

# DOI SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication and Education

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Via Email: [spconsultation@bia.gov](mailto:spconsultation@bia.gov)

September 1, 2016

Mr. Lawrence S. Roberts  
Acting Assistance Secretary – Indian Affairs  
Office of Budget and Performance Management  
1849 C Street, NW, MS-4558  
Washington, DC 20240

**RE: Comments on the Proposed Revisions to the Department of Interior's (DOI)  
Strategic Plan for FY2018-2022**

Dear Acting Assistant Secretary Roberts:

On behalf of the Department of the Interior Self-Governance Advisory Committee (DOI-SGAC), we submit these Comments in response to the Dear Tribal Leader Letter dated July 15, 2016 requesting American Indian and Alaska Native input and participation in the revision process for the DOI Strategic Plan for FY2018-2022.

As a matter of principal, the treaty and trust obligation to Tribes is premised on the government-to-government relationship between the US and Tribes in which the Government promised to protect and provide benefits to the Tribes in exchange for millions of acres of Tribal homelands and resources. As such, it should not be incumbent upon the Tribes or those charged with carrying out the obligation to justify program performance or the need for funding because this was a quid pro quo exchange. However, given the current state of the political system, we realize that the agencies rely on programmatic data to justify funding requests in the current budget scheme. Therefore, Tribes will continue to support the agency in its effort to strengthen and bolster processes to secure funding for Tribal programs and services until an alternative budgetary process is adopted. We would be remiss, however, if we didn't articulate the fact that as sovereign nations, we should not be funded similar to non-profits or other government programs.

It should also be duly noted and addressed within the Strategic Plan that the Trust obligation to Tribes is not limited to the Bureau of Indian Affairs but is government-wide and extends to the nine (9) other Bureaus and multiple offices within Interior. Each one of these agencies, bureaus, departments and/or offices should address their treaty and trust obligations and other responsibilities to American Indians and Alaska Natives within their designated section of the plan and include goals, strategies and measures that demonstrate how these responsibilities will be advanced, administered and measured to secure federal funding to carry out their federal obligations. The Secretary of Interior chairs the White House Council on Native American Affairs; and in this capacity, it is incumbent upon her to assume a leadership role in ensuring every agency under her directive upholds the policy of the United States to promote the development of prosperous and resilient Tribal communities.

The following is our recommended input on the Goals, Mission Areas and specific Performance Measures that should be included in the DOI Strategic Plan:

**Goal 1: Meet our Sovereignty, Trust, Treaty, and Other Responsibilities to American Indians and Alaska Native Nations**

*Protect reserved Indian treaty and subsistence rights –*

- Steps taken to address Tribal habitat loss and degradation;
- Number of Federal prosecutions against those who degrade salmon habitat.

*Fulfill Fiduciary Trust –* Increase funding for Indian programs and services and reclassify trust administration as non-discretionary. Require and review the unmet needs analysis annually. Require an independent external contractor to audit fund management of all federal agencies distributing Native American appropriations. Allow each Tribe to decide for itself the role it would like to play in the management of trust assets.

- Number of regulations developed and implemented to ensure that all future Administrations (including all departments, offices, bureaus and agencies) fulfill their trust responsibilities;
- Steps taken to ensure that Tribal interests are considered first before agency or outside party interests;
- Number of Inter-agency Agreements/partnerships formed to address community issues through flexible funding mechanisms, less bureaucratic oversight and fewer reporting requirements.

**Goal 2: Improve the Quality of Life in Tribal and Native Communities**

Strategies:

*Support Self-Governance and Self-Determination –* As a precursor to our recommendations, it is of significant importance that we draw your attention to the fact that, although the Strategic Plan is structured to measure agency performance, it fails to account for the 261 Self-Governance Tribes who have assumed management and control of programs, services, functions and activities (or portions thereof) that were previously managed by the Federal government. We understand that funding is tied to how well the agency performs in these areas and it is very disconcerting that there is an absence of measures that correlate to these contracting functions and the impact on funding is, at best, unknown.

Further, the two existing measures tied to supporting Self-Governance and Self-Determination are: (1) the percent of P.L.93-638 Title IV Compacts with Clean Audits; and, (2) the percent of Single Audit Act reports submitted during the reporting year for which management action decisions on audit or recommendations are made within 180 days do not measure the Office of Self-Governance (OSG) performance. The audits are tied to Tribal performance, a function over which OSG has very limited, if any, control. We strongly recommend that new measures be developed that more adequately reflect the role OSG performs with respect to contracting and accounting services. Some alternative measures that more accurately depict OSG performance, include, but are not limited to:

- The percent of increase in the number of new SG Tribes;
- The percent of increase in the funding transferred to SG Tribes;

- The number of new policies or operational revisions in OSG to improve SG implementation;
- Timely payments of funds to SG Tribes;
- The percent of increase of new SG funding agreements with non-BIA agencies;
- Inclusion of SG Tribes in Appropriations Requests (including accurate program breakdown and display of SG program funding in the BIA Green Book);
- Enacted policies for consistent calculation and guidance across BIA regions in calculation of pay costs;
- Updated SG data needed for any program increases in funding allocations;
- The number of Inter-agency Agreements to allow for flexibility and combining of resources to address community needs;
- Socio-economic data for each Tribe and a comparison of how it correlates to State data on the general population.

