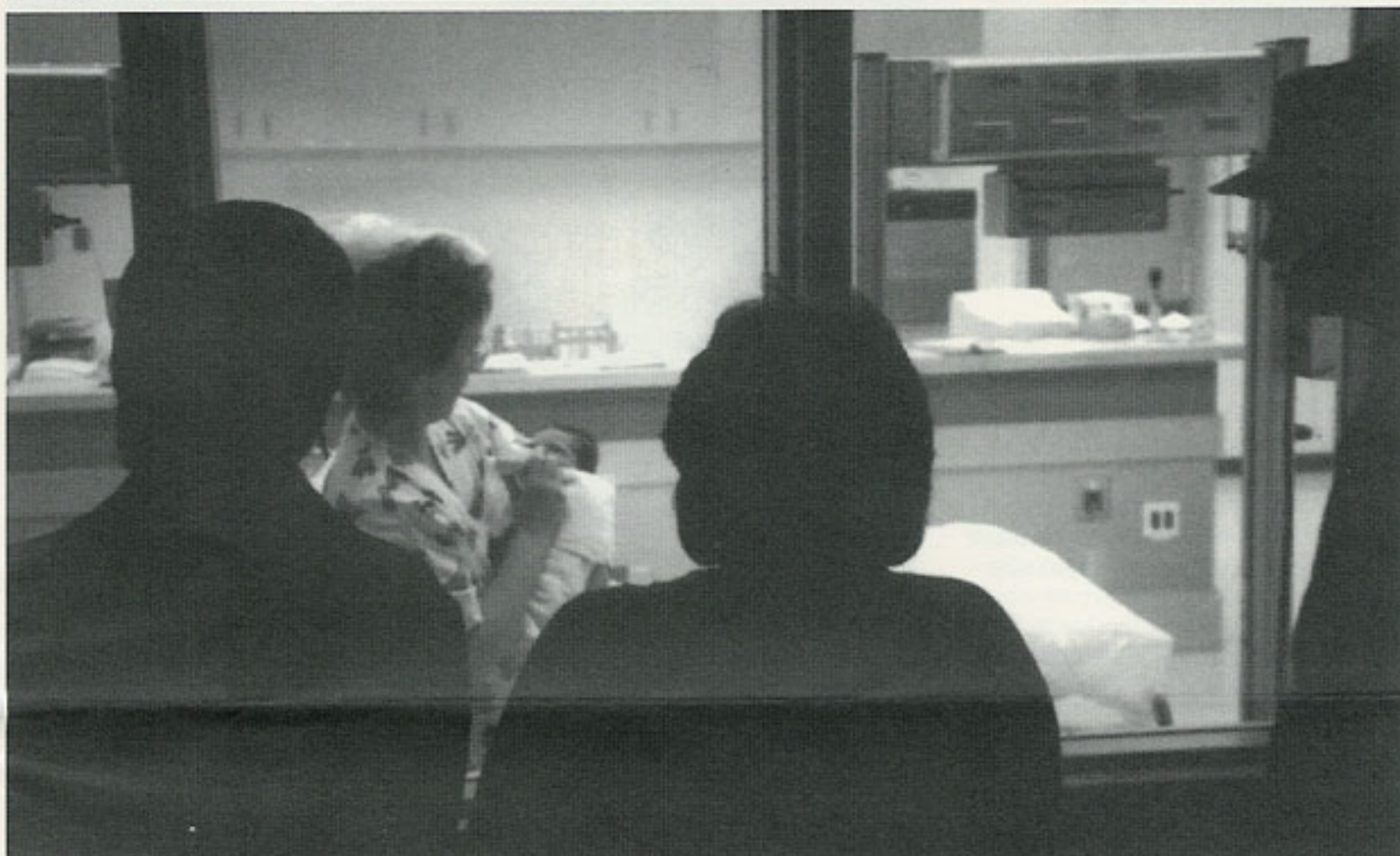


Sovereign Nations



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NEWSLETTER OF TRIBAL SELF-GOVERNANCE

