

DOI SELF-GOVERNANCE ADVISORY COMMITTEE

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DOI Self-Governance Advisory Committee and Technical Workgroup Quarterly Meeting

Wednesday, July 22, 2015 (1:30 pm to 6:00 pm)
Thursday, July 23, 2015 (8:30 am to 1:30 pm)

Embassy Suites Washington DC - DC Convention Center
900-10th Street NW
Washington, DC 20001
Phone: (202) 739-2001

MEETING SUMMARY

Wednesday, July 22, 2015 (1:30 pm to 6:00 pm)

Meeting of the SGAC and Technical Workgroup Members

Invocation provided by Governor Loretto

Roll Call:

Eastern: Tobias Vanderhoop, Chairman, Wampanoag Tribe of Gay Head (Aquinnah)
Stephanie White, Treasurer, Wampanoag Tribe of Gay Head (Aquinnah)

Eastern Oklahoma: Vickey Hanvey, Proxy for Bill John Baker, Principal Chief, Cherokee Nation

Midwest: Mickey Percy, Proxy for Gary Batton, Chief, Choctaw Nation

Northwest: Annette Johnson, Treasurer, Red Lake Band of Chippewa
W. Ron Allen, Chairman/CEO, Jamestown S'Klallam Tribe, SGAC Chair
Tyson Johnston, Vice President, Quinault Indian Nation
Julie Finkbonner, Councilwoman, Lummi Indian Nation
Aliza Brown, 3rd Councilwoman, Quinault Indian Nation

Pacific: Danny Jordan, Proxy for Ryan Jackson, Chairman, Hoopa Valley Tribe
Scott Sullivan, Council Secretary, Tolowa Dee-ni' Nation

Rocky Mountain: Richard Sangrey, Vice Chair, Chippewa Cree Tribe
Beau Mitchell, Chippewa Cree Tribe

Southern Plains: Rhonda Butcher, Proxy for John Barret, Jr., Chairman, Citizen Potawatomi Nation
George Thurman, Chief, Sac and Fox Nation

Southwest: Luis Romero, Governor, Taos Pueblo
Chris Gomez, Lt. Governor, Ysleta Del Sur
Raymond Loretto, DVM, Governor, Jemez Pueblo

Western: Louis Manuel, Chairman, Ak-Chin Indian Community, Proxy for Delia Carlyle, Councilmember, Ak-Chin Indian Community

Introduction of all meeting attendees

Opening Remarks

W. Ron Allen, Tribal Chairman/CEO, Jamestown S'Klallam Tribe and Chairman, Self-Governance Advisory Committee (SGAC) provided opening comments and reviewed the agenda before beginning the SGAC committee business.

SGAC Committee Business

MOTION

Taos Pueblo made a motion to approve the SGAC March 2015 meeting summary.
Choctaw Nation seconded the motion.
Motion was approved without objections.

MOTION

Wampanoag Tribe of Gay Head made a motion to approve nominations for the Billings, Pacific and Southwest Regions.
Choctaw Nation seconded the motion.
All nominations were approved without objection.

Regional nominations are as follows:

Billings:	Richard Sangrey, Vice Chair, Chippewa Cree Tribe (Primary) Beau Mitchell, Council Member, Chippewa Cree Tribe (Alternate)
Pacific:	Scott Sullivan, Council Secretary, Tolowa Dee-ni' Nation (Alternate)
Southwest:	Chris Gomez, Lt. Governor, Ysleta del Sur (Alternate)

Office of Self-Governance Update

Sharee Freeman, Director, Office of Self-Governance, DOI

- Director Freeman introduced Sydney Wahkinney the Self-Governance Intern. Her last day is Thursday, July 23, 2015, but she has done great work and has been an asset to the Office. Director Freeman encouraged Tribal leaders to continue sending their students to participate in the various Washington DC internship programs.
- The BIA has appointed a new eastern regional director, Eddie Streater. Director Freeman shared his contact information with the committee eddie.streater@bia.gov.
- Director Freeman also shared the contact information for those at the Department and Bureau who are the primary points for revising the Strategic Plan.
- Funding Distribution
 - Distributions Not Obligated
 - Real Estate Appraisals
 - Final Tribal Transportation Program
 - Final Tribal Transportation Planning
 - Tiwahe Distributions
 - 21.5% distributed using Greenbook
 - Tiwahe Initiative Meeting
 - Red Lack
 - AVCP
 - Spirit Lake
 - Ute Mountain
- BIA-Fish and Wildlife Service hosted a meeting in Polson, MT
 - OSG and all BIA Regions were in attendance, except Navajo Region.
 - Outcomes of the meeting included:
 - Notification to SG Tribes up front of any reporting requirements related to awards
 - OSG requested that a copy of the Award letter be provided to the office when an SG Tribe is identified to receive an Award.
- 2016 Negotiation Guidance is available on the SGDB and SGCE websites.
- Percent of Tribes submitting Annual Data Reports
 - 2010: 16.3%
 - 2011: 18.8%
 - 2012: 24.3%
 - 2013: 15.1%
- OSG and SGCE will co-host a Self-Governance 101 Training Session, August 18, 2015, in Uncasville, CT.
- OSG also attended the recent BIA Superintendent Boot Camp in June 2015. OSG provided background information to 60 superintendents at the training.
- FBMS Update

