



May 2022

TRIBAL FUNDING

Actions Needed to Improve Information on Federal Funds That Benefit Native Americans

Why GAO Did This Study

Federal law requires federal agencies to provide a variety of services to tribes and their members. GAO refers to the need for these services—as defined by tribes, tribal members, and other tribal organizations that administer federal programs or grants for tribes and their members—collectively as tribal needs. In 2018, the U.S. Commission on Civil Rights reported that the federal government does not keep complete records of federal funding for programs serving tribes. OMB publishes a crosscut on federal funding for programs that benefit Native Americans, but tribal stakeholders have expressed concerns about its transparency.

This report examines (1) information the crosscut provides and reported challenges with using it and (2) the extent to which federal agencies obtain tribal input and reflect tribal needs during budget formulation. GAO reviewed relevant policies and procedures at OMB and five agencies that represent about 90 percent of proposed funding amounts reported in the crosscut. GAO also interviewed agency officials and selected tribal stakeholders—including a federal-tribal budget working group, federal-tribal advisory bodies, and tribal and other organizations—for their perspectives.

What GAO Recommends

GAO is making seven recommendations, including that OMB improve its crosscut guidance and that certain agencies develop a formal process to consult with tribes when formulating budget requests. OMB, Education, and DOT agreed or generally agreed with the recommendations. USDA neither agreed nor disagreed.

View [GAO-22-104602](#). For more information, contact Beryl H. Davis at (202) 512-2623 or davisbh@gao.gov or Anna Maria Ortiz at (202) 512-3841 or ortiza@gao.gov.

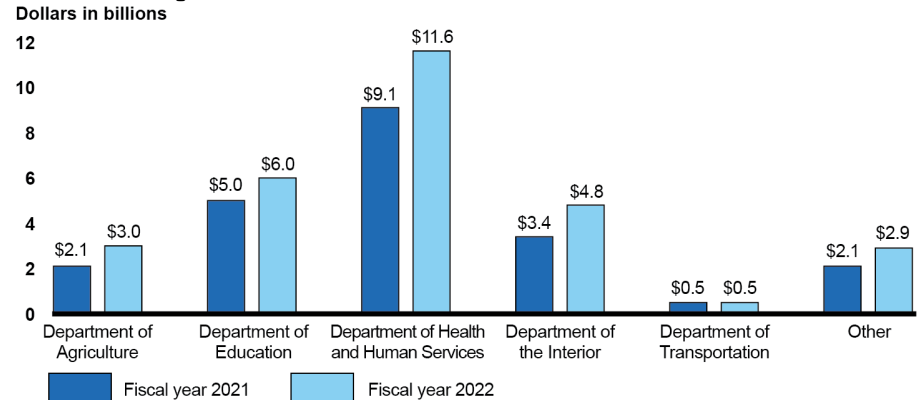
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What GAO Found

The Office of Management and Budget (OMB) provides information to tribal stakeholders and others on agency-reported federal funding for programs that benefit Native Americans (see figure). This information is known as the Native American Crosscut.

Proposed Funding for Programs That Benefit Native Americans, Fiscal Years 2021 and 2022 President's Budget
Dollars in billions



Source: GAO analysis of Office of Management and Budget data. | GAO-22-104602

GAO found that five selected agencies—the Departments of Agriculture (USDA), Education, Health and Human Services (HHS), the Interior, and Transportation (DOT)—interpret OMB’s guidance differently when identifying programs and information on federal funding to include in the crosscut. They also take different approaches to reporting data to OMB for a variety of reasons. The crosscut lacks detailed information about what the agency-reported data represent. Tribal stakeholders stated that this lack of detail makes it challenging for them to leverage the data for decision-making. By improving guidance to collect more detailed information from agencies in its request for crosscut data, OMB could help to provide crosscut users with greater clarity about the data being reported and better meet their needs.

Two of the five agencies have formal processes for incorporating tribal input during budget formulation, and they develop budget information that reflects tribal needs to varying degrees. Specifically, HHS and Interior have processes for tribal leaders to provide input on initial budget submissions to OMB. Also, HHS’s Indian Health Service has a tribal budget work group that develops information on tribal needs—including unmet needs—that the agency provides to OMB. However, three agencies do not have formal processes for incorporating tribal input into initial budget submissions and do not develop budget information that reflects tribal needs. Establishing formal processes would enable agencies to obtain tribal input and develop budget information that reflects tribal needs, including unmet needs. This would better ensure that decision makers and Congress have information to (1) understand resources needed to achieve program objectives and (2) assess the federal government’s progress meeting its unique responsibilities to tribes and their members, in accordance with the U.S. Commission on Civil Rights recommendations.

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Abbreviations

ACF	Administration for Children and Families
ACL	Administration for Community Living
AI/AN	American Indian and Alaska Native
BDR	budget data request
BIA	Bureau of Indian Affairs
BIE	Bureau of Indian Education
BTFA	Bureau of Trust Funds Administration
COVID-19	Coronavirus Disease 2019
DOT	Department of Transportation
FFATA	Federal Funding Accountability and Transparency Act of 2006
FMMI	Financial Management Modernization Initiative
FMS	financial management system
FNS	Food and Nutrition Service
FPI	Federal Program Inventory
GPRAMA	GPRA Modernization Act of 2010
HHS	Department of Health and Human Services
IHS	Indian Health Service
NIH	National Institutes of Health
OBPA	Office of Budget and Program Analysis
OMB	Office of Management and Budget
SAMHSA	Substance Abuse and Mental Health Services Administration
STAC	Secretary's Tribal Advisory Committee
TIBC	Tribal-Interior Budget Council
UFMS	Unified Financial Management System
USDA	Department of Agriculture

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May 19, 2022

The Honorable Brian Schatz
Chairman
The Honorable Lisa Murkowski
Ranking Member
Committee on Indian Affairs
United States Senate

The United States has undertaken a unique trust responsibility to protect and support tribes and their members through treaties, statutes, and historical relations with tribes.¹ As several tribal leaders have previously noted, these trust obligations and responsibilities do not exist as welfare, but as repayment on a nation-to-nation agreement.² Specifically, federal law requires federal agencies to provide a variety of services and benefits to tribes and their members. In this report, we refer to the need for these services as defined by tribes, tribal members, and other tribal organizations that administer federal programs or grants for tribes and their members collectively as tribal needs.

In a 2018 assessment of whether the federal government was meeting its responsibilities to tribes, the U.S. Commission on Civil Rights found that Native Americans continue to rank near the bottom of all Americans in terms of health, education, and employment.³ In its assessment, the commission attributed this disparity in part to historical discriminatory policies of the federal government toward tribes, insufficient resources, and inefficiencies in federal programs that serve tribes. The commission

¹Through treaties, statutes, and historical relations with Indian tribes, the United States has undertaken a unique trust responsibility to protect and support Indian tribes and Indians. Indian Trust Asset Reform Act, Pub. L. No. 114-178, § 101(3), 130 Stat. 432 (2016) (*codified at* 25 U.S.C. § 5601(3)). The fiduciary responsibilities of the United States to Indians are also founded in part on specific commitments made through written treaties and agreements securing peace, in exchange for which Indians have surrendered claims to vast tracts of land, which provided legal consideration for permanent, ongoing performance of federal trust duties. *Id.* at § 101(4).

²National Tribal Budget Formulation Workgroup, *Building Health Equity with Tribal Nations: The National Budget Formulation Workgroup's Recommendations on the Indian Health Service Fiscal Year 2023 Budget* (May 2021), accessed Mar. 11, 2022, https://www.nihb.org/legislative/budget_formulation.php.

³U.S. Commission on Civil Rights, *Broken Promises: Continuing Federal Funding Shortfall for Native Americans* (Washington, D.C.: Dec. 2018).

also reported that the federal government continues to fail to keep accurate, consistent, and comprehensive records of federal funding for programs serving tribes and their members, making monitoring of federal funding for such programs difficult.

We have previously reported that agencies can improve the efficiency of federal programs under which services are provided to tribes and their members and have highlighted the need to improve federal management of programs that serve tribes as a critical issue on our [High Risk List](#) since 2017. The High Risk List designation focuses on Department of the Interior's Bureau of Indian Affairs (BIA) and Bureau of Indian Education (BIE) as well as and the Department of Health and Human Services' (HHS) Indian Health Service (IHS).⁴ Our review complements the High Risk List by exploring the annual budget crosscut on federal funding for programs that benefit Native Americans (also known as the Native American Crosscut) published by the Office of Management and Budget (OMB) and federal agencies' processes for incorporating tribal input into the federal budget process.

We prepared this report under the authority of the Comptroller General to assist Congress with its oversight responsibilities. This report examines (1) what information OMB's Native American Crosscut provides to intended users, such as tribal stakeholders, and what challenges users face in using the information and (2) the extent to which selected federal agencies have processes during budget formulation to incorporate tribal input and reflect tribal needs for programs serving tribes and their members.

⁴GAO, *High-Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas*, [GAO-21-119SP](#) (Washington, D.C.: Mar. 2, 2021).

We focused on the crosscut rather than USAspending.gov⁵ and the Federal Program Inventory (FPI) Exploratory Pilot⁶ because (1) we have issued a series of reports identifying significant issues with the quality of the data displayed on USAspending.gov⁷ and (2) OMB explicitly stated that data provided by the FPI Exploratory Pilot should not be used for the purpose of analyzing spending by categories. According to OMB staff, the crosscut was developed in response to a request from tribes for OMB to provide more information on federal funding for programs that benefit tribes. However, tribal organizations have expressed concerns about the usefulness of the crosscut, stating that it does not provide transparent information on the amount of federal resources to which tribes have access.⁸

To address both objectives, we reviewed relevant policies and procedures at OMB and five agencies—the Department of Agriculture

⁵The Federal Funding Accountability and Transparency Act of 2006, as amended (FFATA), requires OMB to ensure the existence and operation of a single searchable website accessible to the public that, among other things, includes expenditures for federal awards. Pub. L. No. 109-282, § 2(b), 120 Stat. 1186, 1187 (2006) (classified as amended at 31 U.S.C. § 6101 Note). In response to this requirement, OMB established USAspending.gov in December 2007. The Department of the Treasury, in consultation with OMB, is also required to ensure that certain additional information on federal spending is posted to the website. FFATA, § 3(a). In general, these agencies have decided to divide their responsibilities, with OMB taking the policy-making responsibilities and Treasury doing the day-to-day work to operate the website.

⁶The GPRAM Modernization Act of 2010, as amended (GPRAMA), requires OMB to make a list of all federal programs identified by agencies publicly available on a central government-wide website. 31 U.S.C. § 1122(a). GPRAMA, as originally enacted, includes a provision requiring an inventory of federal programs. Pub. L. No. 111-352, § 7, 124 Stat. 3866, 3876 (2011). The William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 expanded these requirements. Pub. L. No. 116-283, div. H, § 9601, 134 Stat. 3388, 4823–4828 (2021). In response to this requirement, in January 2021, OMB began the FPI Exploratory Pilot, which requests information from agencies on unobligated balances, new budget authority, and obligations for programs classified as Native American programs as well as 11 other categories of programs.

⁷GAO, *DATA Act: OMB, Treasury, and Agencies Need to Improve Completeness and Accuracy of Spending Data and Disclose Limitations*, [GAO-18-138](#) (Washington, D.C.: Nov. 8, 2017); *DATA Act: Quality of Data Submissions Has Improved but Further Action Is Needed to Disclose Known Data Limitations*, [GAO-20-75](#) (Washington, D.C.: Nov. 8, 2019); and *Federal Spending Transparency: Opportunities Exist to Further Improve the Information Available on USAspending.gov*, [GAO-22-104702](#) (Washington, D.C.: Nov. 8, 2021).

⁸National Congress of American Indians, *Testimony to the House Appropriations Subcommittee on Interior, Environment, and Related Agencies* (Washington, D.C.: Mar. 25, 2015).

(USDA), the Department of Education, HHS, Interior, and the Department of Transportation (DOT)—that represented approximately 90 percent of the total amounts of funding proposed in the President’s Budget reported in OMB’s Native American Crosscuts. To obtain tribal stakeholder perspectives for both of our objectives, we selected and met with members from one federal-tribal budget working group, four federal-tribal advisory bodies, and eight tribal and other organizations because they provide budget, policy, and other input to the five federal agencies within our scope and were willing to meet with us.⁹ The findings from our interviews with these selected tribal stakeholders cannot be generalized to those not included in our review.