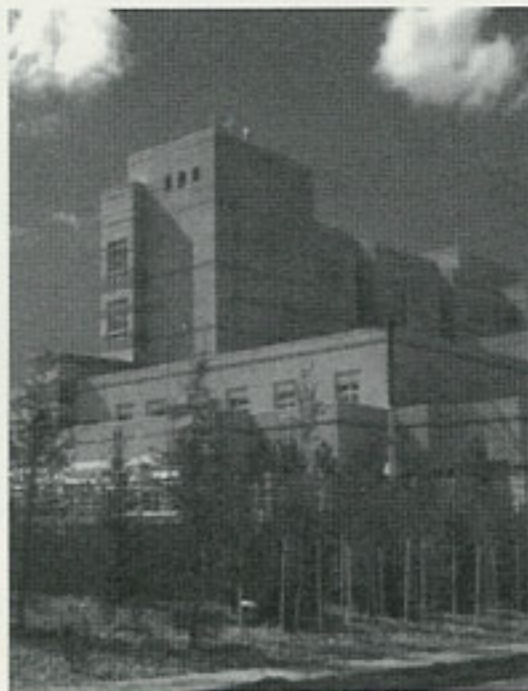


Conference attendees tour the Alaska Native Medical Center (below) and view newborns in the nursery.

IHS Self-Governance Conference Heads to Alaska

Spouting whales, soaring eagles, and a fantastic new Alaska Native Medical Center were all part of the package for attendees at the Fall IHS Self-Governance Conference, held in Anchorage, Ak on October 8-10, 1997. It was very fitting to have the conference in Alaska, a state that is home to nearly half of the federally-recognized Tribes and accounts for nearly 50% of compacted Self-Governance funds.

While the Conference focused on many key Self-Governance policy issues including proposed IHS permanent Self-Governance legislation, congressional issues and user population formulas, a majority of the agenda was targeted towards implementation of Tribal programs under Self-Governance with an



emphasis on many interesting aspects of Alaskan Native Self-Governance.

As H. Sally Smith, Chairman of the Bristol Bay Area Health Corporation told the conference, "self-governance has provided a vehicle that has allowed Alaska Native tribes and the IHS Alaska Area Office to work cooperatively together to solve difficult problems facing the delivery of health services to Alaska Natives."

The technical topics on the conference agenda and the issues raised included:

Title V - Permanent IHS Self-Governance Legislation

A panel of Tribal Leaders and attorneys gave an excellent presentation on the status of the Title V Tribal Task

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Force's efforts to draft legislation which would make Self-Governance permanent within IHS. W. Ron Allen, Tribal Chairman, Jamestown S'Klallam Tribe and H. Sally Smith, Chairman of the Board, Bristol Bay Area Health Corporation provided a Tribal Leader perspective on the issues relative to the proposed legislation. Tribal attorneys Geoffrey Strommer, Paul Alexander and Lloyd Miller presented a technical overview of the legislation in a handout that provided notes outlining the differences in the House, Senate and Tribal versions.

In general, the Task Force decided to develop legislation, which was more inclusive of the process, thus eliminating the long, tedious and frustrating process experienced as a result of the Department of Interior Self-Governance Negotiated Rulemaking Committee.

The highlights of the legislation include:

- *Clear and limiting definition of "inherent federal functions"*
- *Grand-fathering in of existing Compacts*
- *The requirement that IHS negotiate a Compact with the approval of Tribes*
- *The provision for the Secretary of Health and Human Services to approve Self-Governance demonstration projects of non-IHS programs*
- *Clear negotiation methods*
- *Appeals process for disagreements*

It is anticipated that Congressional hearings on the proposed legislation will be scheduled during January 1998. Jamestown S'Klallam Chairman W. Ron Allen said he expects at least two hearings prior to a congressional vote. National Indian Health Board Director Yvette Joseph-Fox requested that the Task Force consider more educational workshops on the legislation to address



Squaxin Island Tribe Executive Director Robert Whitener, Jr. delivers a summary of the Information Systems & Network Session.

issues and concerns that may be raised by Tribes.

