

DOI SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication and Education

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Original Sent Via USPS

April 21, 2015

Honorable Kevin K. Washburn
Assistant Secretary – Indian Affairs
U.S. Department of the Interior
1849 “C” Street, NW
Washington, DC 20240

RE: Recommendations to Improve Coordination and Communication with Self-Governance Tribes

Dear Secretary Washburn:

I write on behalf of the Self-Governance Advisory Committee (SGAC), who met with you most recently on March 26, 2015 in Washington, DC. Thank you attending and continuing a dialogue with SGAC Tribal leaders about the future of the Self-Governance initiative within the Department of the Interior (DOI). With the legislative improvements underway by movement of S. 286, the "Department of the Interior Tribal Self-Governance Act of 2015," it is timely to have such a discussion that may guide and inform its future implementation.

You have often shared with us your intention that Self-Governance be represented throughout the Bureau of Indian Affairs (BIA). We fully support that goal; however, in order for that vision to be realized, it will require an organizational shift overall. We have a distance to go to achieve an environment where BIA embraces, encourages and supports Self-Governance and where Self-Governance can flourish. Following are some examples and recommendations in this regard:

- **Competition for Grants and Distribution of Funds**. The SGAC has communicated in several previous meetings and in formal correspondence to you and Mr. Thomas Thompson our overall concern that most new funds appropriated to the BIA have been, at BIA request and execution, only available to Tribes via competitive or earmarked grants. While grants provide funding and can be for generally good purposes, they are not responsive to Self-Governance principles. Self-Governance Tribes, and many other Tribes for that matter, conduct long-range planning and develop their own strategic direction about how best to address challenges such as poverty, education, youth and family services and many other issues plaguing our communities. The key is that these strategies are Tribally-driven, not Federally-driven.

The hallmark of the Self-Governance initiative is that Tribes are both capable and in the best position to design and implement programs and services that are responsive to the needs of their communities. Grants designed by the Federal system, while well intentioned and likely containing good goals, are prescribed and controlled by the Federal government and do not advance this fundamental principle. We recommend a re-evaluation of how to best justify new funding to Congress, but at the same time distribute and administer funding under Self-Governance funding agreements, rather than through the grant process.

The SGAC has previously shared with you many instances where Self-Governance Tribes and the DOI Office of Self-Governance (OSG) were not notified of grants competition in their Regions in a timely manner. Self-Governance Tribes were thus at an extreme disadvantage for applying for these opportunities. While awareness of this issue has increased, the practice of timely notification has not yet been resolved in all Regions. Finally, distribution of year-end funds is entirely within the discretion of the local awarding official. Not all Tribes are notified that year-end funds are available, neither is there any accountability for the fairness of distribution of these funds. *We request that notice be provided by the Region to all Tribes within that Region, whether Self-Governance, Contracting or Direct Service, at the same time for grant availability. We request the same notification occur for any year-end funds available, which are currently distributed without transparency or competition.*

Another problem is that Self-Governance Tribes seem to be at a disadvantage during the selection process for grants or additional funding. Tribal representatives reported at the SGAC meeting that while Tribes had applied for all competitive funding requests in a particular Region for an extended period of time, they were selected for very few of these grant opportunities, despite having a wealth of experience in grant writing. Further, although the Tribes inquired with the Region, no explanation is provided as to why grant proposals are not approved.

Finally, Self-Governance Tribes have been categorically sharing less in BIA appropriations increases and are also experiencing systemic, delayed payments for ongoing, recurring programs. The SGAC has previously reviewed specific, historical and undisputed data showing that BIA programs operated by Self-Governance Tribes are not growing at the same rate as the *same* programs operated directly by the BIA and the other Tribes. Although not all reasons are known, budget formulation, as well as BIA budget execution, very likely play a significant role in this trend. Payment timeliness has also been inequitable for Self-Governance Tribes.