To address the first objective, we reviewed OMB’s fiscal year 2021 crosscut and its budget data request for collecting information from federal agencies for the fiscal year 2021 crosscut. OMB requested both enacted funding amounts for fiscal year 2020 and amounts of funding proposed in the President’s Budget for fiscal year 2021 for programs and activities serving Native Americans. We also reviewed OMB’s fiscal year 2022 Native American Crosscut for programs that benefit Native Americans. We asked OMB staff about the process for preparing the crosscut and the information OMB requested from agencies. We also interviewed officials from key agencies to identify the information they provided to OMB for the crosscut.¹⁰ To identify challenges with using the crosscut and suggestions for improvement, we interviewed officials from key agencies as well as tribal stakeholders to obtain their views.

To address the second objective, we reviewed agencies’ policies and processes to obtain and incorporate tribal input on needs into agency budget requests. We also reviewed documents describing budget and other consultations to identify tribal feedback on agencies’ processes for obtaining and incorporating tribal input into their budget requests. Additionally, we analyzed relevant GAO reports and other reports describing tribal needs for federal programs. We also interviewed agency officials and selected tribal stakeholders to identify which aspects of agencies’ processes are working well and where improvements could be

⁹See app. I for more information about which tribal stakeholders we met with for this review.

¹⁰For the purposes of this report, we use “key agencies” or “selected agencies” to refer to the five agencies we selected for review.

made. Additional details regarding our objectives, scope, and methodology are provided in appendix I.

We conducted this performance audit from October 2020 to May 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Federal law requires federal agencies to provide an array of services and benefits to tribes and their members based on the political status of federally recognized tribes and their members.¹¹ As of April 2022, there were 574 federally recognized Indian tribes in the United States.¹² Tribal members may also identify as American Indian and Alaska Native (AI/AN), a racial classification.¹³ According to 2019 population estimates from the U.S. Census Bureau, over 5.6 million people in the U.S. identified their race as AI/AN.¹⁴ However, not every person who identifies as AI/AN is an enrolled member of a federally recognized tribe or is eligible for programs that are provided to tribes and their members because of their political status.

¹¹The federal government recognizes Indian tribes as distinct, independent political communities that possess certain powers of self-government. The term recognize means the federal government acknowledges that a particular Native American group is a tribe by conferring specific legal status on that group, establishing a government-to-government relationship between the United States and the tribe, imposing on the government a fiduciary trust relationship to the tribe and its members and imposing specific obligations on the government to provide benefits and services to the tribe and its members.

¹²87 Fed. Reg. 4636 (Jan. 28, 2022). Each year, Interior must publish in the *Federal Register* the list of tribes recognized by the Secretary of the Interior. Pub. L. No. 103-454, tit. I, § 104, 108 Stat. 4791, 4792 (1994) (*codified at* 25 U.S.C. § 5131).

¹³The U.S. Census Bureau defines AI/AN as “a person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.”

¹⁴Population data are based on the U.S. Census Bureau’s American Community Survey 1-Year Data estimates of Public Use Microdata Sample for 2019 for American Indian and Alaska Native (alone or in combination with one or more races).

Federal Agencies' Administration of Programs Serving Tribes and Their Members

Federal agencies administer a wide range of programs and services for tribes and their members. These programs may be administered in different ways. For example, federal agencies may deliver services directly to tribes and their members or may award grants to tribes or other entities to provide services. The type of grants awarded include discretionary and pass-through grants. Discretionary grants are awarded competitively or noncompetitively to eligible applicants. For example, USDA's Rural Utilities Service awards grants competitively to eligible Indian tribes and other eligible entities for water and wastewater facilities to alleviate health risks.

Pass-through grants are grants awarded to a recipient, such as a state, which then makes an award to a subgrantee, such as a nonprofit organization. For example, some Education programs make grants to states, which then award subgrants to local educational agencies, and some states treat tribal schools as local educational agencies, and thus making them eligible for these subgrants.

Many federal agencies receive budget authority in the form of annual appropriations for programs and services they administer in annual appropriations acts,¹⁵ but some agencies receive budget authority in laws other than appropriations acts, which constitutes mandatory spending.¹⁶ For example, the multiyear highway authorization law provides budgetary authority for DOT that is mandatory spending. Some tribes supplement these federal programs and services with revenue from tribally owned enterprises, such as businesses in the leisure and hospitality sector. As we have previously reported, tribal governments often depend heavily on

¹⁵Budget authority is the authority provided by federal law to enter into financial obligations that will result in immediate or future outlays involving federal government funds. The basic forms of budget authority include (1) appropriations, (2) borrowing authority, (3) contract authority, and (4) authority to obligate and expend offsetting receipts and collections.

¹⁶Mandatory spending, also known as direct spending, refers to budget authority that is provided in laws other than appropriation acts and the outlays that result from such budget authority. Mandatory spending includes entitlement authority (for example, the Supplemental Nutrition Assistance Program, Medicare, and veterans' pension programs); payment of interest on the public debt; and nonentitlements, such as payments to states from Forest Service receipts.

revenue from tribal enterprises to support health care, public safety, and other essential services for their members.¹⁷

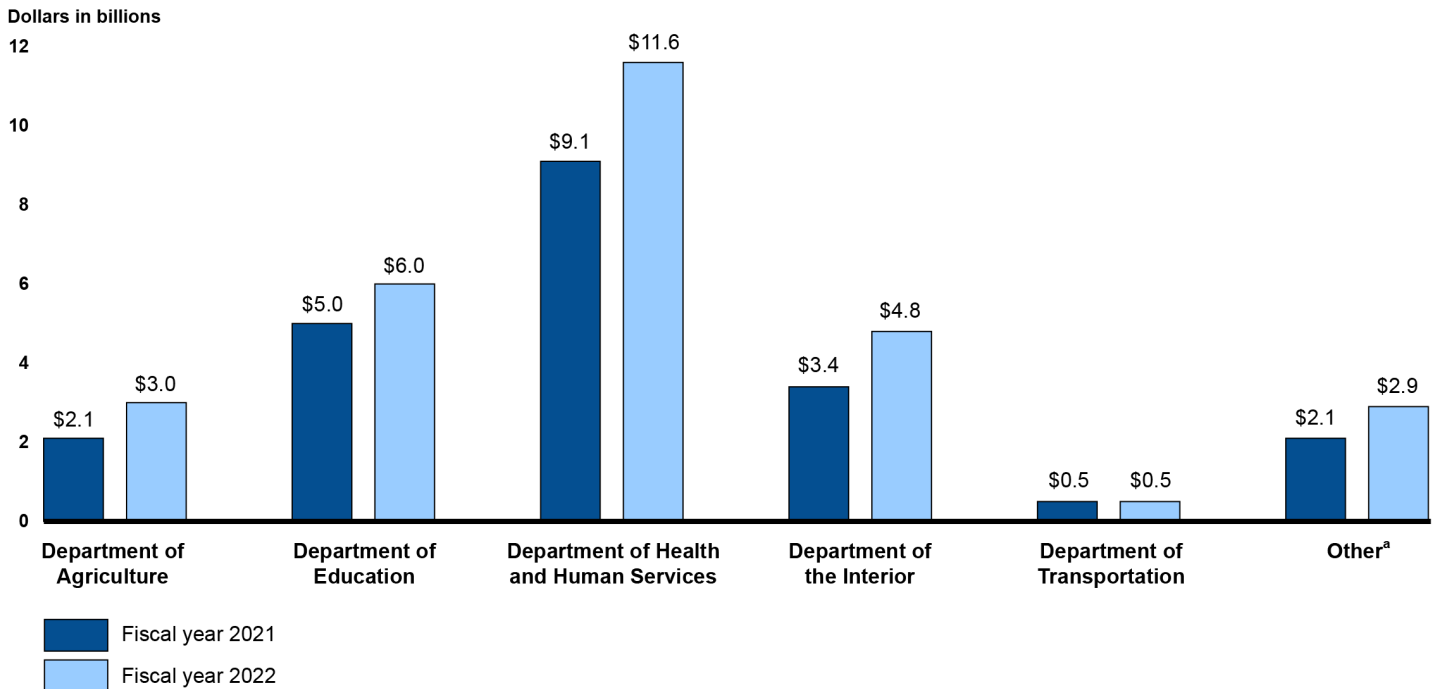
OMB's Native American Crosscut

Since 2004, OMB has annually published the Native American Crosscut, which provides government-wide funding information for federal programs that serve tribes or provide benefits to individual Native Americans.¹⁸ The Native American Crosscut reports details by agency on federal funding, including enacted funding amounts for the prior fiscal year and amounts of funding proposed in the President's Budget for the current fiscal year, for programs that benefit Native Americans. Figure 1 includes the agency breakdown of amounts of federal funding proposed for programs that benefit Native Americans in fiscal years 2021 and 2022, as reported in the crosscut.

¹⁷GAO, *COVID-19: Lessons Learned from Interior and Treasury's Administration of CARES Act Funds Could Improve Federal Emergency Relief to Tribes*, [GAO-22-104349](#) (Washington, D.C.: Oct. 29, 2021).

¹⁸The most recent Native American Crosscut can be found on OMB's website at <https://www.whitehouse.gov/wp-content/uploads/2021/07/FY-2022-Native-American-Funding-Crosscut.pdf> (accessed Apr. 12, 2022).

Figure 1: Amounts of Federal Funding Proposed for Programs That Benefit Native Americans, Fiscal Years 2021 and 2022 President's Budget



Source: GAO analysis of Office of Management and Budget data. | GAO-22-104602

^aSee app. III for a list of all agencies included in the Native American Crosscut.

Based on amounts of funding proposed in the fiscal year 2021 President's Budget, the fiscal year 2021 crosscut reported a total of \$22.2 billion that 30 federal agencies requested for programs that benefit Native Americans. The fiscal year 2021 crosscut also includes an agency breakdown of an estimated \$11.3 billion in supplemental appropriations for fiscal year 2020, related to COVID-19 relief for Native American programs.¹⁹

¹⁹Agencies reported fiscal year 2020 supplemental estimates based on funding received from the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Pub. L. No. 116-123, 134 Stat. 146); the Families First Coronavirus Response Act (Pub. L. No. 116-127, 134 Stat. 178 (2020)); the CARES Act (Pub. L. No. 116-136, 134 Stat. 281 (2020)); and the Paycheck Protection Program and Health Care Enhancement Act (Pub. L. No. 116-139, 134 Stat. 620 (2020)).

Based on amounts of funding proposed in the fiscal year 2022 President's Budget, the fiscal year 2022 crosscut reported a total of \$28.8 billion that 31 federal agencies requested for programs that benefit Native Americans. The fiscal year 2022 Native American Crosscut also includes an agency breakdown of an estimated \$39.6 billion in COVID-19 relief funding for Native American programs in fiscal year 2021.²⁰ In addition, the crosscut includes additional details by agency on federal funding for programs that benefit Native Americans.

Although OMB is not required by law to publish the crosscut, it began publishing it in response to requests from tribes for OMB to provide more information on federal funding for programs that benefit tribes. To develop the crosscut, OMB issues an annual budget data request (BDR) to federal agencies for the purpose of collecting information on funding levels for programs and activities serving Native Americans. Specifically, in the fiscal year 2021 BDR, OMB requested that agencies report the following information:

- fiscal year 2020 enacted funding level for each program or activity (not including supplemental funding related to COVID-19,
- fiscal year 2020 COVID-19 supplemental estimated funding level for each program and activity, and
- final amounts of funding proposed in the fiscal year 2021 President's Budget funding levels for each program or activity.²¹

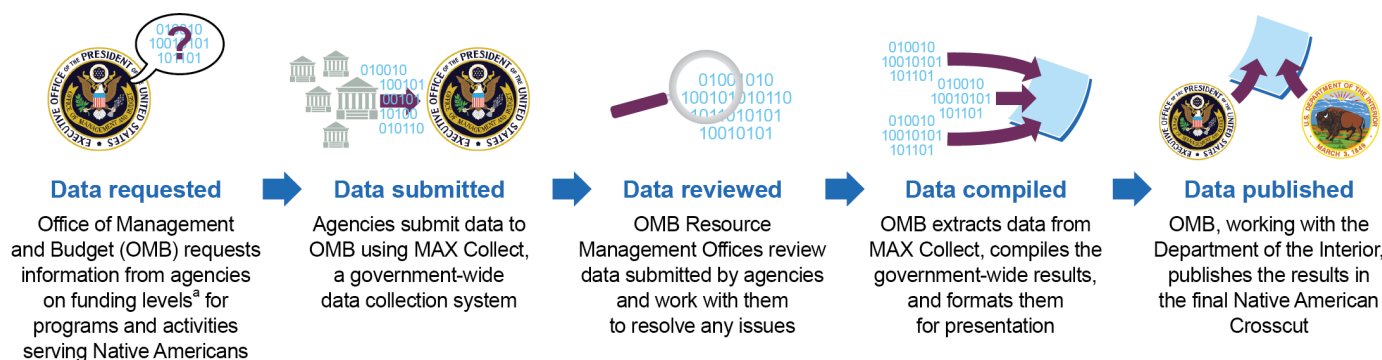
Staff in OMB's Resource Management Offices review the data the agencies submit to ensure accurate and complete representation of agency programs, based on OMB's understanding of the agency programs and funding levels. According to OMB, the staff then frequently communicate with the agency points of contact to resolve any questions or issues about reporting data for the crosscut. Then OMB, in conjunction

²⁰Agencies reported fiscal year 2021 estimates based on funding provided through the American Rescue Plan Act of 2021 (Pub. L. No. 117-2, 135 Stat. 4) and the Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260, 134 Stat. 1182 (2020)) Division M—Coronavirus Response and Relief Supplemental Appropriations Act, 2021 and Division N—Additional Coronavirus Response and Relief. Also, OMB requested that agencies report final amounts of funding proposed in the fiscal year 2022 President's Budget for each program or activity.