Base Budgets

The Base Budget Technical Workgroup (BBTW) delivered a final report which clarified some of the issues of the Base Budget policy approved by Dr. Trujillo earlier last summer in preparation for FY 1998 negotiations. Some of the clarifications to the policy include:

- *Alternative Headquarters Share Distribution Methods (among agreeing Tribes in the same area).*
- *Funds for newly recognized Tribes will not effect (decrease) a Tribe's base budget.*
- *Tribes within the base budget are still eligible for shares of new programs or programs not previously assumed by the Tribe.*
- *Once in the base budget system, the Tribe's base will only fluctuate based on the congressional increase or decrease to AFA line items.*

- *Tribes should be eligible to place programs within their base budget as long as the funding for that program is reasonably stable and predictable over multiple years. The BBTW recommended the inclusion of some OEHE programs such as Maintenance and Improvement.*
- *The Base budgeting of the Assessments line items will have to wait until the Assessments work-group is finished with their report.*
- *Base budgets will have a minimum three-year duration with an option for two additional years.*
- *Adjustments to the base from mandatory increases should be automatic and occur at the same time as the base funds are distributed.*
- *Tribes may elect to include contract support in their base; the amount for the base will be based on the Tribe's rate in the first year of their base budget.*



Information Systems and Networks -

Facilitated by Squaxin Island Tribe Executive Director Robert Whitener, Jr., this breakout session centered on the issues of Tribal health information systems and the identification of future concerns and needs. Richard Hall, Chief of Data Management for the Alaska Native Medical Center, summarized the unique needs of the Alaska Area and some of their solutions and continuing concerns. The breakout session became more lively when IHS acting Director, Division of Information Resources, gave his presentation on the IHS identified needs for information systems. He identified the following as needs for RPMS: 1) add functionality; 2) develop GUI (graphic user interface); 3) improve reports; 4) better integration; and 5) ability to operate on Microsoft NT.

Many conference attendees told Mr. Garvey that they agreed with his list and have expressed those needs for years and IHS now needed to start showing some results and leadership in the information systems arena. Mr. Garvey suggested that

Self-Governance had led to the depletion of funding and thus development in the areas he outlined.

Doni Wilder, Executive Director, Portland Area Indian Health Board, in response to Mr. Garvey stated, "We've been saying (to Tribes) to keep their Self-Governance shares in IHS for RPMS and Information Systems to assure development, but there is only so long that you can recommend that before you start looking foolish."

Mr. Whitener, in his summary to the breakout session, said, "Many Tribes are concerned about the future of RPMS and many of those 'sitting-on-the-fence' were not pleased with what they heard from the IHS. He further stated that everyone agreed that a core set of data relating to all Tribes is necessary to assure proper funding from Congress.

Infrastructure

Joe Finkbonner, L.I.F.E. Center Director, for the Lummi Nation, facilitated the Infrastructure: Developing/Implementing Critical

Components Session, and identified the following four critical areas:


1. Tribes need more planning funds.
2. Tribes need to develop more coalitions.
3. Tribes need to revise third-party agreements between HUD, IHS and Tribes.
4. Tribes need to develop an infrastructure for health promotion around issues like tobacco and obesity.

Environment and Health

Jack Ferguson, Treasurer, Choctaw Nation of Oklahoma, facilitated the Environment and Health session. He stated, "We must all be aware of the external forces which shape health." This session identified many forces such as housing, courts, education, jobs, and outside community mandates, all of which shape the physical and mental well-being of Tribal members. Those participating in this session felt it was very important that Tribes network with other Tribes, governmental entities and private agencies to collaboratively deal with these external forces; that all funding sources should be identified and sought; and that all emphasis should be placed on ensuring that our children are safe.

Summary

The Fall Self-Governance conference in Anchorage was successful, full of information and enlightening for most attendees. Many attendees expressed admiration and some surprise at the level of sophistication of the Alaskan Self-Governance consortiums. The Alaskan Native Medical Center, as seen by many in tours given after the daily sessions, is one of the best facilities of its kind anywhere.

As IHS Director Dr. Trujillo said, "Having the conference in Anchorage brings a different perspective to the delivery of health care." But, he added, "We're all on the same path. What we are building and what we have done is laying the foundation for those to come." 



Richard Hall, Chief of Data Management for the Alaska Native Medical Center, describes the unique data systems of the Alaska area.

Tribal Profile: Ketchikan Indian Corporation



When many people think of Ketchikan, they often think of a quaint little town on a remote island in Southeast Alaska, with winding boardwalks along the water and buckets of rain in the winter. It is also home to more than 3,800 members of the Ketchikan Indian Corporation.