There is a lack of socio-economic data that is currently available to demonstrate need and the Government needs to establish better systems to collect the data that is needed to support funding requests for Tribal programs and services.

#### *Create Economic Opportunity –*

Some alternative measures that more accurately reflect the goal of creating economic opportunity include, but are not limited to:

- The number of Inter-agency Agreements created to leverage funding to support Trust and Treaty obligations;
- Strengthen and reaffirm Tribal taxation authority;
- Steps taken to foster transparency of funding opportunities for all Tribes;
- Increase in the percentage of submitted fee to trust applications and determinations;
- Total average gain in earnings of participants that obtain unsubsidized employment through job placement, training and related services funding in accordance with P.L. 102-477;
- Percent of grazing permits monitored annually for adherence to permit provisions, including, permittee compliance with the requirements described in conservation plans;
- Percent of active agricultural and grazing leases monitored annually for adherence to permit provisions, including permittee compliance with the requirements described in Tribal conservation plans;
- Percent of range units assessed during the reporting year for level of utilization and/or rangeland condition/trend;
- Percent of sustainable harvest of forest biomass utilized for energy and other products;
- Increase in the number of Tribal government and enterprise employees;
- Increase in the number of employed Tribal citizens;
- Increase in the number of Tribes accessing capital;
- Increase in the amount of funding for the BIA Loan Guarantee Program;
- Increase in the number of DOI Loan Guarantee Borrowers (Individuals, Tribes, Tribal enterprises or business entities);
- Increase in the number of Tribal enterprises or business entities;
- Examples of increased flexibility to leverage funding for economic development;
- Number of Tribes in economic disputes protected or supported by the Agency
- Amount of increased funding to support economic development physical infrastructure projects;
- Increase number of Tribes exploring energy opportunities.

*Strengthen Indian Education –*

- Policy changes and incentives offered to recruit and retain educators;
- Inter-agency agreements to provide housing to educators;
- Number of School districts that include Native American culture and history in their curriculum;
- Number of school districts that engage on a frequent basis with Tribal Nations;
- Number of school districts that have Tribal representatives on their school board;
- Policy changes that have been implemented to allow for better coordination and collaboration between the BIA/BIE and Department of Education;
- Steps taken to address discriminatory treatment of Native students.

*Make Communities Safer –*

- Policy changes and incentives to recruit and retain Tribal police officers;
- Inter-agency agreements to provide housing to police/fire/emergency staff.

**Goal 3: Empower Tribal Governmental Capacity & Communities**

*Promote Efficient and Effective Governance* - Tribal Nation-building requires the creation of measures that truly reflect how the investment in Indian country has strengthened Tribal governmental authority and capacity, Tribal governmental infrastructure, supports strong Tribal economies and Tribal self-sufficiency. Under the current governmental paradigm that exists how can we advance these concepts and formulate a strategic plan that is more aligned with the nation-to-nation relationship?

Some measures that may more accurately reflect nation-building include, but are not limited to:

- How is federal funding being used to improve Tribal governmental financial policies and procedures, Tribal financial management systems and providing Technical support for Tribal community planning?
- How are Tribes being equipped with the statistical political and operational tools necessary for informed, timely and effective decision-making?
- What can be done at the agency level to bolster Tribal representation in the funding process through testimony or other means?
- What enforcement measures has the Federal government developed to prevent state/local encroachment into Tribal territorial and economic jurisdiction?
- What enforcement measures are in place to ensure federal/state/local compliance with Federal policies that uphold trust and treaty obligations?
- How are agencies ensuring that Tribal interests are considered before agency or other party interests?
- Who is conducting an Annual Unmet Needs Analysis; what are the results of that analysis and what steps are being taken to address them?
- Who is auditing the fund management of all of the federal agencies distributing funds to Native Americans; how are these funds being accounted for; how is the information being shared with the Tribes?
- What benchmarks have been established for the elevation of Native American living conditions compared to those of other Americans?
- Require every agency to regularly assess unmet needs and gaps in the delivery of services;

- Conduct a gap analysis – what has been accomplished, what needs to be fixed and how do we move forward?
- How can the President and his Cabinet grow Tribal economies, create jobs, increase skills at the community level, provide training and improve education?

**In closing**, we appreciate the opportunity to provide these comments and hope that you and the Department will continue to consult and include Tribes as you move forward with updating the DOI Strategic Plan. If you have any questions, please do not hesitate to call me at (360) 681-4621 or email me at [rallen@jamestowntribe.org](mailto:rallen@jamestowntribe.org).

Sincerely,

A handwritten signature in blue ink that reads "W. Ron Allen". The signature is written in a cursive style with a large, stylized "W" and "A".

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

cc: Sharee Freeman, Director, Office of Self-Governance, DOI  
SGAC Members and Technical Workgroup