²¹In the fiscal year 2022 BDR, OMB requested that agencies report (1) the fiscal year 2021 enacted funding level for each program or activity, (2) fiscal year 2021 estimated funding provided in response to the COVID-19 pandemic, and (3) final amounts of funding proposed in the fiscal year 2022 President's Budget for each program or activity.

with Interior, publishes the crosscut annually, typically after the release of the President's Budget. Figure 2 provides an overview of OMB's process for collecting data from federal agencies for publication in the Native American Crosscut.

Figure 2: Office of Management and Budget's Annual Data Collection Process for the Native American Crosscut



Source: GAO analysis of OMB documentation. | GAO-22-104602

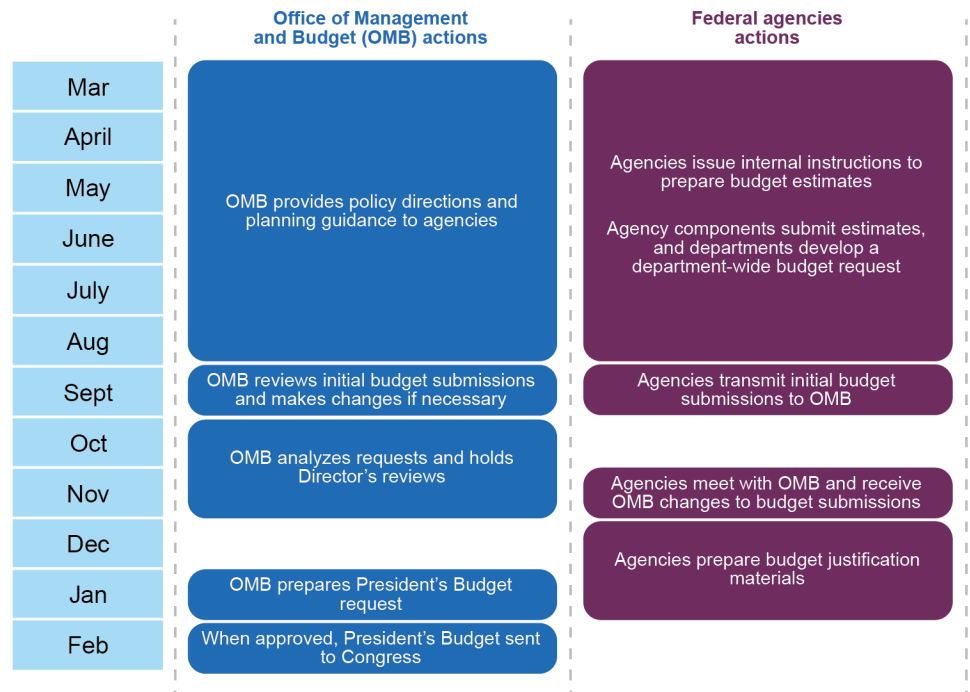
^aOMB directs agencies to report for the upcoming year's crosscut both enacted funding amounts for the prior fiscal year and amounts of funding proposed in the President's Budget for the upcoming fiscal year for these programs.

Executive Budget Formulation Process

The federal budget process spans multiple years and provides the means for the federal government to make informed decisions between competing national needs and policies, to determine priorities, to allocate resources to those priorities, and to ensure that the laws are executed according to those priorities. The first phase of the federal budget process—budget formulation—is performed by the executive branch and culminates in the President's Budget, as shown in figure 3.²²

²²The four phases of the budget process are: budget formulation, the congressional budget process (during which Congress adopts its budget and enacts laws making appropriations for the fiscal year), budget execution and control, and audit and evaluation. For more information, see GAO, *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP (Washington, D.C.: Sept. 2005).

Figure 3: Executive Budget Formulation Process



Source: GAO analysis. | GAO-22-104602

To produce the President's Budget each year, OMB issues budget development guidance, which agencies supplement with agency-specific internal guidance to produce their budget documents.

- OMB.** OMB's role in the President's Budget formulation process begins when OMB provides policy direction and planning guidance to agencies. OMB issues its annual budget guidance document, Circular A-11, which describes the preparation, submission, and execution of the budget. OMB also provides top-line budget numbers to agencies based on presidential priorities to inform their development of agency budget submissions. After agencies provide their initial submissions to OMB, the office reviews each submission against presidential priorities, program performance, and budget constraints. After this review, OMB passes the revised budget submissions back to agencies. If an agency wishes to appeal certain decisions, OMB will work with the agency to resolve the conflict.
- Federal agency.** Agencies are responsible for developing proposed budget estimates based on OMB guidance and providing supporting documentation as part of their initial budget submissions to OMB for

consideration as part of the President's Budget. In developing their initial budget submissions, agencies also follow their own budget development guidance, which tailors OMB's guidance to the needs of the agency and its programs. As part of their initial budget submissions, OMB directs agencies to include a description of the tribal consultation process that the agency conducted related to budget development and the input the agency received if it has programs with tribal implications.²³ Agencies that do not have programs with tribal implications should include a statement indicating that no tribal consultation was required. After OMB reviews agencies' initial budget submissions and final revisions are complete, agencies prepare budget justification materials. Agencies use their budget justifications to support their requests to the responsible subcommittees during the congressional budget phase.

Federal Tribal Consultation

Executive Order 13175 calls for federal agencies to have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.²⁴ Executive Order 13175 defines "policies that have tribal implications" as "regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." To implement Executive Order 13175, many agencies have developed agency-specific policies and procedures for tribal consultation, and in some cases, these procedures may include tribal consultation during budget formulation.²⁵

In a January 2021 Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships, the President directed every executive department and agency to develop a detailed plan of actions to implement the policies and directives of Executive Order

²³According to OMB staff, its instruction for agencies to describe their tribal consultation activities related to the budget has been included annually in OMB Circular A-11 since 2010.

²⁴Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, § 5(a), 65 Fed. Reg. 67249, 67250 (Nov. 9, 2000).

²⁵For more information on agency tribal consultation policies, see GAO, *Tribal Consultation: Additional Federal Actions Needed for Infrastructure Projects*, [GAO-19-22](#) (Washington, D.C.: Mar. 20, 2019).

13175, after consulting with tribal nations and tribal officials.²⁶ In response, many agencies and OMB hosted tribal consultation sessions to discuss their consultation policies and practices and issued action plans to improve these efforts. OMB had not previously consulted with tribes on its budget development activities.

OMB’s Native American Crosscut Provides Federal Funding Data, but Lack of Detail Presents Challenges for Certain Crosscut Users

OMB’s Native American Crosscut provides government-wide information about federal funding for programs benefitting Native Americans. However, it does not clearly state the purpose of the crosscut or include detailed information for all agencies about what the published data represent, including how agencies selected programs to include. Eight of thirteen tribal stakeholders we interviewed said that the lack of detail in the crosscut made it difficult for them to leverage the reported information for their planning and decision-making purposes.

OMB’s Native American Crosscut Provides Funding Data but Lacks Details about What the Reported Agency Data Represent

OMB’s crosscut provides data about federal funding, including enacted funding and the President’s Budget proposed funding levels, for programs that benefit Native Americans. For example, in its fiscal year 2021 crosscut, OMB reported \$23.6 billion in enacted funding for fiscal year 2020 and \$22.2 billion in proposed funding in the fiscal year 2021 President’s Budget for 30 federal agencies.²⁷ In its fiscal year 2022 crosscut, OMB reported \$25.2 billion in enacted funding for fiscal year 2021 and \$28.8 billion in proposed funding in the fiscal year 2022 President’s Budget for 31 federal agencies.

According to OMB, in addition to providing tribal stakeholders with information on funding for programs that benefit tribes and their members, the Native American Crosscut is a resource that provides OMB, as well as other federal agencies and Congress, with information on funding levels for these programs. However, the crosscut does not clearly state its purpose or include detailed information at the agency level for all agencies about what the data from each agency represent—including

²⁶Memorandum, *Tribal Consultation and Strengthening Nation-to-Nation Relationships*, 86 Fed. Reg. 7491 (Jan. 29, 2021).

²⁷The fiscal year 2021 crosscut also included data on fiscal year 2020 COVID-19 relief funding for each program and activity. The fiscal year 2022 crosscut also included data on fiscal year 2021 COVID-19 relief funding for Native American programs.

differences in agencies' methodologies for selecting programs to include and differences in the types of data reported across agencies.

Certain agencies provided more detailed information on selected programs in the fiscal years 2021 and 2022 crosscuts. For example, Education provided more detailed information about Impact Aid in a footnote. Specifically, the footnote said reported data for Impact Aid was based on estimated payments made on behalf of children living on Indian lands. HHS also provided more detailed information in footnotes that certain programs, such as Promoting Safe and Stable Families and Special Diabetes Program for Indians, are provided through mandatory or discretionary funding.²⁸ However, none of the key agencies provided detailed information about what the data from each agency represent for all programs reported in the crosscut.

As we discuss in the next section, eight tribal stakeholders have reported that the lack of detail in the crosscut makes it difficult for them to leverage the reported information for their planning and decision-making purposes. For example, seven tribal stakeholders told us that the crosscut does not show what money actually ends up in tribal hands and includes moneys that go to states and funds that federal agencies retain. In addition, six tribal stakeholders told us that having detailed information in the crosscut on how the reported funding is distributed, such as which funding is provided through competitive discretionary grants, would be useful because it provides a more comprehensive picture of the funds tribes can access.

To develop the crosscut, OMB issues a BDR with guidance to agencies on how to identify programs that benefit Native Americans and the type of funding information to report.²⁹ Specifically, OMB directs agencies to report funding of programs, in whole or in part, that benefit or are related to AI/AN, including individuals, tribal governments, urban Indian organizations, and tribal communities. OMB also directs agencies to report for the upcoming year's crosscut on both enacted funding amounts

²⁸Discretionary spending refers to outlays from budget authority that is provided in and controlled by appropriation acts.

²⁹Office of Management and Budget, *Native American Funding Crosscut Data for the Fiscal Year 2021 Budget*, Budget Data Request No. 20-24 (Washington, D.C.: May 12, 2020).

for the prior fiscal year and amounts of funding proposed in the President's Budget for the upcoming fiscal year for these programs.

We found that the five key agencies (1) interpret OMB's guidance differently when identifying which programs to include and (2) take different approaches for reporting data on funding levels for a variety of reasons, including differences in program eligibility and the information that agencies collect and track.³⁰ OMB does not publish a statement of purpose or additional details to reflect how agencies identify programs and choose to report data on funding levels that could help users to better understand the reported data. Consequently, intended users of the crosscut may have limited awareness of the purpose of the crosscut and agencies' different interpretations, approaches, or reasons for reporting data in a certain way.

Agencies' interpretation of OMB guidance. We found that agencies interpret OMB's guidance differently when identifying which programs to include for crosscut reporting. Specifically, certain agencies define programs benefiting Native Americans narrowly and report data only for programs that are specifically for tribes. For example, DOT officials told us that the department does not include a program in the crosscut unless the program is specific to tribes, even if a program may, in part, benefit tribes and their members.

However, other agencies define programs benefiting Native Americans more broadly and include both funding for programs designated specifically for tribes as well as funding for programs where individual Native Americans are among those who are eligible to receive benefits from the agency or other entities, such as states. For example, Education officials stated that the department reports data on programs that serve tribes and their members, as well as general programs that serve all eligible students, including AI/AN individuals, such as Impact Aid.³¹ For general programs that serve all students, Education estimates the

³⁰For the purposes of this report, we define an agency as a cabinet-level department, agency, or component thereof, including, but not limited to, a bureau, office, institute, or center, unless otherwise specified.

³¹Impact Aid is a program that provides financial assistance to school districts that are adversely impacted by a lack of property tax revenue because of the presence of tax-exempt federal property, including Indian lands, or that enroll federally connected children, including children living on Indian lands.

number of AI/AN individuals served by each respective program and includes funding estimates based on such figures in the crosscut.