Incorporated as a Tribe in 1940, under the authorities of the Indian Reorganization Act (IRA) of 1934, and amended in 1936 to include Alaska, the KIC has an eight member Tribal Council which serves as the governing and legislative body. Their enrollment is made primarily of Tlingits, Taimahians, and Haidas indigenous to the region. Programs operated by KIC include: Social Services, ICW, General Assistance, Employment Assistance, HIP, Scholarships, Adult Basic Education, and Early Childhood and Health/Medical/Dental.

KIC first delivered services to their members in 1975 with only 2 staff members. From there, services have expanded to include the Self-Governance of BIA programs in 1992 and IHS in 1994. In addition, the KIC has begun an ambitious initiative to provide health care services at a new Health Clinic, currently in the final design phase.

KIC believes very strongly in their sovereign rights. In fact, beginning in FY 1998, the KIC has broken away from their original health consortium and will begin administering the delivery of their own health care services. This ambitious



Ketchikan Indian Corporation members view an architectural model of their new clinic. From left to right, John Brown, KIC General Manager; Stephanie Rainwater, President; Gerry Hope, Secretary; Charles White, Treasurer.

initiative is part of the strong belief KIC has for government-to-government relations and the right and ability of every Tribe to act on behalf of their members. The KIC believes very strongly that while Native culture distinguishes Tribal members from non-Natives, it is the fact that a Tribe has a constitution, which has the authority to act for the benefit of its members, which makes it an entity like none other in this country.

The KIC Health Clinic, when completed, will consist of 33,216 square feet spread over four stories. The design of the Clinic was a challenge due to the footprint and steepness of the property. The building hopes to replicate the designs of a traditional clan house, with a strong horizontal orientation and monumental end walls. Completion is scheduled for 1999.

Ketchikan Indian Corporation — Mission Statement —

Claiming our aboriginal rights as a sovereign nation, we the Tribal Council pledge to maintain, preserve, and plan for the health, welfare, and living standards for our tribal members by promoting social services, cultural awareness, education, and economic development.

Alaska – “We’re not in Kansas Anymore”



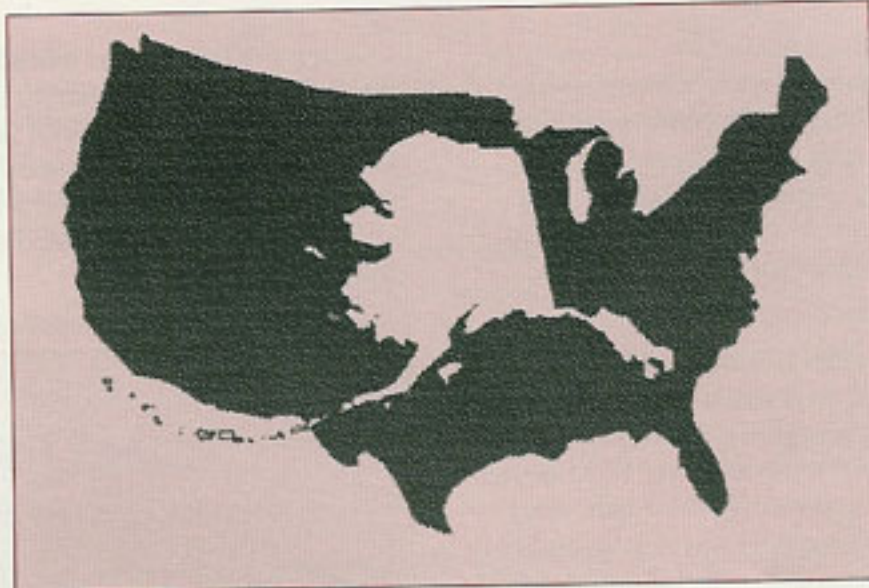
Complex, sophisticated, well organized and extremely effective does not begin to describe the situation of the Alaskan Native Tribes and Villages.

Imagine the difficulty of over 150 Tribes in the lower 48 states trying to get together and agree on a Self-Governance Compact and then determine how to distribute the funds. This was the challenge faced by the Alaska Native representatives as they embarked on Self-Governance with the IHS.