One example presented at our March 26th meeting was the Indian Reservation Roads Program, where for a period of years, allocations to the OSG (and thus payments to SG Tribes) were grossly delayed, months behind the BIA allocation to the Regions and payments to Title I Contracting Tribes. This resulted in at least one Self-Governance Tribe filing several years of Prompt Payment Act Claims to force the issue. Most Tribes do not have the resources at hand to go to such lengths when payment is unfairly delayed, so the practice continues. In no circumstance should funding allocations from BIA programs to OSG lag behind availability for all other Tribes.

- **Communication with and involvement of BIA in Self-Governance**. There are many individual BIA staff and officials that support and encourage Self-Governance principles. However, it is typically based upon individual employees' values and opinions, rather than the organization's overall mission or culture, and, therefore sporadic. An environment generally uninformed and consequently, hostile to Self-Governance seems to continue to pervade the BIA, despite 25 years' experience in Self-Governance.

Self-Governance Tribes continue to face challenges in interacting with BIA Program staff. The SGAC, for instance, occasionally sends letters on behalf of Self-Governance Tribes to BIA line or program officials either making inquiries or recommendations. These are routinely forwarded to the OSG to respond, who has no authority or responsibility for the program(s) in question.

An OSG response to these inquiries does not resolve any outstanding issues with the program or line staff, as OSG does not have control of or direct the underlying program. Another example is participation in the Annual Self-Governance Consultation Conference. For the upcoming conference later this month, the SGAC invited specific persons within the BIA that have subject

matter expertise or authority to address programs or issues of concern to Self-Governance Tribes. On more than one occasion, such BIA invitees declined, with a response such as, "OSG takes care of Self-Governance Tribes/issues." Again, this neither fosters collaboration nor does it demonstrate support for a number of Tribal governments who have decided to participate in Self-Governance. From this experience and based on these examples, you can see where it appears that many within the BIA do not view support of Self-Governance nor do they view support of the Tribes participating in Self-Governance as part of their job responsibilities or mission.

- **More Self-Governance Training needed within BIA.** Misinformation and a lack of education about Self-Governance is evident within the BIA. Specifically, there seems to be a continuing myth within the BIA that once a Tribe enters Self-Governance, "all shares have been taken," all BIA responsibility ceases and all interactions are with OSG from that point forward. As you well know, considerable resources for inherent Federal functions are left with Agencies, Regions and Central Office to serve Self-Governance Tribes. In fact, Central Office shares have completely been barred legislatively from compacting for most of our history in Self-Governance, thus leaving all resources there for full support of Self-Governance as any other Tribe (Contracting or Direct Service) is supported. After 25 years of experience in Self-Governance, we should be in a much better place, and full success of Title IV implementation cannot occur without such an organizational shift.

To that end, we recommend that: (1) The mission, objectives, assignments and staff performance of BIA staff be reflective of their duties related to the Self-Governance initiative; (2) Key staff in BIA Regions and Central Office be assigned specific areas of responsibility related to implementation of Self-Governance; and, (3) BIA, in collaboration with the OSG, SGAC and the Self-Governance Education & Communication Office, design and implement at each organizational level a robust training series on Self-Governance history, principles and mechanics.

In your tenure as Assistant Secretary – Indian Affairs, we have appreciated your unwavering support of the Self-Governance movement and of the Tribes who have chosen this option for their future. We thank you for the open dialogue and look forward to working with you to reviewing these recommendations and addressing these issues. If you have any questions, please do not hesitate to call me at (360) 681-4621 or email me at rallen@jamestowntribe.org.

Sincerely,



W. Ron Allen, Chairman/CEO, Jamestown S’Klallam Tribe
Chairman, Self-Governance Advisory Committee

cc: Sharee Freeman, Director, Office of Self-Governance, DOI
Ann Marie Bledsoe Downes, Deputy Assistant Secretary - Policy & Economic Development,
Office of the Assistant Secretary – Indian Affairs, DOI