Agencies’ varying approaches to reporting data. We also found that the five key agencies take different approaches in choosing what type of funding data to report in the crosscut for a variety of reasons, including differences in the information that agencies collect and track centrally. In its fiscal year 2021 BDR guidance, OMB requested agencies report the fiscal year 2020 enacted funding level and fiscal year 2021 amounts of funding proposed in the President’s Budget for each program or activity in their data submissions.³² We found that agencies take different approaches in choosing what to report for “enacted funding levels” in the crosscut. Specifically, we found that four of the five key agencies report a mixture of appropriations, obligations, and estimated or projected spending based on how agency data are tracked internally, as shown in table 1.

Table 1: Selected Agencies’ Reported Data in the Native American Crosscut

Department	Component agency	Description of agency-reported information
Department of Agriculture (USDA)	All USDA agencies	USDA reports appropriations for programs specific to tribes. However, USDA agencies that do not receive direct line item appropriations may provide estimates based on historical knowledge or recipient-reported data for state-administered programs, such as the Supplemental Nutrition Assistance Program.
Department of Education	Agency-wide	Education reports data by direct support—either formula grants, discretionary grants, or transfers—and indirect support programs. For indirect support programs administered by states, it estimates the reported financial impact of such programs on American Indian and Alaska Native (AI/AN) students in the crosscut based on the national percentage of AI/AN students to the overall population served by Education’s grant programs.

³²According to OMB’s BDR, agencies should also report total fiscal year 2020 supplemental estimates based on funding received from the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Pub. L. No. 116-123, 134 Stat. 146); the Families First Coronavirus Response Act (Pub. L. No. 116-127, 134 Stat. 178 (2020)); the CARES Act (Pub. L. No. 116-136, 134 Stat. 281 (2020)); and the Paycheck Protection and Health Care Enhancement Act (Pub. L. No. 116–139, 134 Stat. 620 (2020)).

Department	Component agency	Description of agency-reported information
Department of Health and Human Services	Examples: Administration for Community Living (ACL)	ACL reports a combination of appropriations, obligations, and projected spending by program and by year. Historically, when obligations are made to other entities that may also serve tribes or their members, such as states or nonprofits, ACL has only included in the crosscut those amounts that are specifically identified (generally in statute) as carve-outs from those programs for tribes or their members.
	Administration for Children and Families (ACF)	ACF typically reports budget authority provided through appropriations. ACF's program offices provide actual numbers when available based on state and grantee reporting and estimate the amount when actual numbers are not available because of limitations in recipient reporting data.
	Indian Health Service (IHS)	IHS reports its entire appropriation.
	National Institutes of Health (NIH)	NIH reports actual and estimated obligations incurred for its direct-funded biomedical research related to its AI or AN category. The AI or AN category does not distinguish projects administered by tribes or their members from research activities conducted by other entities, such as nonprofits or other eligible applicant types. ^a
	Substance Abuse and Mental Health Services Administration (SAMHSA)	SAMHSA reports discretionary budget authority, which includes appropriations for tribal-only grant programs, as well as estimates based on prior year funding activity for additional grant programs for which tribes, tribal organizations, and urban Indian organizations are eligible applicants.
Department of the Interior	Bureau of Indian Affairs (BIA), Bureau of Indian Education (BIE), and Bureau of Trust Funds Administration (BTFA) Other Interior bureaus	BIA, BIE, and BTFA report appropriations. ^b Other bureaus may report estimated spending for tribes.
Department of Transportation (DOT)	Select DOT agencies, including the Federal Highway Administration, National Highway Traffic Safety Administration, and Federal Transit Administration	DOT reports appropriations for programs specific to tribes that receive dedicated budget authority. To avoid double counts of budget authority with multiple eligibilities, DOT does not include other programs in the crosscut, even if a program may, in part, benefit tribes and their members.

Source: GAO analysis of agency data. | GAO-22-104602

^aNIH's AI or AN category includes research on all state and federally recognized tribes, villages, reservations, pueblos, bands, communities, colonies, tribal towns, nations, and councils. Colonias and rancherías are included depending on the location of the entity in the United States. Colonias are communities of all types and sizes, both incorporated and unincorporated, and can be, but are not usually, within tribal reservations. Rancherías are small Indian reservations or communities in California that were established by the federal government in the early 20th century. Both urban and rural Native entities are included.

^bInterior created BTFA in fiscal year 2020 and moved the functions of the Office of the Special Trustee for American Indians into the new bureau. According to Interior officials, amounts reported for BTFA in the crosscut include appropriations for the Office of the Special Trustee for American Indians.

Interior and USDA report appropriations for agencies that have tribal programs and may report estimated amounts for those that do not. Education reports direct support data as well as estimates for programs

that serve all students, including Native American students. HHS officials told us that their components report a combination of appropriations, budget authority provided through appropriations, obligations, and projected spending, depending on the program. DOT reports appropriations for programs specific to tribes that receive dedicated budget authority and does not include other programs in the crosscut, even if a program may, in part, benefit tribes and their members.

Generally, agency officials told us that their varied approaches to reporting data for the crosscut were due to differences in programs, such as eligible recipients, and the information that agencies collect and track centrally. For example, Education, HHS's Administration for Children and Families (ACF), Interior, and USDA estimate amounts for their programs where tribes are not direct recipients.

In some cases, these reported amounts are based on data reported by states or other recipients, such as HHS's ACF and USDA. For example, ACF provides actual amounts when available based on state and grantee reporting and estimated budget authority when actual amounts are not available because of limitations in recipient reporting data. Similarly, USDA officials told us that their reported amounts depend on the data collected and recorded from recipients, such as self-reported racial classification data collected by states for individual Supplemental Nutrition Assistance Program recipients. See appendix II for information on how agencies use their financial management systems to track and report funding data on programs for tribes and their members.

In some cases, the reported amounts are based on other factors, such as Native American population and spending projections. For example, Education officials told us that most of the agency's reported funding is awarded to states and Education does not collect information on the student population served for the purposes of these programs. As such, Education officials told us that they provide a very rough estimate of the share of indirect funding that benefits Native American students based on the national percentage of AI/AN students served by certain department grant programs.

HHS's National Institutes of Health reports actual and estimated obligations for its directly funded research related to its AI or AN research category, which does not distinguish between projects administered by tribes or their members from other projects. Also, Interior officials told us that other bureaus that administer programs that are not specific to tribes,

such as the Fish and Wildlife Service, estimate amounts based on the projected spending for tribes.

The variation in approaches and methods for determining reported amounts that agencies use when providing crosscut information to OMB demonstrates the complexity of agency-level funding data for programs that benefit Native Americans. However, as previously noted, detailed information that reflects this complexity—such as agencies' methods for selecting programs to include and differences in what the data represent across agencies—is not published in the crosscut. OMB does not request this information from agencies in its guidance or publish any additional details from agencies that it may receive in response to its annual BDR. As a result, the lack of detail in the crosscut presents challenges for certain intended users, as discussed in more detail later in this report.

Standards for Internal Control in the Federal Government states that management should externally communicate the necessary quality information to achieve the entity's objectives—such as OMB's intended objective for the crosscut to provide government-wide funding information for federal programs that benefit Native Americans and to serve as a resource for users, such as tribal stakeholders.³³ The standards also emphasize that management, such as OMB, communicates with, and obtains quality information from, external parties—including government entities and the general public—using established reporting lines, and communicates quality information externally through reporting lines so that external parties can help the entity achieve its objectives and address related risks.

Without OMB issuing clear guidance to agencies and publishing detailed information to better explain to intended users what reported agency-level data represent, as well as informing intended users to make them aware of the published data, the crosscut may be limited in providing a comprehensive picture on funding levels for them. In addition, without OMB publishing a statement of purpose in the crosscut to provide context about what the crosscut is and for whom it is intended, potential users of the crosscut may have limited awareness of its objective.

³³GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 2014).

Tribal Stakeholders Report Challenges with the Crosscut's Lack of Detail and OMB's Feedback Process

Eight of the thirteen tribal stakeholders we spoke with said that the lack of detail in the crosscut made it difficult for them to leverage the reported information for their planning and decision-making purposes. For example, members of a federal-tribal budget working group stated that the crosscut has not been helpful nor useful for decision-making, since it does not detail what money actually ends up in tribal hands. These members told us that the crosscut does not show what money actually goes to tribes and includes moneys that go to states and other agencies.

In addition, members of a federal tribal advisory body and a federal-tribal budget working group expressed that details on how the reported funding is distributed—such as through competitive discretionary grants—are not provided in the crosscut. Six tribal stakeholders told us that knowing detailed information in the crosscut, such as which funding is provided through competitive discretionary grants, would be useful because such information provides a more comprehensive picture of funds tribes can access.

Furthermore, a tribal organization's representatives and one other organization's representatives as well as members of a federal tribal advisory body stated that they would like the crosscut to include more detailed information than what is already reported in it. In particular, these three stakeholders stated that it would be helpful for the crosscut to include the amount of federal resources to which tribes have direct access, including programs that are specific to tribes and their members, as well as the amounts of pass-through funding that end up in tribal hands. Members of some federal tribal advisory bodies, a federal-tribal budget working group, and tribal and one other organizations' representatives also said that differentiating funding by the type of recipient, such as tribes, tribal businesses, tribal organizations, urban Indian organizations, and individuals, would be helpful. These tribal stakeholders said that differentiating funding by the type of recipient could also help prevent the crosscut from providing misleading information by overstating the amounts that benefit tribes and their members, as well as allow users to distinguish between funding for tribes and other recipients. Additionally, representatives from one organization advocating for the health of urban AI/AN populations said that the crosscut's transparency would be improved if it included information on tribal budget recommendations, such as the IHS National Tribal Budget Formulation

Workgroup's recommended funding levels, in addition to agency budget numbers.³⁴

OMB has a central leadership role in obtaining government-wide funding data from agencies and reporting and publishing such information in the crosscut for its intended users, such as tribal stakeholders, for their decision-making. In providing information on federal funding for programs that benefit Native Americans, OMB publishes agency-level funding data reported by agencies, but as discussed previously, it does not clearly state the purpose of the crosscut or provide detailed information that would help users to understand the data reported in the crosscut. As a result, tribal stakeholders told us that it is difficult for them to leverage the reported information for their planning and decision-making purposes.

In addition, a representative from a tribal organization we spoke with said that the organization had provided feedback to OMB about the crosscut in written letters to OMB and during discussion in OMB's consultations. However, the organization did not receive any responses from OMB. Other organization representatives also had provided comments to OMB in response to the 2021 presidential memo.

OMB has recently taken steps to solicit feedback from tribal leaders on how it can improve the crosscut. According to OMB staff, OMB has heard from tribal leaders participating in Tribal Interior Budget Council meetings and through OMB's tribal budget consultations in 2021 that tribal leaders use the crosscut. OMB staff said that they also received feedback that tribes would like the crosscut to include detailed information about the type of funding being provided, such as direct funding to tribes, grant funding, and pass-through funding to states providing services to tribal members. OMB stated that tribal leaders also requested more detail and consistency about the specific accounts or programs included in the crosscut data. OMB staff told us that it is considering the feedback about the crosscut that it received through its tribal consultations, but it has not yet developed a formal process to regularly solicit and assess intended users' feedback and incorporate such feedback into guidance.

According to OMB, the crosscut is a resource that provides OMB with a comprehensive funding picture for tribal programs across agencies and helps OMB to identify gaps in tribal funding as well as avoid unnecessary

³⁴The IHS National Tribal Budget Formulation Workgroup, which comprises tribal representatives from different regions, identifies national priorities, policies, and budget recommendations and provides input and guidance to IHS.

duplication. Soliciting and assessing feedback from intended users of the crosscut, and incorporating such feedback into guidance, could better assist OMB to ensure that such intended users—including tribal stakeholders—have information available to them that could be valuable for identifying gaps in tribal funding for programs that benefit Native Americans.

Standards for Internal Control in the Federal Government states that management, such as OMB, should use quality information—that is appropriate, current, complete, accurate, accessible, and provided on a timely basis—to achieve the entity’s objectives—such as to provide comprehensive funding information on programs serving tribes and their members through the Native American Crosscut.³⁵ These standards also emphasize the need for an entity’s management, such as OMB, to obtain relevant data from reliable internal and external sources in a timely manner based on the identified information requirements, and for management to consider these characteristics as well as the information processing objectives in evaluating information and make revisions when necessary so that the information is quality information.

OMB is in a unique position to promote and improve transparency about federal support for programs that benefit Native Americans and to consult with tribal stakeholders and relevant federal agencies to improve the usefulness of the crosscut that it publishes. OMB could better leverage its cross-agency leadership by soliciting feedback from users of the crosscut and identifying areas for improvement. Without a formal process to regularly solicit and assess feedback from tribal stakeholders and relevant federal agencies, and incorporate such feedback into guidance, OMB may not identify in a timely manner issues that users of the crosscut encounter, which could hinder its ability to achieve the intended purpose of the crosscut.