Part of the answer to the Alaska Tribal Self-Governance success lies in the history of the Alaskan Native Tribes and Villages, their necessity to organize into corporations and consortiums and the politics surrounding them. Alaska Native Tribes and Villages comprise 226 of the over 500 federally recognized Tribes, with over 105,000 Alaskan natives; approximately 35,000 living in Anchorage, Juneau and Fairbanks with the remaining 70,000 living in small rural hub communities like Nome and Barrow or in one of the 200 additional smaller villages. About one-third of the Tribes in Alaska are organized under the Indian Reorganization Act. The remaining are governed by traditional village councils.

One unique feature of Alaskan Tribal governments is the status of land. While much of the land belonging to federally-recognized Tribes in the lower 48 is held in trust by the BIA or as allotments by individual Tribal members, Alaska State for-profit corporations controlled by individual Tribal member shareholders and organized pursuant to the Alaska Native Claims Settlement Act (ANCSA), hold most of the land of Alaskan Tribes in fee.

Under ANCSA, Alaska Natives collectively retained over 40 million acres of land and were paid just under \$1 billion for the extinguishment of their aboriginal claims to the remaining areas of Alaska. Under the Act, Village corporations were established to hold fee title to the surface estate of 22 million acres surrounding the



Villages. Twelve regional corporations were established to hold fee title to another 16 million acres. As long as the land conveyed under the Act is not leased or developed, it is not subject to taxation.

Another unique aspect of the Native governments in Alaska is the manner in which they deliver governmental services such as health, housing, education and social services. A large number of the Alaskan Native Tribes and Villages administer some or most of the programs through 16 inter-tribal consortiums. All but one of the consortiums is non-profit. Several of the largest Tribes operate their programs independently of their regional consortium.

In the health care arena, the IHS operated all Native health programs from 1955 to 1970. The Alaska Native health care system began its modern era in 1970, with the creation of two regional health agencies; Norton Sound Health Corporation and the Yukon-Kuskokwim Health Corporation. Although initiated prior to the self-determination era, the fundamental concepts of these organizations were based on Tribal ownership, consumer-based policy setting and decision-making and gradual assumption of IHS programs through contracts.

Because the small average size of each Alaska village is between 200-500 members, it made sense to most Tribal governments to work cooperatively on health care issues through the formation of regional consortia owned by Tribes

from the same geographic and cultural area. From 1970 to 1975, an additional twelve regional non-profit agencies were formed, each with an all-Native board of directors elected by the Tribal governments and villages in the service area. Approximately half of these organizations provide both health services as well as BIA-funded community services programs; while the other half are exclusively health provider agencies and maintain associations with

regional non-profits that provide the other community services.

During the 1980's, the largest Native health organizations took over management responsibility for 7 IHS service unit hospitals. In 1994, Alaska Tribes, Villages and regional health organizations agreed to cooperate on the negotiation of a single Self-Governance Compact with the IHS. The Alaska Tribal Health Compact uses a single Compact agreement with fourteen separate Annual Funding Agreements. Inter-Tribal decisions concerning Compact language and Tribal shares distribution are made on a consensus basis in a "Tribal caucus" format, facilitated by the Alaska Native Health Board.

To the non-Alaskan, the complex weaving of corporations, consortiums, villages and Tribes can be very confusing. Corporations are involved in land and economic development, while other consortiums are involved in delivering everything from health care to education. Additionally, each village or Tribe has a body of elected officials, many of whom sit on the boards of the corporations and consortiums. Although the structure of health care in Alaska may appear to be complex and confusing to those who are not familiar with the system, it does work; and if the Alaska Native Medical Center and presentations by the Alaska attendees at the conference are indicative, it apparently works well.

Self-Governance - An IHS Agency Lead

Negotiator's Perspective *By Ron Ferguson, Navajo Area Indian Health Service*



"You've been volunteered," is something I'm sure many of us have heard at one time or another. In late January, 1995, I was at one of our Service Unit Offices inspecting a sanitation facility project, as part of my duties as the Deputy Director, Division of Sanitation Facilities Construction, Navajo Area Indian Health Service. My supervisor called to let me know that I had volunteered to be a Negotiator for IHS in Self-Governance Negotiations.

First, I would need to be at Indian Health Service (IHS) headquarters the following week, to attend training. My supervisor explained to me that being a negotiator would be a good experience and it would only take a few weeks of my time that year. These "few weeks" have become two-and-a-half-years and almost a half time job. It has required travel away from home about one quarter of the time. It has also exposed me to innovative programs for health delivery developed by Tribes, increased my understanding of Indian health programs and given me an opportunity to visit Tribes and IHS areas I otherwise would not have been able.

