



The 24TH NAVAJO NATION COUNCIL
Office of the Speaker

FOR IMMEDIATE RELEASE

February 21, 2020

Naabik'iyáti' Committee convenes for judicial complex work session

WINDOW ROCK, Ariz. — The Naabik'iyáti' Committee convened for a work session Feb. 10 to discuss Legislation No. 0182-19, approving and adopting the Shiprock Judicial and Public Safety Facilities Sihasin Fund Expenditure Plan.

The Navajo Nation is seeking \$329,668,445 for the construction budget of 12 public safety and justice facilities, including medical examiner facilities and police substations. Division of Public Safety staffing costs amount to \$37,222,353. Court staffing costs amount to \$6,367,454. Operations and maintenance costs amount to \$5,507,388 for the proposed facilities.

Legislation No. 0182-19 was debated by the Naabik'iyáti' Committee Dec. 12, 2019, before it was tabled by a vote of 11-2 in favor of a work session within 30 days. The committee hosted a Jan. 10 work session and subsequently requested the Feb. 10 follow-up work session to include information from all of the proposed facilities.

Speaker Seth Damon said, “This is the second part of our work session. We had numerous requests from the Navajo Nation and BIA that we will be discussing today. We will work together under parameters of the Shiprock Judicial Complex and numerous other facilities and initiatives across the Navajo Nation.”

Chairwoman Eugenia Charles-Newton introduced the legislation July 2, 2019. The Shiprock Judicial Public Safety Facility Project will replace the current facility, which has been denied a sanitation permit since 2010 due to the presence of lead, asbestos and mold. The proposed facility will include a corrections facility, police facility, court facility, medical examiner facility and relocation costs for a total cost of \$66,036,301. The N.M. Funds Credit will provide \$3,150,000 which was matched by the Navajo Nation Judicial-Public Safety Fund for preconstruction costs.

“Law and Order Committee has not approved the current priority list. This list is from 2017,” said Chairwoman Charles-Newton. “There was a request from the Budget and Finance Committee to ensure that every judicial complex is on this list.” She noted that the LOC will consider approving the 2019 priority listing after the work session.

BIA Navajo Region Director Bart Stevens reported before the committee to provide clarification on the federal government's involvement on the project. He was joined by representatives from his team and BIA Office of Justice Services, and Division of Facilities Management and Construction. “Navajo Nation is requesting if BIA can provide operation and maintenance for these facilities. I brought these experts to answer those questions,” he said. Stevens explained that it was difficult to speak on specific amounts because operations and maintenance costs can only be provided to tribal facilities based on the availability of congressional funding.

Operations and maintenance are the performance of day-to-day activities required to maintain Bureau-owned and maintained facilities to the maximum extent possible for the benefit of the facility users, according to the BIA. These include buildings, grounds, equipment, and systems.

Operations activities include janitorial services, utility system expenses, refuse disposal, fire protection, maintenance vehicle costs, communications costs, and pest control. All services include personnel, equipment, and supplies. Utility expenses include electrical power, natural gas, propane, heating oil, potable water, sewer, and refuse collection. Maintenance activities and costs include preventative, routine, cyclical, and emergency unscheduled work for all buildings, repairs and replacements, site structures, grounds, equipment, and utility systems. Included are costs for personnel, supplies and materials.

The Jan. 10 work session ended with several unanswered questions by the Naabik'iyáti' Committee and answers were provided to the committee during the Feb. 10. One question was related to contact information for needs assessments on Shiprock and Window Rock public safety facilities. The assessment requests go to the OJS in coordination with DFMC and Division of Safety and Risk Management.

Another question was about the process to obtain operation and maintenance funds to support the proposed judicial and public safety facilities with clarification on why facilities constructed with tribal funds were not eligible. Space expansion requests must be submitted to the OJS Director, including copies for the regional director and DFMC. Operations and maintenance can be provided to tribally owned facilities that house an approved OJS funded program based on the availability of congressional appropriations.

The committee also asked what rate the Navajo Nation can expect for operations and maintenance if approved. The operations and maintenance are calculated by formula and DFMC is in the process of implementing a new formula. New facilities brought into the operations and maintenance inventory will receive \$5 per gross square foot until new formula is implemented by 2021. In FY 2019, OJS received congressional appropriations that were 28 percent less than the calculated need.

DFMC Branch Chief Dale Keel reported on operation and maintenance amounts for FY 2019 and said they are in process of calculating FY 2020. The calculated amount is sent to Bureau of Indian Education which inputs the data into the financial system. The BIA sends the funding amount to BIA awarding official and gets deposited into the 638 programs, Keel said. For FY 2019, OJS sites on the Navajo Nation were funded at \$1,782,060 for Chinle Youth Correction Center (\$313,025), Crownpoint Public Safety and Judicial Center (\$514,692), Kayenta Correctional Facility (\$265,045), Tuba City Adult Detention (\$250,753), and Western Navajo Juvenile Detention (\$250,753).

Navajo Nation Department of Corrections Director Dr. Delores Greyeyes said Tuba City was awarded operations and maintenance funding. However, the funds were misrouted and put into a different account and the department has not received funding yet. Keel said the issue was because of a wrong account code that was used by DFMC. "BIE was supposed to pull that back and put into the proper account code," he said.

Stevens said not all of the public safety and judicial facilities on the Navajo were constructed by the BIA, adding that some were built through ARRA funding. Others were constructed by U.S. Department of Justice and turned over without operations and maintenance funding. "There are facilities out there that weren't built by us, including one-time funding. We really have to differentiate and research these facilities," he said.

Council Delegate Amber Crotty questioned the Shiprock Command Center, which had funding for design and engineering allocated from the Permanent Trust Fund. "I don't know if it meets this criteria," she said. Dr. Greyeyes said the Shiprock Command Center was needed because the police cover a number of districts and are stretched thin. She noted that a number

of older facilities were not included on the listing because the Navajo Nation could not provide building blue prints and renovation history. “We couldn’t get them on the BIA inventory. Office of Environmental Health told us the buildings were in poor condition,” Dr. Greyeyes said.

BIA officials informed Council that funding requests for operations and maintenance needed to be submitted two years prior. The BIA can assist the Navajo Nation with data, court cases to help support the request, but they could not lobby Congress directly. “We can’t automatically say yes (to approve operations and maintenance funding),” Keel said. “We submit our request to the green book and two years later, we hope Congress was good to us.” He added that the National Fire Code, National Plumbing Code, and National Boiler Code should be taken into consideration before construction.

When the facilities are constructed, DFMC will provide final inspection. If code compliant, DFMC will issue certificate of occupancy. “When the new space comes online, it will receive \$5 per square foot, utility costs, and pest control. If anything should break down, it should be covered in the warranty,” Keel said. Additionally, operations and maintenance funding for OJS is 28 percent less than the actual need. BIA is receiving 38 percent less than the actual need.

Speaker Damon thanked Stevens and his staff for the presentation. “We’re learning on both sides and stepping up to the plate. I believe this is the first time we’ve all sat down like this. I appreciate Mr. Stevens for being as transparent as possible,” he said. The Law and Order Committee traveled to Washington, D.C. Feb. 18 to advocate for the public safety and judicial facilities.

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