³⁵[GAO-14-704G](#).

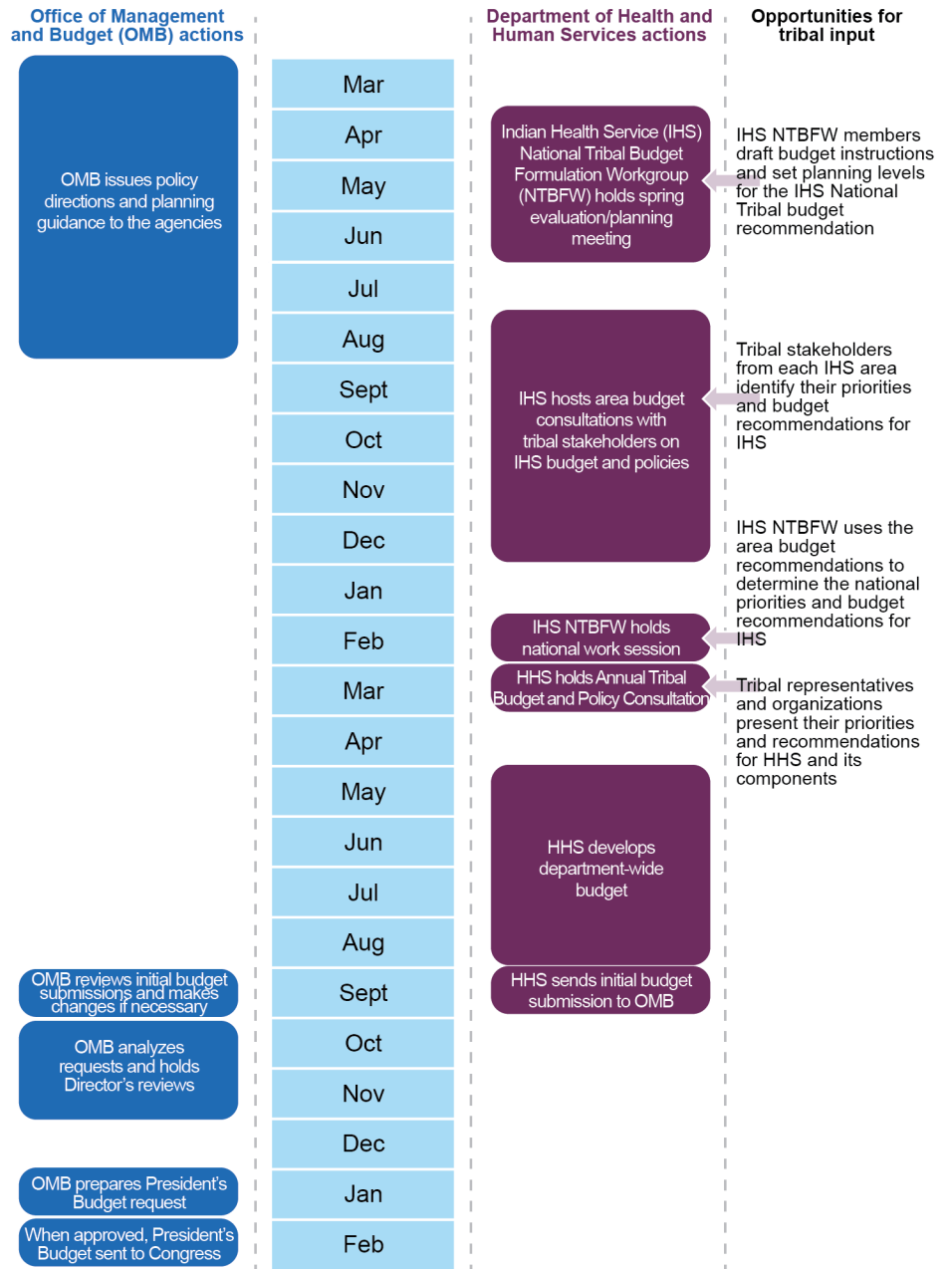
Few Agencies Have Formal Processes for Incorporating Tribal Input and Reflecting Tribal Needs during Budget Formulation

Two Agencies Have Formal Budget Processes for Incorporating Tribal Input and Develop and Share Information with OMB on Tribal Needs to Varying Degrees

Of the five agencies we reviewed, HHS and Interior have formal budget processes for incorporating tribal input. These two agencies also develop and share information with OMB on tribal needs to varying degrees.

HHS. HHS includes budget formulation in its tribal consultation policy, as shown in figure 4, and directs each of its components within the department to have a process that assures tribal priorities, needs, and requests are identified and considered in formulating the HHS budget. According to HHS policy, budget consultation is one aspect of how the department honors the unique government-to-government and trust relationship with tribes. HHS policy also directs each HHS component head to participate in its Annual Tribal Budget and Policy Consultation Session. At this session, representatives from tribal nations and tribal organizations present their budget priorities and recommendations directly to the leadership of each component. Components use these priorities and recommendations to inform the department's initial budget submission to OMB. Members of three federal tribal advisory bodies we spoke with said that HHS's budget consultation process works well because tribes know what to expect each year, the timing of the consultations is effective, and HHS does a good job bringing in multiple components to participate in the discussions.

Figure 4: Diagram of Department of Health and Human Services' (HHS) Tribal Budget Consultation Process



Source: GAO analysis of Department of Health and Human Services policy and documents. | GAO-22-104602

In addition, HHS's Secretary's Tribal Advisory Committee (STAC) provides tribal leaders with direct access to HHS leadership, who can hear firsthand about funding needs and priorities in Indian country, according to a STAC member.³⁶ Although HHS collects department-wide information on tribal priorities and funding recommendations from its annual tribal budget consultation process, HHS does not provide that information to OMB as part of its initial budget submission. However, individual HHS program analysts may share this information in discussions with OMB program examiners, although not as a standard practice, according to HHS officials.

Additionally, HHS's IHS is required by statute to consult with tribes and tribal organizations in the development of its initial budget request submitted to the President.³⁷ To implement this requirement, IHS holds budget consultations in each of its service areas and has a dedicated National Tribal Budget Formulation Workgroup to develop budget recommendations that reflect tribal input. Additionally, the workgroup sets the planning levels for the national tribal budget recommendations and reviews and consolidates all the regional recommendations into a comprehensive set of national health priorities and budget recommendations.³⁸

The workgroup's funding recommendations include an assessment of tribal needs for IHS services—including unmet needs for services based on current funding levels—and is also publicly available.³⁹ Noting that prior incremental budget increases have done little to address AI/AN health disparities, the workgroup's report for the fiscal year 2023 budget found that IHS would need \$49.8 billion annually to meet tribal needs for its programs and provide parity for tribal health funding with other

³⁶The STAC comprises 17 members: one delegate and one alternate from each of the 12 IHS areas and one delegate and alternate for five national at-large tribal member positions.

³⁷25 U.S.C. § 5325(i).

³⁸This workgroup is made up of two representatives from each of the 12 IHS areas. The National Indian Health Board annually publishes the work group's policy priorities and budget recommendations on its website at https://www.nihb.org/legislative/budget_formulation.php.

³⁹For more information, see the latest version of the workgroup's findings at the National Indian Health Board's website: https://www.nihb.org/legislative/budget_formulation.php.

federally funded health systems.⁴⁰ HHS officials told us that HHS provides the IHS National Tribal Budget Formulation Workgroup's funding recommendations as part of its initial budget submission to OMB to respond to statutory requirements for incorporating tribal needs in the IHS budget.

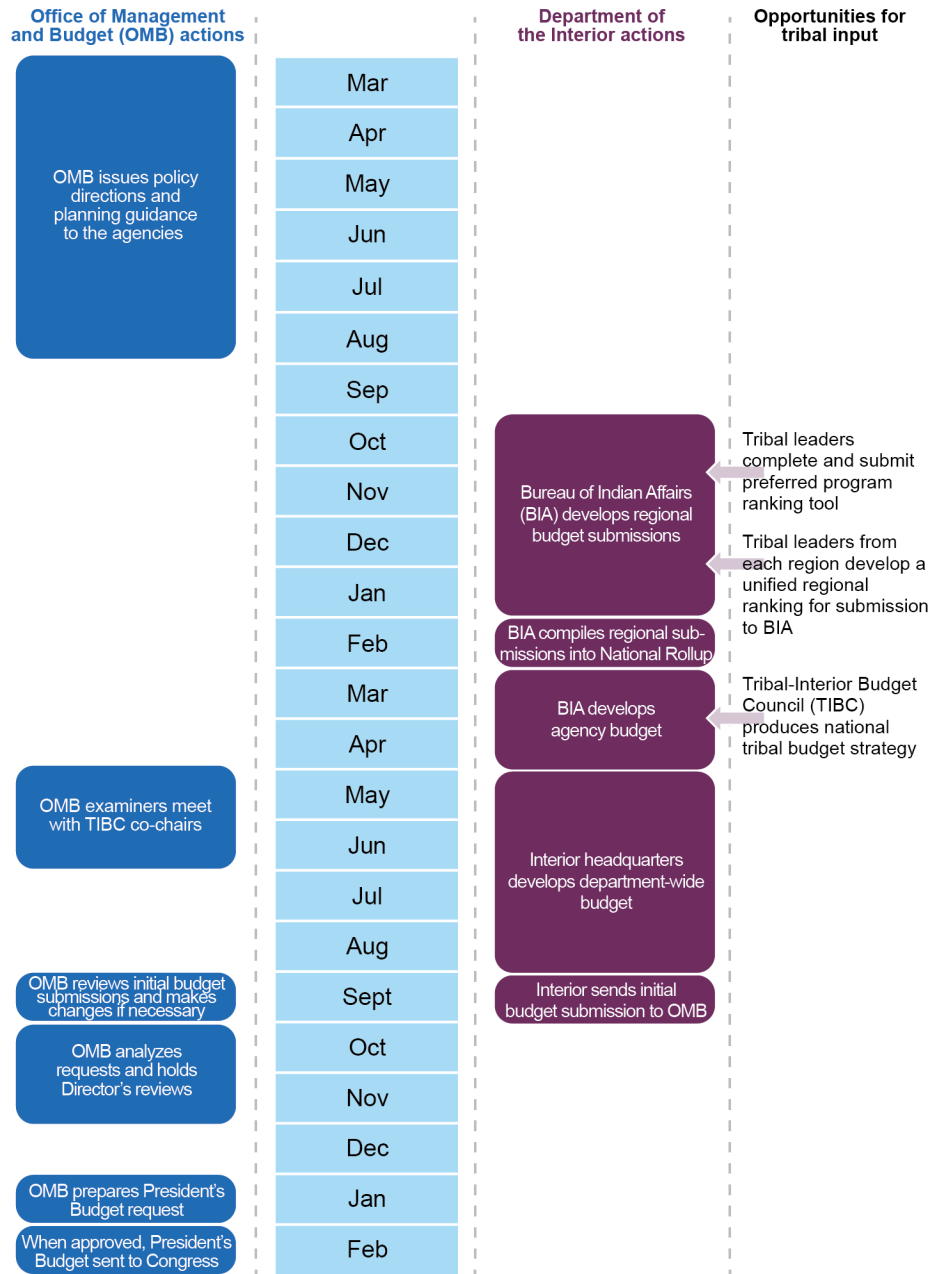
Some tribal stakeholders we spoke with highlighted IHS consultations as a best practice. In particular, members of two federal-tribal advisory bodies said that IHS regional consultations are more accessible to tribal leaders to attend and share their perspectives about local conditions for their tribes. In turn, this helps federal officials better appreciate how their programs affect Indian country. However, representatives from one organization advocating for the health of urban AI/AN populations said that IHS does not provide public notice for its regional budget formulation sessions, and that although IHS has included urban Indian organizations in its budget formulation discussions in the past, this practice appears to be discretionary and it is not clear if it will be continued in the future.

Interior. Interior's department-wide tribal consultation policy does not explicitly include budget formulation, but the department does have formal processes for incorporating tribal input into portions of its budget, as shown in figure 5.⁴¹ Specifically, Interior has a federal-tribal budget committee, the Tribal-Interior Budget Council (TIBC), where tribal leaders provide input on certain Interior components' initial budget request submissions. Unlike HHS, Interior's formal process does not include all Interior components, such as the Bureau of Land Management. Instead, the participating component is Indian Affairs, which includes BIA, BIE, and the Bureau of Trust Funds Administration.

⁴⁰National Tribal Budget Formulation Workgroup, *Building Health Equity with Tribal Nations*.