- OSG reported that FBMS has moved to the Cloud.
- FBMS Closes for FY 2015 on September 26, 2015. It is estimated that FBMS will reopen for FY2016 on October 13, 2015. Payments will most likely appear in ASAP 10 days later.
- BIA has several training and consultation opportunities coming up. These opportunities are posted on the SGCE website and SGDB. OSG also provided a listing to Committee members.
- Tribal Discussion
 - Tribes received 91% of Welfare Assistance Grants, is the final number unless you request additional dollars?
 - Yes, there is a reduction because of budget constraints and national need.
 - Tribes who want additional dollars will have to request.

Office of Justice Services

Kevin Martin, Office of Justice Services, Bureau of Indian Affairs

- Report Data has changed and some small Tribes feel it is not an accurate reflection of what their officers are doing day-to-day. How will this data impact funding for Tribes?
 - The Tribal Law and Order Act (TLOA) requires Indian Affairs to collect crime data from Tribes and report to the FBI.
 - Crimes have to be reported in a specific way and FBI requires that the data be reported accurately for later analysis.
 - Tribal Discussion:
 - Data timeline is difficult, five days is not enough for most Tribes. What is driving the timeline?
 - Mr. Martin will go back and request additional information about the 5 day and 10 day deadlines to submit data from regions and central office.
 - His assumption is that the timeline is driven by the FBI.
 - Is there additional funding to support the data requests?
 - No, OJS has not received an increase in several years and none were substantial enough to support new technology.
 - SG Tribes asked for additional information about how the data will be used in the future. In their experience, data submissions have changed the allocation of funding to Tribes previously.
 - Is there a plan to host additional webinars to assist Tribes?
 - Mr. Martin wasn't sure about additional opportunities for training, but will share that SG Tribes are interested in additional training/assistance to support data submissions.
 - SG Tribes are worried that the large data requests went to the wrong person and may have provided inaccurate or incomplete data.
 - The needs assessment is related to TLOA data requirements for their annual report.
 - They would like to use the data to estimate unmet need and current PL 280 state needs.
 - The report (130 questions) is available on www.bia.gov.
 - OJS only received 50 responses from Tribes.
 - Additional data requests will go out next year. OJS is working to edit the language of the data request to make sure they are identifying unmet need correctly.
 - SGAC members suggested that OJS consider engaging Tribal Advisory Committee or work group to go through some of these issues and discuss data requests, etc.
- Does OJS often have carry over?
 - It is mostly a timing issue related providing services at new or unused facilities or forgone services for Direct Service OJS Tribes.
 - Any savings identified in HQ or Regions are swept.

- SGAC requests that needs assessment from Tribes are used for carry over distribution
- Has the distribution methodology gone through Consultation?
 - The Greenbook narrative describes the Tribal funding distribution.
 - It's been in place for a long time, but has not had public consultation. OJS does not plan to look at it, but SGAC requested that the agency might consider this a topic for the advisory committee or workgroup.
 - Provide a webinar on funding methodology and how funds are distributed to Tribes (future webinar/meeting)
- TLOA authorized Tribes in PL280 States to request the Federal government to reassume law enforcement responsibilities – how many Tribes have been granted re-assumption & does the Federal government have a responsibility to provide funding for these Tribes? When will the report of funding needs for PL 280 States be available?
 - OJS still needs to determine how we are going to address the jurisdictional issue, but there are limited funds to close the gaps in those states.
 - There are a lot of questions that need to be worked out before OJS move forward, for instance; would federal police officer in a federal reassumed jurisdiction be able to enforce state law?
- Status of Funding for Juvenile Detention Facilities (some Tribes have built facilities but there is no funding to operate them)
 - Mr. Martin wasn't familiar with the specifics from the Tribes present, but agreed to follow up individually and see what OJS could do to assist.