After volunteering, I spent several months either at meetings, training courses or educating myself about negotiations, the Tribal Self-Governance Act and the IHS. The negotiation part required some training, since this was definitely a different type of negotiation than procurement contract negotiations. The education about the many facets of the IHS required an all out effort. I, like most IHS staff, had very little knowledge of the IHS outside of my own program and area of expertise. Fortunately, this was a time when workgroups were sending out final reports and the IHS was making policy decisions. Negotiation formulas were already in place, which simplified things considerably. At this same time, IHS developed the Functions and Services Manual which described the various IHS Headquarters-managed programs. All of this information proved to be invaluable for my responsibilities as an Agency Lead Negotiator (ALN).

My assigned Area was Portland. In April of 1995, the negotiations with the fiscal year Tribes began, starting with the IHS Self Governance Spring Conference and, in some cases, continued right up until the end of September. Most ALNs for IHS felt like Self-Governance negotiations were never ending that year.

After seven months of Self-Governance negotiations, I became involved with contract negotiations with the Navajo Nation. The negotiations involved setting up a master contract and Annual Funding Agreement (AFA) for several existing contracts, plus the addition of Headquarters shares for those programs. By the time we completed the Navajo Agreements, I had spent nearly a full year involved in negotiations of one kind or another.

During my first year as a negotiator I learned a variety of things. With every negotiation, I learned something new about the Act, the IHS or the federal government. I continue to learn during negotiations. The process for negotiating and administering Self-Governance agreements has continuously evolved. All of the changes are intended to move the Tribes and the IHS closer towards their goal.

**"One of the things
I learned that first year, was
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to assist each Tribe in identifying
their share of IHS resources."**

One of the things I learned that first year, was that the role of the negotiator is to assist each Tribe in identifying their share of IHS resources. In addition, help write an agreement that effectively transfers to Tribes those resources along with the responsibility for the Program Function Services and Activities. The other part of the negotiator's role is to be an advocate for all Tribes, though during negotiations this sometimes means advocating for every Tribe not at the table. I also learned early on, that in fulfilling the role of the ALN, I cannot always make everybody happy.

The past two years of negotiations have certainly been easier than the first. One reason, I believe, is knowing what to expect. Another is that the IHS has been more responsive to the needs of the Tribes and the Tribes have been patient, understanding that the IHS is making progress.

Four things occurred that improved things substantially for the Fiscal Year 1997 negotiations. The first was the agreement made at the 1996 Spring Conference in Las Vegas by the IHS Director to hold Headquarters and Area Shares at their 1996 levels and to enter into base budgets beginning with the 1998 negotiations. The second, at the same Conference, was the formation of the Tribal Self-Governance Advisory Committee. This was a big step forward, since the Advisory Committee is a good forum for making Self-Governance recommendations and for working with the agency to resolve issues. The third item was the abolishment of the Headquarters AFA review committee and using each Area's Regional Office of General Counsel Attorney to review AFA's during the negotiations.

The attorney review along with the AFA certifications by the ALN, vastly streamlined the process. The fourth item was that the ALN now sends in a certified financial form that becomes the basis for the award of the AFA amount each year.

These changes and the Fiscal Year 1997 appropriation at the beginning of the fiscal year, allowed prompt payment in most cases, and greatly eased 1998 negotiations. The 1998 Negotiations also went more smoothly because of the efforts of the Tribal Self-Governance Advisory Committee in making base budgets available.

In August of 1996, I joined the Base Budget Technical Workgroup of the Tribal Self-Governance Advisory Committee. This required several additional trips – and the work continues. The recommendations of this workgroup and the Advisory Committee allowed the budget structure to change and allowed Self Governance Tribes to enter into base budgets in 1998. These two changes made negotiations much easier this year.

In addition to my ALN responsibilities for the Portland Area, this year I was asked to be the Office of Tribal Self-Governance (OTSG) representative for negotiations in the IHS Phoenix and California Areas. The intent was to bring some continuity to the negotiations. The opportunity to visit two more IHS Areas certainly broadened my horizons and added a few more weeks of travel to my schedule. I was hesitant to accept this new task, partly because I was not sure of my role. But, it turns out that my role is the same, which is to be an advocate for the Tribes.