⁴¹Interior has also announced plans to establish a tribal advisory body within the Office of the Secretary. This advisory body would provide tribes with regular access to the Secretary to exchange views and information, and provide advice, recommendations, or both on administering Interior programs.

Figure 5: Diagram of the Department of the Interior's Tribal Budget Consultation Process



Source: GAO analysis of Department of the Interior policy and documents. | GAO-22-104602

TIBC is made up of two tribal representatives from each of the 12 BIA regions who meet on a quarterly basis to review regional and national tribal program priorities and develop a budget strategy and a tribal budget submission for BIA's and BIE's budgets. Specifically, TIBC uses results of regional and national tribal program priority rankings to determine a budget strategy, develops a tribal budget submission, and presents the results to the Assistant Secretary for Indian Affairs.

Like IHS, BIA is required by statute to consult with tribes and tribal organizations in the development of its budget request submitted to the President.⁴² To do this, Indian Affairs uses a tribal Preferred Program Ranking Tool survey for tribal leaders to rank their top funding priorities within eight different strategic funding categories. Tribes submit their surveys to BIA regional offices. Regional staff then present the results of the survey to tribal representatives to review and develop a unified regional ranking for submission to BIA's Central Office.

Members of some federal-tribal budget working groups and federal-tribal advisory bodies had mixed reactions to this approach. For example, as part of TIBC's fiscal year 2023 tribal budget submission, TIBC representatives noted recent improvements in the process. Additionally, one member of a federal-tribal advisory body said that Interior's recent improvements in the ranking tool—switching from ranking line items individually to ranking related line items within categories—made the tool much easier for tribes to use. However, another federal-tribal advisory body member said that every tribe has unique needs and those needs are reflected less and less at each stage of the “rollup” process from regions to headquarters to OMB. Members of two federal-tribal advisory bodies we spoke with also said that tribal leaders resent having to rank priorities because the programs are so underfunded and they consider all priority areas to be important. Additionally, representatives from two tribal organizations we met with said that TIBC is an incomplete representation of tribal interests and the ranking process frequently results in certain programs going unfunded in preference for other programmatic offerings.

TIBC uses the consolidated tribal program rankings to develop tribal budget recommendations by applying a percentage increase according to the consolidated rankings. These increases do not reflect funding necessary to meet all unmet needs, as the increases are capped at a certain level. For example, in its fiscal year 2023 tribal budget submission,

⁴²25 U.S.C. § 5325(i).

the council recommended a 30 percent increase in funding above the prior year's enacted levels to help address chronic underfunding of federal programs that serve tribes and their members. Interior officials told us that the agency uses the BIA and BIE tribal budget recommendations from TIBC to develop its budget request, but it does not provide that information as part of its initial budget submission to OMB. According to Interior officials, in response to congressional committee report language and statutory requirements, Interior also develops information on estimated tribal needs for certain programs, such as its welfare assistance and public safety and justice program. However, these efforts are not part of the budget process.⁴³ Interior officials told us that the department uses this information as supporting documentation when developing its budget submissions and in its discussions with OMB budget examiners.

Additionally, TIBC is currently leading an effort to collect information from tribal leaders on tribal needs—including an assessment of unmet needs across BIA's programs. Specifically, TIBC's Data Subcommittee has developed a survey to identify the types of data already collected by federal partners and what further data are needed from tribal leaders to assess need and agency progress meeting tribes' needs. TIBC representatives told us that there had previously been discussions with Interior about measuring tribal need for BIA programs, but that following the administration change in 2017, federal officials discontinued their support for these efforts. Both TIBC representatives and agency officials said that this effort would take additional resources and sustained commitment at the agency level to be successful.

⁴³Specifically, BIA surveyed tribes to assess need for BIA's Welfare Assistance program in response to congressional committee report language regarding funding distribution (164 Cong. Rec. H2045, H2618 (Mar. 22, 2018)) and is required by the Tribal Law and Order Act of 2010 to report annually to appropriate congressional committees with a list of, among other things, unmet staffing needs of law enforcement, corrections, and court personnel at tribal and BIA justice agencies. Pub. L. No. 111-211, § 211(b)(2)(D), 124 Stat. 2258, 2265 (*codified at* 25 U.S.C. § 2802(c)(16)(C)).

Three Agencies Do Not Have Formal Processes for Incorporating Tribal Input and Do Not Develop Information on Tribal Needs during Budget Formulation

Of the five agencies we reviewed, DOT, Education, and USDA do not have formal processes for incorporating tribal input on budget issues. These three agencies also do not develop information on tribal needs during budget formulation.

DOT. DOT's tribal consultation policy does not include budget formulation as an action with tribal implications that would require consultation. However, the policy says the agency will solicit tribal comments in the development of its surface transportation reauthorization proposals. Additionally, DOT does not have a tribal advisory group that provides input on its agency budget requests nor does it have other mechanisms to obtain tribal input on budget issues, according to DOT officials. For example, DOT's Tribal Transportation Program Coordinating Committee provides input and recommendations on BIA and DOT's implementation of the Tribal Transportation Program and is not intended to serve as a tribal advisory group for DOT more broadly. According to DOT officials, the majority of DOT's funding for tribes is mandatory and distributed according to statutory formulas, whereas DOT's budget formulation process focuses on discretionary spending based on secretarial priorities.

Members of a federal-tribal advisory body we spoke with acknowledged that much of DOT's funding for tribes is mandatory spending determined outside of the annual appropriations process. However, they also observed that DOT does not solicit information on tribal priorities or needs when developing its program reauthorization proposals to inform Congress's decisions on the amount of mandatory spending to include when reauthorizing programs.⁴⁴

According to DOT officials, the agency conducts outreach with numerous stakeholders—including tribal communities—on an ongoing basis, and stakeholder input is an important factor that shapes DOT's policy proposals more broadly. However, officials said that DOT's budget development process and program reauthorization proposals have not traditionally included review and comment by stakeholders or the general public. DOT does not have plans to develop a formal process to incorporate tribal input or develop information on tribal needs for either effort. Obtaining tribal input on discretionary spending in DOT's annual budget process and its program reauthorization proposals would provide better assurance that DOT is considering tribal priorities during its

⁴⁴As part of its 2021 Consultation on Consultation sessions in response to the January 2021 Presidential Memorandum, one tribe commented that DOT should take steps to educate Congress and OMB about funding based on trust and treaty obligations.

deliberations and would honor the federal government's trust and treaty obligations to tribal nations, which the White House has acknowledged.

Education. Under Education's tribal consultation policy, budget formulation is not identified as an action with tribal implications that would require consultation. The National Advisory Council on Indian Education is Education's tribal advisory group that provides input on policy priorities and budget issues. However, agency officials told us that the agency does not have a formal process for incorporating that input into its budget request. The council is made up of 15 presidentially appointed members representing different geographic areas. It meets approximately twice a year and advises the Secretaries of Education and the Interior on the funding and administration of programs serving tribes and their members. It also serves as the advisory council for the White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Native Americans and Strengthening Tribal Colleges and Universities. The council publishes a report of its policy priorities and funding recommendations to Congress.

Education officials and representatives from one tribal organization said that Education holds tribal consultation sessions on certain policies, as outlined in its tribal consultation policy, but does not consult with tribes on its budget or develop information on tribal needs. According to Education officials, the budget development process varies from year to year and does not include explicit procedures or opportunities for input from all potential stakeholders. Representatives from a tribal organization and members of two federal tribal advisory bodies we spoke with raised concerns about this approach because approximately 90 percent of AI/AN students attend public schools and are affected by Education programs for states. According to Education officials, the agency recognizes the need to develop mechanisms for tribal input into budget development in accordance with OMB Circular A-11 and is in the early stages of exploring options for doing so. Officials said that they have not determined whether developing such mechanisms would require changing Education's tribal consultation policy. Education officials expect to include tribal input as part of their development of the fiscal year 2024 budget request to OMB, which will be submitted to OMB in September 2022.

USDA. USDA's tribal consultation policy says that agency budget and legislative proposals are actions that might trigger tribal consultation. However, USDA does not have a tribal advisory group to provide input on its budget requests nor does it have other formal mechanisms to develop and incorporate information on tribal needs for budget-related issues,

such as multiyear farm bill reauthorization proposals. According to USDA officials, one of the reasons USDA has not sought tribal input on its budget before is because, unlike IHS and Interior, USDA does not have many programs specific to tribes that directly affect Indian country. However, USDA has announced plans to expand its tribal consultation efforts, including exploring a process for tribal consultation on USDA's budget and for its next program reauthorization proposal.⁴⁵

According to USDA officials, the agency has identified the broad steps necessary to obtain tribal input on the department's initial budget submission. For example, to incorporate tribal leaders' input, USDA officials said that the agency's Office of Budget and Program Analysis (OBPA) would first need to develop a USDA Indian country budget framework to cover all relevant programs across USDA. Then, USDA's Office of Tribal Relations would work with OBPA to identify where budget adjustments could be made based on tribal leader priorities. According to USDA officials, during the fiscal year 2023 budget formulation process, USDA's Office of Tribal Relations worked with tribes to identify tribal priorities, which were incorporated into the final fiscal year 2023 President's Budget.⁴⁶

Additionally, USDA held five tribal consultations in April 2022 on USDA's progress addressing tribal input on how to reduce barriers facing tribes when accessing USDA services and programs. Although these consultations were not specifically focused on budget proposals and program funding levels, discussions regarding funding levels and legislative fixes were recurring themes, according to USDA officials. These officials said that future tribal consultation efforts hosted by USDA may be focused on tribal input on the formulation of USDA's budget and its prioritization process and the farm bill reauthorization. However, USDA did not provide a timetable for its efforts exploring a process for budget consultations and consultation on program reauthorization proposals, or whether these processes would be formalized in updated tribal consultation policies and procedures that could endure over time as administrations change.

⁴⁵USDA also plans to evaluate the creation of a Secretary's Tribal Consultation Advisory Group made up of elected tribal leaders and federal departmental personnel to advise the Secretary concerning tribal consultation needs and emerging issues of concern.

⁴⁶Agency officials noted that most of the tribal leaders' priorities are complex, such as removing matching requirements for certain programs, and would require statutory changes and better USDA data collection.

Representatives from two tribal organizations we spoke to said that the opportunity to provide feedback on USDA's budget and on program reauthorization proposals is critical when meeting the needs of Indian country under federal trust obligations. For example, the representatives cited the recent success of the Native Farm Bill Coalition's work with USDA and lawmakers on the 2018 Farm Bill to address Native American farmers' and producers' needs.⁴⁷

Executive Order 13175 directs each agency to have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. It defines "policies that have tribal implications" as "regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes."

Additionally, OMB Circular A-11, section 51.17, states that each agency's initial budget submission to OMB must include a description of the tribal consultation process that the agency conducted related to budget development and the input that was received.⁴⁸ If an agency does not have programs with tribal implications, it must include a statement indicating that no consultation was required. According to OMB staff, OMB is currently working to develop a uniform and systematic process for considering agencies' descriptions of tribal input as part of their initial budget submissions.

Without a formal process to obtain tribal input, DOT, Education, and USDA budget submissions to OMB and related program reauthorization proposals where applicable may not reflect the priorities of tribes and their members that are directly affected by these agencies' programs and resource levels.

⁴⁷According to its website, the Native Farm Bill Coalition comprises more than 170 tribes and an additional 30 intertribal groups, other Native organizations, and non-Native groups.

⁴⁸According to OMB Circular A-11, this requirement is based on Executive Order 13175 and the January 2021 *Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships*.

Federal Officials, Tribal Stakeholders, and Others Have Recognized the Importance of Understanding Tribal Needs to Inform Budget Decision-Making

Federal officials have recognized that understanding tribal needs through consultation—including unmet needs—is important to help ensure that decision makers have quality information during budget formulation. For example, HHS officials said that including tribal budget recommendations for IHS in its initial budget submission helps ensure that OMB understands the full context of tribal needs and can incorporate them in its internal decision-making. Additionally, Interior officials said that providing information to OMB about unmet needs can inform OMB's priorities for the President's Budget or enable OMB to consider alternative strategies to address unmet tribal needs. According to OMB staff, OMB's 2021 consultations with tribal leaders have provided robust firsthand, specific information that has improved OMB's understanding of tribal needs, such as priority programs and recommended funding levels for the fiscal year 2023 President's Budget. Additionally, in November 2021, OMB formed a Tribal Budget Interagency Policy Committee with representatives from several agencies, including those in our review, to help OMB understand agency budget priorities for tribal funding and to foster coordination across agencies on their work to serve tribal communities.

