largest metropolitan areas in the Country and the demands are great to provide necessary services throughout the Community. For instance, in recent years there has been a growing demand for public safety services including our implementation of the new authorities under the Violence Against Women Act (VAWA). As federal law evolves, BIA funding through compacts should reflect those growing responsibilities.

When the SRPMIC first compacted programs with the BIA in 1995 we received \$3,212,357.00. Following the addition of seven programs the SRPMIC currently receives approximately \$14.7 million with an additional \$6.9 million coming from USDOT for CMAQ. However, based on the growth of the Community, in terms of increased enrollment and development, the needs of the Community have grown exponentially where the self-governance funding has not kept pace. For example, in Fiscal Year 2023 the SRPMIC appropriated an additional \$37.2 million of tribal funding for compacted programs to meet the unmet need that exists.

The SRPMIC looks forward to working with the Congress and the Administration to continue to improve programming efficiency and the commensurate resources that are needed to fulfill the federal trust responsibility of the federal government to native nations.

In addition to the recommendations to the LTRO and the Probate functions, the SRPMIC offers the following observations:

- The Congress should provide advanced appropriations for the BIA, as there is provided for the Indian Health Service. Just as there are advanced appropriations for programs at the Department of Education, Department of Housing and Urban Development, Department of Labor, and Veterans Affairs, it should also be extended to tribal programming to ensure that funds are available to maintain critical Tribal government functions during times of a federal government shutdown. Funding uncertainty causes Tribes to redistribute funds from other Tribal programs, resulting in diminished services.
- SRPMIC supports the ongoing rulemaking process to implement the PROGRESS Act and does not have any additional policy recommendations at this time. The major impact the PROGRESS Act will have on SRPMIC is the application and administration to Titles IV and V Self-Governance Compacts. The law reconciles Title IV (BIA/DOL programs) and Title V (IHS programs) of the Indian Self-Determination and Education Assistance Act and reconciles the differences in the two types of compacts to encourage more efficiency by Indian Tribes who administer both types of Compacts. There are also favorable changes in this section that require the Federal Agencies to act in “good faith” and interpret the federal laws, regulations, and executive orders in a manner that will facilitate the implementation of Self-Governance Agreements. There are additional technical changes to the Funding

Agreement negotiations regarding the Final Offer process and timelines, and under what situations the Federal Agencies can deny these Final Offers. Importantly, there are other provisions that will protect tribes from the Agencies that may impose unauthorized terms in a compact or funding agreement. Overall these amendments will provide more flexibility for the SRPMIC in its administration of its BIA and IHS Self-Governance Compacts.

Chair Hageman and members of the subcommittee thank you for the opportunity to provide testimony on this important subject and SRPMIC stands ready to be a constructive ally in improving services through the Self-Governance contracting and compacting process.