One of the most gratifying parts of this years negotiations was holding the negotiations at the Tribal location for several of the Portland Tribes. This really demonstrated to me what Tribes can do

Continued on back page.

Updates



Kevin Gover Nominated to Head BIA

Secretary of the Interior Bruce Babbitt announced President Clinton's decision to nominate Kevin Gover as Assistant Secretary for Indian Affairs.

Mr. Gover is a member of the Pawnee Tribe and a native of Lawton, Oklahoma. He attended Princeton University, receiving a BA in public and international affairs and he received his Juris Doctor from the University of New Mexico School of Law. Following law school, he served as law clerk to the late U.S. District Judge Juan G. Burciaga of Albuquerque. From 1983 until 1986, Mr. Gover specialized in environmental and natural resources law, as well as federal Indian law in the Washington, DC, law firm of Fried, Frank, Harris, Shriver & Acobsen. In 1986, Gover formed his own law firm in Albuquerque with Cate Stetson and Susan Williams. That firm, now Gover, Williams & Janov, specializes in Indian law, natural resources and housing law.

Secretary Babbitt said the BIA position requires "someone with the wisdom of a Thomas Jefferson, the consensus-building skills of a George Washington, and the ability to understand both the complex workings of Congress and this Department's relationship with Tribal governments. Kevin Gover has his work cut out for him, but I'm convinced he's just the right person for the job."

Senate Deletes Section 120 - Waiver of Sovereign Immunity

In a major victory for Tribal sovereignty, the Senate deleted Section 120 of the FY 1998 Interior Appropriations bill by a vote of 93 to 3. Section 120 would have required Tribes to waive their sovereign immunity in order to receive BIA Tribal Priority Allocation (TPA) funds. Instead, the Senate Committee on Indian Affairs will hold a series of hearings on this issue and Senator Slade Gorton (R-WA) has indicated that he will introduce another bill dealing with this issue in the near future.

Indirect Cost Proposal Negotiations Suspended for Tribal Governments

The Office of the Inspector General (OIG) has "temporarily suspended" the negotiation of indirect cost rates with Tribes pending a review of policy changes required, if any, as a result of the recent Ramah Navaho Chapter v. Lujan decision in the Tenth Circuit Court. Tribes will receive contract support based on their current rate.

Does Self-Governance Work?

Sovereign Nations is asking for any stories or examples of how and why Self-Governance works for your Tribe. How has it changed your Tribal organizational structure? How has the Tribe benefited? Are you implementing programs in new and innovative ways? Please e-mail stories (they can be anything from 2-3 paragraphs to 1-2 pages) to Brent Simcosky, BBSimsky@aol.com. Thank you! ➡

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Self-Governance is a Tribally driven initiative intended to provide Tribal governments more control over their own destinies. The project fosters the shaping of a "new partnership... between Tribal governments and the government of the United States. We believe that excellence in related communication and education is fundamental to the achievement of these goals.

FOR INFORMATION WRITE TO:

Maureen Kinley, Coordinator,
Communication & Education
Self-Governance Demonstration Project
c/o Lummi Indian Business Council
2616 Kwina Road, Bellingham, WA 98226
Phone: (360) 384-2301
Fax: (360) 384-2298
E-mail: mkinley254@aol.com

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on a limited budget and how great an interest the Tribes have in providing high quality health care. The discussions this year were more on health care and less on funding. I attribute this shift to several factors, such as having the same negotiating team for the past three cycles, prompt payments, the availability of base budgets, and the Tribal-IHS progress to reach Tribal Self-Governance goals.

IHS and Tribal people ask me frequently, "Why do you continue to do this?" My usual answer is that we are not finished yet. The other part of my answer is that negotiations are always interesting, never boring, and I learn something new every day during negotiations. I

have learned about the government personnel system, contract support and the IHS payment system. Most importantly, I have also seen what Tribes can do to improve health care by their redesigning, reprogramming, and using outside funds in innovative and effective ways.

On another personal note, having never traveled much as part of my job before becoming a negotiator, I have learned that almost every place in the country is at least a day trip from my home in Gallup, New Mexico, that all hotel rooms are alike and that all airports are under construction. I look forward to the day when fax and phone can do renewals of Self-Governance agreements. 