Moreover, tribal stakeholders we spoke with and an independent commission have recognized that agency budget information that does not reflect tribal needs for programs serving tribes and their members contributes to health and welfare disparities in Indian country. For example, members of a federal-tribal budget work group, three federal-tribal advisory bodies, and representatives of three tribal organizations said that developing budget requests that reflect tribal needs is important so that tribes and others can advocate for more funding to bring tribal nations and their citizens to the same level of all Americans. These stakeholders also said that developing information on tribal needs is critical to helping federal agencies understand what is needed to achieve program objectives and fulfill the federal government's trust and treaty obligations.

Additionally, the U.S. Commission on Civil Rights issued reports in 2003 and 2018 documenting long-standing unmet needs in Indian country, including funding shortfalls for federal programs serving tribes that contribute to disparities across a variety of health and welfare indicators.⁴⁹ In both reports, the commission found that after inflation was accounted

⁴⁹U.S. Commission on Civil Rights, *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country* (Washington, D.C.: July 2003), and *Broken Promises: Continuing Federal Funding Shortfall for Native Americans* (2018).

for, increases in funding for some programs serving tribes and their members had actually lost spending power. Additionally, in 2018, the commission found that funding for certain programs and services for tribes and their members continued to be disproportionately lower than funding for similar programs and services to non-Native populations. To provide a more accurate view of the federal government's progress fulfilling its trust obligations, the commission recommended that the federal government regularly assess unmet needs for both urban and rural Native Americans.

Although federal officials have recognized that understanding tribal needs is important to provide decision makers with quality information, we found that of the five agencies we reviewed, HHS's IHS is the only component agency whose budget formulation process includes obtaining information from tribal leaders about their funding needs—including unmet needs—as a standard practice.⁵⁰ Interior's TIBC has started to develop a process to develop such information. However, agency officials and TIBC representatives said that it will require a sustained effort and additional support from Interior to accomplish, which has not been consistent across administrations.

The other three agencies do not develop this information because they do not have formal processes for obtaining tribal input during budget formulation. Moreover, they have not been directed by OMB, as part of its annual budget guidance, to include information about tribal needs in their budget submissions. According to OMB staff and White House Council on Native American Affairs officials, OMB is still developing and evaluating options for collecting agency information about tribal priorities. Further, OMB anticipates that collecting such information from agencies would likely take several forms and occur through a combination of existing OMB Circular A-11 procedures as well as new methods.

Standards for Internal Control in the Federal Government directs managers, such as federal agency leadership, to design a process that uses the entity's objectives and related risks to identify the information requirements needed to achieve its objectives—such as information on

⁵⁰According to the IHS Tribal Budget Formulation Workgroup documents, the workgroup first recommended transitioning to a new methodology for calculating a full needs-based IHS budget in 2018. The new methodology uses national health expenditures as a benchmark.

the resources needed to achieve program goals—and address the risks.⁵¹ Additionally, information requirements should consider the expectations of both internal and external users, such as tribes and tribal stakeholders, and should be assessed in an iterative and ongoing process to reflect changes. Further, entities, such as federal agencies, should communicate with and obtain quality information from external parties, such as tribes and tribal stakeholders, so that these parties can help the entity achieve its objectives and address related risks.

OMB is in a unique position to improve the transparency of the federal budget process and increase the quality of information available to decision makers for programs that serve tribes and their members. Specifically, by directing agencies to develop publicly available budget materials that reflect tribal needs—including unmet needs—OMB would have better assurance that decision makers and Congress have quality information for understanding the resources needed to achieve program objectives and assessing the federal government’s progress in meeting its unique commitment to tribes and their members.

Conclusions

Since 2004, OMB has annually published the Native American Crosscut with the goal of providing more transparent information to tribal stakeholders, federal agencies, and other users—such as Congress—on federal funding to programs that benefit Native Americans. The crosscut provides important information on federal funding for programs that benefit Native Americans, and is one of the few publicly available government sources of information that tribal stakeholders and agencies could use for planning and decision-making. However, the document does not clearly state its purpose and intended use and also lacks detailed information on the sources of the reported data and how sourced information may differ from agency to agency. The lack of certain agency-level details in the crosscut—including clear information about what the data represent—may limit tribal stakeholders’ and other intended users’ abilities to leverage the crosscut for planning and decision-making.

Moreover, providing clearer guidance to agencies and publishing the details of this information in the crosscut—as well as informing intended users upon publication—could improve the transparency of funding information for federal programs that benefit Native Americans. It could also help OMB to better ensure that intended crosscut users can leverage the data for decision-making by providing them with a more

⁵¹[GAO-14-704G](#).

comprehensive view of the funding information. Further, establishing a formal process to regularly solicit and assess feedback about the Native American Crosscut from tribal stakeholders and agencies, and incorporating such feedback into guidance, could also help OMB to ensure that the crosscut continues to meet user needs.

Tribal stakeholders have recognized that federal agencies' consultation with tribes on agency budgets and funding proposals that affect them is an important component of the federal government's unique responsibility to tribes. Federal officials have recognized that consultation with tribes on agency budgets could help agencies understand and address unmet needs in Indian country. However, of the five agencies we reviewed, we found that only HHS and Interior have formal processes for incorporating tribal input during budget formulation.

Education and USDA plan to explore ways to obtain tribal input during budget development and, for USDA, program reauthorization proposals. However, it is unclear to what extent these processes will be formalized in updated policies and procedures. DOT does not have plans to obtain tribal input as part of its budget process or when developing program reauthorization proposals for which mandatory spending is provided. Developing and formalizing processes to obtain tribal input during budget formulation would provide better assurance that these newly established practices will endure over time. Further, updating OMB's annual budget guidance to direct agencies to reflect tribal needs for federal programs that serve tribes in agency budget information would help ensure that decision makers and Congress have quality information for understanding the resources needed to achieve federal program objectives and assessing the federal government's progress in meeting its unique responsibilities to tribes and their members, in accordance with the U.S. Commission on Civil Rights recommendations.

Recommendations for Executive Action

We are making a total of seven recommendations, including four to OMB, one to DOT, one to Education, and one to USDA. Specifically:

The Director of OMB should issue clear guidance as part of the annual budget data request for the Native American Crosscut that directs agencies to provide detailed information about how they collected data to report and selected programs to include. Such information could include the type of funding being reported (such as budget authority or estimated spending); how that funding is distributed (such as competitive discretionary grants, formula grants, or pass-through funding); and how agencies determine which programs to include in the crosscut (such as

programs that are specific to tribes and their members versus programs that serve a broader audience). (Recommendation 1)

The Director of OMB should publish in the Native American Crosscut a statement of its purpose and detailed information that it receives from agencies in response to its budget data request—including any information about agencies’ methods for collecting and reporting funding data and selecting programs to include—and inform intended users of the crosscut upon its publication. (Recommendation 2)

The Director of OMB should establish a formal process to regularly solicit and assess feedback about the Native American Crosscut from tribal stakeholders and relevant federal agencies, and to incorporate such feedback into guidance as applicable, to ensure that the information presented in the crosscut meets users’ needs. (Recommendation 3)

The Secretary of Transportation should ensure that the Deputy Assistant Secretary for Intergovernmental Affairs develops a formal process to ensure meaningful and timely input from tribal officials when formulating budget requests and program reauthorization proposals for programs serving tribes and their members. (Recommendation 4)

The Secretary of Education should ensure that the department develops a formal process to ensure meaningful and timely input from tribal officials when formulating budget requests for programs serving tribes and their members. (Recommendation 5)

The Secretary of Agriculture should ensure that the Office of Tribal Relations and the Office of Budget and Program Analysis develop a formal process to ensure meaningful and timely input from tribal officials when formulating budget requests and program reauthorization proposals for programs serving tribes and their members. (Recommendation 6)

The Director of OMB should update OMB’s annual budget guidance to direct federal agencies to assess, in consultation with tribes, tribal needs for federal programs serving tribes and their members, and submit this information as part of their publicly available budget documents. (Recommendation 7)

Agency Comments

We provided a draft of this report to OMB, DOT, Education, USDA, HHS, and Interior for review and comment. We made recommendations to OMB and three agencies—DOT, Education, and USDA. We received emailed comments from OMB, Education, and USDA. We received

written comments from DOT that are reprinted in appendix IV. OMB agreed or generally agreed with our recommendations in its comments, which are summarized below. DOT and Education agreed with our recommendations, and USDA neither agreed nor disagreed with our recommendation. Interior told us it had no comments on the draft report. OMB, Education, USDA, and HHS also provided technical comments, which we incorporated as appropriate.

OMB generally agreed with our first recommendation to issue clear guidance as part of the annual budget data request for the Native American Crosscut that directs agencies to provide detailed information about how they collected data to report and selected programs to include. OMB stated that in certain cases, it is challenging for agencies to report funding of programs that may, in part, benefit tribes and their members. OMB also commented that it would be too difficult, impractical, or not possible for agencies to report every dollar sent to an AI/AN individual, tribe, tribal organization, or tribal community. OMB stated that it will work with agencies to better capture "in-part" funding and that it has incorporated many of the other aspects of the recommendation into the fiscal year 2023 crosscut. OMB also agreed with our second and third recommendations and stated that it is taking steps to address them. In addition, OMB agreed with our seventh recommendation that it should update its annual budget guidance to direct federal agencies to assess, in consultation with tribes, tribal needs for federal programs serving tribes and their members and submit this information as part of their publicly available budget documents. OMB stated that it is currently considering the most appropriate and effective ways to accomplish the objectives of the recommendation.

We are sending copies of this report to the relevant congressional committees; the Secretaries of Agriculture, Education, Health and Human Services, the Interior, and Transportation; the Director of the Office of Management and Budget; and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact Beryl H. Davis at (202) 512-2623 or davisbh@gao.gov or Anna Maria Ortiz at (202) 512-3841 or ortiza@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix V.



Beryl H. Davis
Director
Financial Management and Assurance



Anna Maria Ortiz
Director
Natural Resources and Environment

Appendix I: Objectives, Scope, and Methodology

This report addresses (1) information the Office of Management and Budget's (OMB) Native American Crosscut provides to intended users, such as tribal stakeholders, and the challenges users face in using the crosscut information and (2) the extent to which selected federal agencies have processes during budget formulation to incorporate tribal input and reflect tribal needs for programs serving tribes and their members. We prepared this report under the authority of the Comptroller General to assist Congress with its oversight responsibilities.

To address both objectives, we reviewed OMB's fiscal years 2021 and 2022 Native American Crosscuts for programs that benefit Native Americans. We reviewed the information reported in the crosscuts for four agencies with the largest amounts of funding for programs that benefit Native Americans—the Department of Agriculture, the Department of Education, the Department of Health and Human Services (HHS), and the Department of the Interior. We also included the Department of Transportation (DOT) in our review because DOT's Federal Highway Administration jointly administers the Tribal Transportation Program with Interior's Bureau of Indian Affairs. We selected these five agencies for review because they represented approximately 90 percent of the total reported amounts of funding proposed in the President's Budget in OMB's fiscal years 2021 and 2022 Native American Crosscuts. For the purposes of this report, we use "key agencies" or "selected agencies" to refer to the five federal agencies we selected for review.

To obtain tribal stakeholder perspectives, we met with representatives from 13 tribal stakeholder groups, including one federal-tribal budget working group, four federal-tribal advisory bodies, and eight tribal and other organizations. For the purposes of this review, we refer to members of federal-tribal budget working groups and federal-tribal advisory bodies and representatives from tribal and other organizations as tribal stakeholders. Federal-tribal budget working groups have the explicit responsibility to work with federal agencies to improve their operations and budgets as they relate to programs serving tribes and their members. Federal-tribal advisory bodies are generally groups composed of tribal leaders who meet to provide input on agency operations of programs serving tribes and their members that are not exclusively focused on budget issues. Tribal and other organizations are nongovernmental organizations that advocate on behalf of their memberships and provide input on tribal issues to key agencies in our review.

We interviewed federal-tribal budget working group members, federal tribal-advisory group members, tribal and other organization

representatives, and appropriate budget officials from selected agencies. We identified federal-tribal budget working groups and federal tribal-advisory groups by reviewing selected agencies' websites. We identified tribal and other organizations using a list of national organizations from the National Congress of American Indians.¹ We reviewed descriptions of the groups and organizations and selected tribal stakeholders to interview whose groups provide budget, policy, and other input to the five federal agencies within our scope and who were willing to meet with us.

Specifically, we spoke with members of 13 tribal stakeholder groups during the course of our review:

1. One federal-tribal budget working group: the Tribal-Interior Budget Council.
2. Four federal tribal advisory bodies: the Interior Self-Governance Advisory Committee, the Indian Health Service Tribal Self-Governance Advisory Committee, HHS's Secretary's Tribal Advisory Committee, and DOT's Tribal Transportation Program Coordinating Committee.
3. Seven tribal organizations: the Self-Governance Communication and Education Tribal Consortium; the National Indian Health Board; the National Indian Education Association; NAFOA, formerly known as the Native American Finance Officers Association; the Alaska Federation of Natives; the Intertribal Agriculture Council; and the Indigenous Food and Agriculture Initiative.
4. One other organization: the National Council on Urban Indian Health, a nongovernmental organization that advocates for the health of urban American Indian and Alaska Native populations.