Budget Update

Thomas Thompson, Deputy Assistant Secretary - Indian Affairs (Management)

- DOI continues to work with the Senate and the House to support the President's request that Contract Support Costs be moved to Mandatory funding. As it stands today the Department prefers the Senate version to the House language for optics and implementation purposes.
- Unlike the Senate version, the House version makes CSC X-year funding and the "prior to" language is unclear in the House version. The path of appropriations is clearer in the Senate version than the House and leaves less for the Administration to work out after passage.
- Unfortunately, there will not be much more discussion on the House side after this week since they are going out of session. The conversation is sure to continue after August recess as discussions for FY 2016 appropriations pick up.
- Mr. Thompson recommended that Tribal leaders continue to analyze the proposed language and ask questions of their Representatives, especially around the proposed House language and the availability of additional appropriations after the appropriated amount has been expended.

Dave Conner, Director, Natural Resources, Red Lake Band of Chippewa Indians

- The Department really needs to clarify the action it is taking to absorb sequestration caps and rescissions. An alert should be sent to Tribes regarding final FY 2015 budget.
- Was there a .55% recession across the board

SGAC recommendations:

- SGCE should send an alert to SG Tribes about what the strengths of each CSC bill, what we want and what the primary asks are prior to appropriations discussions in September.
- SGAC also recommends that OMB and IBC attend a CSC workgroup meeting in-person to discuss how their policy influence the Department's CSC policy and timelines

Legislative Update

Geoff Strommer, Partner, Hobbs, Straus, Dean & Walker, LLP

Phil Baker-Shenk, Partner, Holland & Knight LLP

- Title IV
 - The Title IV amendments have passed out of the Senate, however the House side may take longer. Though the amendments have now been assigned to a committee yet, an

- oppositional group has already raised red flags and sent leaders to several members of the Natural Resources committee that could slow or change the vote.
- After reviewing the letter the oppositional group sent, advocates found several inaccuracies and are prepared to address each issue the raised point-by-point.
- They don't believe the letter will be anything but a distraction to the legislative process and currently seeking a champion for the bill to move things along.
- Mandatory Funding CSC
 - Much of this topic was covered earlier. It is clear that Tribes will have to be active in September and October as the appropriations discussions heat up in Congress.
- Tribal Labor Sovereignty (HR 511 & S 248)
 - This bill is likely to see movement quickly and has overwhelming Tribal and Congressional support.
- Update on Tribal Transportation/Map 21 (2 month extension) and Expansion of SG in DOT
 - The Senate DRIVE Act does not include the Department of Transportation Self-Governance Expansion despite requests from Tribes that it be included and support from TTUA.
 - It appears the House will not pick up the comprehensive, lengthy Transportation, but will enact a short reauthorization while they work out details between the House and the Senate bills. Tribes are encouraged to reach out to their House Representatives during the August recess to build support for the expansion of Self-Governance.

Discussion of Issues in Preparation for Meeting with AS-IA

- Generally the talking points need to advise the AS-IA of recommended changes to improve the problem. He specifically asked last time that we bring solutions paired with issues that we have noticed.
- Office Justice Services
 - Reiterate the recommendation to establish an advisory committee
 - Also consider allowing recommendations/tribal consultation on the funding methodology
- CSC
 - SGACE would like the Department to support the recommendation to increase Direct CSC from 15-18%
 - Also would like the Department to make sure that OMB and IBC are able to attend at least one in-person meeting with the Tribal-Federal Workgroup.
- Appropriations for the Department
 - SGAC would like to support the Administration's request. What can Tribes do to continue to support the request?
- DOI Strategic Plan
 - Tribes would like to review provide input on the entire Departmental Strategic Plan.
 - Each Agency should consider the effect their actions have in Indian Country and the Strategic Plan may help keep them mindful of those decisions.

Adjourn for the Day

Thursday, July 23, 2015 (8:30 am to 1:30 pm)

Meeting of the SGAC and Technical Workgroup with Kevin Washburn, Assistant Secretary – Indian Affairs, Department of the Interior (AS-IA – DOI)

(only Members of the SGAC and Proxies to be seated at the table)

Opening Remarks

W. Ron Allen, Tribal Chairman/CEO, Jamestown S'Klallam Tribe and Chairman, Self-Governance Advisory Committee (SGAC)

- We continue to engage in Congressional battles with respect to Title IV, Appropriations, and Mandatory funding for CSC. We hope that the Department continues to support our causes as we move forward.

