Honorable Jeff Stiffarm  
President, Fort Belknap Indian Community  
656 Agency Main Street  
Harlem, Montana 59526

Dear President Stiffarm:

By this letter, the Bureau of Indian Affairs (BIA) Office of Justice Services (OJS) partially approves and partially declines the Fort Belknap Indian Community's (FBIC) proposed FY2023 P.L. 93-638 Indian Self-Determination and Education Assistance Act (ISDEAA) Successor Annual Funding Agreement (SAFA) proposal, which includes a funding request and proposed budget, dated and received at BIA OJS on July 1, 2022. The SAFA budget request for FY2023 seeks continued funding for law enforcement uniform patrol, telecommunications/dispatch, and criminal investigations program services in the amount of $5,194,549.39 for continued operation of the current P.L. 93-638 ISDEAA contract for Law Enforcement Services (Contract No. A21AV00237).

The issue that compels the BIA OJS to effectuate a partial declination of this proposal was presented to the FBIC in our August 24, 2022, letter, and was later discussed during a follow-up call with tribal leadership on September 9, 2022. The ISDEAA regulations at 25 CFR § 900.32 stipulate that "any portion of an annual funding agreement proposal which is not substantially the same as that which was funded previously (e.g., a redesign proposal; waiver proposal; different proposed funding amount; or different program, service, function or activity) ... is subject to the declination criteria and procedures in subpart E [of the ISDEAA regulations]."

As previously indicated in our August 24, 2022, letter, the Tribe's proposed FY2023 ISDEAA SAFA proposal included a budget request for funding in the amount of $5,194,549.39. The amount FBIC is requesting is not substantially the same as that which was funded for continued operation of the law enforcement uniform patrol, telecommunications/dispatch, and criminal investigations programs within your FY2022 SAFA under Contract No. A21AV00237, which includes all direct program base funding in the amount of $1,353,247 (FY2022 Secretarial level, ISDEAA Section 5325(a)(1) funding). Therefore, on the basis of FBIC’s proposed FY2023 SAFA, you are requesting an increase of funding in the amount of +$3,841,302.39.

Many law enforcement and corrections programs are contracted by tribes and BIA is required to meet those contractual funding obligations annually. The ISDEAA recognized that "[t]he amounts of [self-determination] contracts shall be subject to the availability of appropriations" (25 U.S.C. § 5324(c)(1)) and that "the provision of funds ... is subject to the availability of appropriation and the Secretary is not required to reduce funding for programs, projects, or activities serving a tribe to make funds available to another tribe or tribal organization" (25 U.S.C. § 5325(b)). Pursuant to U.S.C. § 5325(a)(1) of Title I of the ISDEAA, the Tribe is not
entitled to receive from BIA more than the Secretary "would have otherwise provided for the operation of the program ... for the period covered by the contract." Therefore, we must regretfully decline the amount of funding the FBIC is requesting that is in excess of the amount available, in accordance with 25 U.S.C. § 5321 (a)(2)(D) (25 C.F.R. § 900.22):

[T]he Secretary shall, within ninety days after receipt of the proposal, approve the proposal and award the contract unless the Secretary provides written notification to the applicant that contains a specific finding that clearly demonstrates that ... the amount of funds proposed under the contract is in excess of the applicable funding level for the contract, as determined under section 5325(a) of this title.

We gladly approve that portion of your FY2023 SAFA proposal that does not compel BIA OJS to invoke partial declination of the SAFA for continued performance of law enforcement uniform patrol, telecommunications/dispatch, and criminal investigations programs under ongoing Contract No. A21AV00237. Therefore, BIA OJS declines the FBIC request for an increase in funding in the amount of $3,841,302.39; and approves the FY2023 proposed SAFA on the same terms and conditions and for the same funding amount authorized through the final FY2022 congressional appropriations, in accordance with 25 U.S.C. § 5325(a), in the amount of $1,353,247. Please submit a budget and scope of work (SOW) that concurs with this final approved funding amount. This is the final decision of the BIA OJS Approving Official.

**Appeal Rights**

Within 30 days of the receipt of this decision, you may request an informal conference under 25 C.F.R. § 900.154 or appeal this decision under 25 C.F.R. § 900.158 to the Interior Board of Indian Appeals (IBIA). Should you decide to appeal this decision, you must request a hearing on the record. An appeal to the IBIA under 25 C.F.R. § 900.158 shall be filed with the IBIA by certified mail or by hand delivery at the following address: Board of Indian Appeals, U.S. Department of Interior, 801 North Quincy Street, Arlington, VA 22203. You shall serve copies of your Notice of Appeal on the Secretary and on the official whose decision is being appealed. You shall certify to the IBIA that you have served these copies.

Sincerely,

[Signature]

Lenora Nioce
Special Agent in Charge

cc: Gary Lamere, (Acting) Chief of Police, Fort Belknap Police Department
Delina Cuts the Rope, Acting Chief Administrative Officer, FBIC
Rose St. Goddard, Awarding Official, BIA Rocky Mountain Region