To address the first objective, we reviewed OMB's crosscut and asked OMB staff about the process for preparing the crosscut and the information that OMB requested from agencies. We reviewed OMB's budget data request, which contains guidance for collecting information from federal agencies on funding levels for programs and activities serving Native Americans. We also interviewed officials from key agencies to identify the information they provided to OMB for the crosscut, as well as the agencies' use of financial management systems to track and report obligations for programs included in the crosscut.

¹See <https://www.ncai.org/tribal-directory/tribal-organizations> (accessed on June 1, 2021).

To identify challenges with using the crosscut and suggestions for improvement, we interviewed officials of key agencies as well as tribal stakeholders to obtain their views. We also determined that the information and communication component of internal control was significant to this objective, along with the underlying principles that management should (1) use quality information—that is appropriate, current, complete, accurate, accessible, and provided on a timely basis—to achieve the entity’s objectives and (2) externally communicate the necessary quality information to achieve the entity’s objectives.² To assess the reliability of the data that agencies report in the crosscut, we inquired with OMB staff to gain an understanding of OMB’s processes for collecting and reporting information in its crosscut, and we interviewed budget officials from five agencies on what and how they report information to OMB. Based on the information we gathered, we found the information in the crosscut to be sufficiently reliable for the purpose of our reporting objective.

To address the second objective, we reviewed agencies’ policies and processes to obtain and incorporate tribal input on needs into agency budget requests submitted to OMB. We also reviewed documents describing tribal leaders’ and tribal stakeholders’ comments during federal-tribal budget consultations and other agency consultations to identify feedback on agencies’ processes for obtaining and incorporating tribal input into their budget requests. Additionally, we analyzed relevant GAO reports and reports issued by the United States Commission on Civil Rights, tribal organizations, federal-tribal advisory bodies, and selected agencies describing tribal needs for federal programs. We also interviewed agency officials and selected tribal stakeholders to identify which aspects of agencies’ processes are working well and where improvements could be made. We determined that the information and communication component of internal control was significant to this objective. Specifically, federal agencies should use quality information, such as information on tribal needs, to achieve their objectives. Further, we found that agencies should externally communicate the necessary quality information to achieve agency objectives so that tribes and tribal stakeholders can help agencies achieve their objectives and address related risks.³

²GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 2014).

³[GAO-14-704G](#).

**Appendix I: Objectives, Scope, and
Methodology**

We conducted this performance audit from October 2020 to May 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Selected Federal Agencies' Use of Financial Management Systems to Track and Report Obligations for Programs Included in the Native American Crosscut

The five agencies we selected for review—the Department of Agriculture (USDA), the Department of Education, the Department of Health and Human Services (HHS), the Department of the Interior, and the Department of Transportation (DOT)—generally use their financial management systems (FMS) to centrally track agency-wide budget-related information.¹ However, the selected agencies vary in how they use an FMS to track and report obligations for the programs they include in the Office of Management and Budget's Native American Crosscut.² For example, certain agencies of USDA and Interior use their FMSs to track and report obligations for programs serving tribes and their members.³ Education uses its FMS to track obligations by program but does not collect data on whether money goes to tribes and their members.

The use of an FMS to track and report obligations for programs included in the Native American Crosscut can vary across agencies within the same department. Within HHS, the Indian Health Service and Substance Abuse and Mental Health Services Administration can track and report obligations for programs serving tribes and their members. However, the Administration for Children and Families, which uses the same FMS, does not track such obligations because its system is not set up with a data element to distinguish between obligations for programs serving tribes versus programs that serve the general public. Table 2 summarizes how the selected agencies use their FMSs to track and report obligations for programs included in the Native American Crosscut.

¹The Federal Financial Management Improvement Act of 1996 (Pub. L. No. 104-208, div. A, title I, § 101(f); 110 Stat. 3009-389, 3009-393, *codified at* 31 U.S.C. § 3512 note) defines financial management systems to include financial systems and the financial portions of mixed systems—systems with both financial and nonfinancial functions—necessary to support financial management, including automated and manual processes, procedures, controls, data, hardware, software, and support personnel dedicated to the operation and maintenance of system functions.

²An “obligation” is a definite commitment that creates a legal liability of government for the payment of goods and services ordered or received, or a legal duty on the part of the United States that could mature into a legal liability by virtue of actions on the part of the other party beyond the control of the United States.

³For the purposes of this report, we define an agency as a cabinet-level department, or a component thereof, including, but not limited to, an office, bureau, institute, or center, unless otherwise specified.

Appendix II: Selected Federal Agencies' Use of Financial Management Systems to Track and Report Obligations for Programs Included in the Native American Crosscut

Table 2: Five Selected Agencies' Use of Financial Management Systems (FMS) to Track and Report Obligations for Programs Included in the Native American Crosscut in Fiscal Year 2021

Department	Department system	Use of system
Department of Agriculture (USDA)	Financial Management Modernization Initiative (FMMI)	<p>USDA's FMMI tracks obligations to tribes but does not track this information when the obligation is not to a tribal government (e.g., when it is to a state or tribal organization). Additionally, FMMI does not distinguish between programs that are solely for tribes and those that have other eligible participants.</p> <p>For example, the Food and Nutrition Service (FNS) cannot track obligations by state or tribe for Supplemental Nutrition Assistance Program benefits through FMMI. However, states do self-report actual obligations to FNS through the Food Program Reporting System/National Data Bank.</p> <p>The Forest Service tracks grants and agreements awarded directly to tribes, tribal organizations, Alaska Native corporations, and tribal colleges and universities. However, any funds that benefit a tribe that are awarded to a nontribal party (e.g., not a tribe or tribal organizations) are not tracked.</p> <p>Three USDA Rural Development agencies—Rural Housing Service, Rural Business-Cooperative Service, and Rural Utilities Service—use their accounting systems to track obligations for programs serving tribes and their members throughout the fiscal year.</p>
Department of Education	G5 system	<p>Education's FMS can track all of the agency's obligations but does not collect data on whether those obligations are to tribes and their members. For programs administered by states or other nontribal eligible entities, Education estimates the amount reported in the Native American Crosscut for programs based on the proportion of American Indian and Alaska Native students to the overall population.</p>
Department of Health and Human Services (HHS)	Unified Financial Management System (UFMS)	<p>Examples of how HHS components track obligations for programs serving tribes and their members follow:</p> <p>The Indian Health Service (IHS) and Substance Abuse and Mental Health Services Administration (SAMHSA) use the FMS or other systems to track and report obligations for programs serving tribes and their members.</p> <ul style="list-style-type: none"> • IHS, an agency which only serves Indians, uses codes in the FMS to identify obligations to tribes, tribal organizations, and programs that benefit tribes. • SAMHSA tracks obligations for programs serving tribes and their members by maintaining unique program identifiers and accounting numbers in the FMS and SAMHSA's Grant Management System. <p>The National Institutes of Health (NIH) tracks historical obligations for its American Indian and Alaska Native category using a Research, Condition, and Disease Categorization system, a statistical tracking system that supplements information available from the NIH financial system and categorizes projects according to a disease, condition, or research topic.</p> <p>The Administration for Community Living (ACL) and Administration for Children and Families (ACF) do not use the FMS to track and report obligations for programs serving tribes and their members, but they have the ability to manually track and report such obligations.</p>

Appendix II: Selected Federal Agencies' Use of Financial Management Systems to Track and Report Obligations for Programs Included in the Native American Crosscut

Department	Department system	Use of system
		<ul style="list-style-type: none"> • For ACL, UFMS has identifiers set up to track obligations to tribes or tribal organizations within programs where tribes received funding but are not the sole target of the program. ACL can manually identify total obligations for tribes by doing a program-by-program analysis. • For ACF, the organization type is not a data element noted within the system to track grantee information. As such, ACF would require additional manual filtering and separation to distinguish obligations to tribes versus nontribal organization types using system data as the basis.
Department of the Interior	Financial and Business Management System	Interior does not track obligations for programs serving tribes and their members at the department level. The Bureau of Indian Affairs is capable of tracking and reporting detailed obligations information, such as obligations to tribes, direct services for tribes, and administrative support of tribal programs.
Department of Transportation (DOT)	Delphi	<p>Three of DOT's agencies track obligations for programs serving tribes and their members:</p> <ul style="list-style-type: none"> • Federal Highway Administration, • Federal Transit Administration, and • National Highway Traffic Safety Administration. <p>DOT keeps all of its financial data in Delphi; however, each agency within the department manages its information according to its individual needs and requirements.</p>

Sources: GAO analysis of responses from key agencies' officials and their documentation. | GAO-22-104602

Appendix III: Agencies Included in the Office of Management and Budget's Native American Crosscut for Fiscal Years 2021 and 2022

Department of Agriculture
Department of Commerce
Department of Defense
Department of Education
Department of Energy
Department of Health and Human Services
Department of Homeland Security
Department of Housing and Urban Development
Department of the Interior
Department of Justice
Department of Labor
Department of Transportation
Department of the Treasury
Department of Veterans Affairs
Army Corps of Engineers
Environmental Protection Agency
Federal Communications Commission
National Aeronautics and Space Administration (new in fiscal year 2022)
National Science Foundation
Small Business Administration
Smithsonian Institution
Alyce Spotted Bear and Walter Soboleff Commission on Native Children
Corporation for National and Community Service
Denali Commission
Federal Permitting Improvement Steering Council
Institute of American Indian and Alaska Native Culture and Arts
Institute of Museum and Library Services
Morris K. Udall Foundation Native Nations Institute
Nuclear Regulatory Commission
Office of Navajo and Hopi Indian Relocation
Office of Personnel Management

Appendix IV: Comments from the Department of Transportation



U.S. Department of
Transportation
Office of the Secretary
of Transportation

Assistant Secretary
for Administration

1200 New Jersey Ave., SE
Washington, DC 20590

May 9, 2022

Beryl H. Davis
Director, Financial Management and Assurance
U.S. Government Accountability Office (GAO)
441 G Street NW
Washington, DC 20548

Dear Ms. Davis:

The Office of Tribal Government Affairs (Tribal Affairs Office) is the primary office within the U.S. Department of Transportation (Department) that handles Tribal issues and interacts with Tribal governmental entities. The Tribal Affairs Office is a cornerstone to ensuring the Department's cohesive approach to a strong government-to-government relationship with the 574 Federally Recognized Tribes. It works with the White House, other Federal Agencies, and Congress to fulfill the Secretary of Transportation's and the Administration's legislative priorities to strengthen Tribal economies, improve infrastructure, advance equity, and combat climate change. The Department regularly engages with Tribes on these vital issues as part of the Department's Tribal consultation policy. Currently, the Tribal Affairs Office is updating the Department's Tribal Consultation Plan that addresses Tribal consultation and coordination with Tribes.

The Department clarifies that, as the GAO report acknowledges, the Indian Health Service (IHS) and the Bureau of Indian Affairs (BIA) are statutorily required under 25 U.S.C. § 5325(i), which applies to their self-determination programs, to annually "consult with, and solicit the participation of, Indian tribes and tribal organizations in the development of the budget" and have developed advisory committees in order to comply with this requirement. This statutory consultation requirement does not exist in the Department's Tribal Transportation Self-Governance Program, codified at 23 U.S.C. § 207.

Upon review of the draft report, the Department concurs with GAO's recommendation to develop a formal process to ensure meaningful and timely input from Tribal officials when formulating budget requests and program reauthorization proposals for the Department's programs serving Tribes and their members. We will provide a detailed response to the recommendation within 180-days of the final report's issuance.

We appreciate the opportunity to respond to the GAO draft report. Please contact Keeva Scrivner, Deputy Director, Audit Relations and Program Improvement, at (202) 366-9243 with any questions or if you would like to obtain additional details.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip McNamara".

Philip McNamara
Assistant Secretary for Administration

Appendix V: GAO Contacts and Staff Acknowledgments

GAO Contacts

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Anna Maria Ortiz, (202) 512-3841 or ortiza@gao.gov

Staff Acknowledgments

In addition to the contacts named above, Shirley Abel (Assistant Director), Lisa Van Arsdale (Assistant Director), Jeremy Choi (Auditor in Charge), Whitney Allen, LaTasha Freeman, Olivia Kleiner, and Ellen Pham made key contributions to this report. Also contributing to this report were Patrick Frey, Lisa Motley, Jeanette Soares, and Anne Thomas.

GAO's Mission

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