

# IHS TRIBAL SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication and Education  
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February 27, 2017

RADM Chris Buchanan  
Acting Director  
Indian Health Service  
Office of the Director  
5600 Fishers Lane  
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Rockville, MD 20857

## **RE: TSGAC Recommendations to Improve Self-Governance Negotiations and Create Agency Lead Negotiator Pilot Project**

Dear RADM Buchanan:

On behalf of the Indian Health Service (IHS) Tribal Self-Governance Advisory Committee (TSGAC), I am writing to provide the enclosed recommendations to improve Self-Governance Negotiations and to request the IHS to create an Agency Lead Negotiator Pilot Project. The TSGAC assigned a workgroup in October 2015 to review recommendations that were developed and approved by TSGAC and IHS early during implementation of the Self-Governance Program, but remained unimplemented. During the course of the workgroup's discussions and TSGAC's growing awareness of inconsistency in Self-Governance negotiations, TSGAC requested the workgroup survey the Self-Governance Tribes regarding their experience with Agency Lead Negotiators (ALNs). The survey included input on essential qualities and qualifications for ALNs and current reporting structures and placement of ALNs.

The following reflect the consensus recommendations represented in the survey responses and support our collective TSGAC goal to streamline negotiation practices:

**Formalize a peer learning network.** TSGAC has noticed the difficulty IHS has in identifying, designating, and training ALNs for the twelve IHS Areas, while the number of Self-Governance Tribes continues to grow each year. Establishing a peer learning network can help during training and orientation of new ALNs, create a regular exchange of information, and develop a timeline to train other key staff about Title V negotiations. This learning network should meet regularly and include Tribal leadership from TSGAC to share insight about Tribal negotiation experiences and common issues brought up during TSGAC meetings. This may also offer an opportunity for ALNs to exchange information about common obstacles they experience while working with Tribes so TSGAC can try to increase support and information to Tribal governments.

**Improve identification of Area ALNs.** A strong project management skill set should be included in the current ALN identification process. Currently the skills evaluated prior to designation of ALNs includes oral and written skills, negotiation and conflict resolutions skills, and skills associated with building and leading teams. However, TSGAC survey respondents noted that they often do not receive information or communication in a timely manner. Requiring project management skills for ALN candidates may assist the agency in identifying quality candidates for the position.

**Establish a formal ALN evaluation process which includes Tribal input.** The IHS sample designation letter provided to TSGAC states that ALNs must be recertified every three years. TSGAC

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recommends the agency request confidential input from federal negotiation team members, Tribal negotiators, and the Area Director six months prior to any recertification request. An evaluation of this nature will assist in the ALN's personnel development, improve negotiation outcomes, and provide the IHS Director with concrete information regarding the employee's ability to fulfill the role's responsibilities. TSGAC recognizes that some Areas already perform an ALN evaluation. A new evaluation should not be implemented in those areas that are satisfied with their current evaluation process. Additionally, the Agency should ensure all the designations are up-to-date and reflect the sample designation provided to TSGAC to facilitate a consistent, streamlined evaluation process.

**Create a formal job description and hire individuals to serve solely as ALNs.** Phoenix Area has a sample ALN job description, which TSGAC has reviewed and compared to the survey results. The job description includes nearly all of the skills and qualities respondents noted in the survey as critical to successful Self-Governance negotiations. TSGAC recommends that IHS utilize this job description as they consider how best to fulfill the government-to-government negotiations required under the Indian Self-Determination and Education Assistance Act (ISDEAA).

**Create a centralized point of accountability for ALNs at IHS Headquarters.** TSGAC believes that altering the reporting structure so that IHS employees report on their ALN duties directly to the Office of Tribal Self-Governance (OTSG) or the Deputy Director for Intergovernmental Affairs, no matter their geographic location, elevates the designation and the responsibility ALNs have to act as the lead negotiator on the negotiation team. A central point of accountability also provides opportunity to coordinate an approach on similar negotiation issues across the agency, as well as a coordinated feedback loop for the evaluation process.

**Form a pilot project to explore hiring new ALNs as a full-time position.** As IHS considers identifying or hiring future ALNs, there is an opportunity to test hiring ALNs with full time duties. We suggest that IHS hire two or three full-time ALNs to report to an official at Headquarters rather than reporting to an Area Director. Instituting such a pilot project will allow the agency and Tribes to evaluate questions the TSGAC survey was unable to reach consensus on, including: importance of geographic location, value of any reporting structure changes, and creating a position focusing solely on Self-Governance negotiations.

As always, we appreciate and thank you for your willingness to explore new opportunities and evaluate old practices for new efficiencies. We look forward to our collective, continued pursuit to improve Self-Governance negotiations. If you have any questions or wish to discuss this further, please contact me at (860) 862-6192 or via email at [lmalerba@moheganmail.com](mailto:lmalerba@moheganmail.com).

Sincerely,



Marilynn "Lynn" Malerba  
Chief, The Mohegan Tribe of Connecticut  
Chairwoman, Tribal Self-Governance Advisory Committee

cc: P. Benjamin Smith, Deputy Director Intergovernmental Affairs, IHS  
Jennifer Cooper, Acting Director, Office of Tribal Self-Governance, IHS  
TSGAC Members