- We are aware of the hearings regarding federal recognition and land into trust process and support your continued action.
- Land-into-trust seems to be moving along quickly and appreciate the hard work.
- Advancing Self-Governance remains a priority for SG Tribes. Especially in DOT and EPA, neither of these can be successful without the support and assistance from DOI.
- We appreciate the support from the Administration to support the next generation, but want to emphasize that governance is just as important. Often they are also closely related. Youth cannot be successful without clean, safe communities with growing economies.

Kevin Washburn, Assistant Secretary – Indian Affairs, Department of the Interior

- Thank you for traveling here.
- Things over in the House are very troubling. Especially the significant challenges to Executive responsibility to recognize Tribes and then Land into Trust. The Department has taken over 303,000 acres into trust since the beginning of the Administration and is working hard to meet their 500,000 acre goal. With changes to the regulations the Department should be able to start taking land into trust for Alaska.
- Cobell Settlement – Land Buy Back
 - The Department continues to use the Land Buy Back program to restore land to Tribes. To date, more than a million acres have been restored to Tribes.
- Mandatory Funding for CSC
 - It seems Congress is not quite ready to move forward. The Department continues to provide assistance when requested by members.
- Internally at DOI
 - Right-of-Way regulations
 - The new regulations allow for more deference to Tribes. However, States, Counties, and pipeline companies are rejecting the deference and continue to challenge the regulation.
 - Indian Child Welfare Act Guidelines
 - The adoption agencies are really fighting back, organizing a legal and media campaign against the Department. There were hundreds of comments on the guidelines and regulations. BIA is still working to consolidate the comments and move forward.
 - Indian Education transformation
 - The campaign to improve the BIE is moving forward especially under the President's Gen-I initiative. Monty Russell works daily to get the support of BIE employees and Tribes in the proposed changes. It is a challenge because the employees want to protect themselves and their jobs and Tribes sometimes misunderstand actions headquarters is taking to improve the system as a whole.
 - Federal Recognition Regulations
 - The new regulations aim to shorten the review process and make decisions more quickly when possible. The old regulations require genealogist to study and peer review and this process is lengthy.
 - In the fifty years since the initial regulations the Department has received 52 applications, 18 successful, and others were declined or removed their applications.
 - The DOI initially considered exclude a few of the seven criteria to speed up the review process, but received feedback from Tribes saying the process needed to remain somewhat rigorous.
 - Instead of excluding any, they made changes that were more Tribal friendly.
 - Criteria A – change so that Tribes can use internal documents as well as external publications.
 - Change to proven date to 1900.

- If you fail to meet one of the seven criteria the Office of Federal Recognition can just fail you, they do not have to evaluate the other criteria slowing down those applications waiting behind you.
- The Department also issued two decisions under the old regulation recently
 - Duwamish Tribe was not approved, because the organization was founded in 1925 and however, in the Department's opinion, the community was one made up of members from various other Tribes in the region.
 - Pamunkey Tribe of Virginia was approved under the old regulation review.
- Recently the House attached a rider on the Appropriations bill that will prevent the implementation of the new regulations. However, it's unlikely they will be able to move the appropriations bill forward out of the house and the rider will have no effect.
- Taxation
 - DOI published a finding of state tax pre-emption under the HEARTH Approved Leases. (23 Tribal ordinances have been approved).
 - DOI will continue to advocate that Tribal economies are developed as the answer to the social issues in Tribal communities.
 - We need to look at leasing ordinances completed before the HEARTH act can meet standards and be included in the tax pre-exemption.

Office of Justice Services

- Reporting Requirements are excessive
 - SGAC proposes that DOI find a solution to extend the reporting deadline or streamline the process.
 - AS-IA Response:
 - I agree. We spend a significant amount of time reporting and storing data.
 - The facts we learn from the data are good for us.
 - What DOI really should do is make data collection easier.
 - Uniform crime reports doesn't ask the question, did this happen on an Indian Reservation.
 - TLOA Data Call
 - The data call asked Marshals to find data from police, courts, etc.
 - SGAC learned that DOI only received few responses, because it was greater than one division and should have been sent to a central, governance contact.
 - These reports should have impact on funding and should be used in conjunction to determine the funding if Tribes are going to take time .
- Request that OJS host an advisory committee
 - To assist in formula and funding distribution.
 - Working to provide transparency and better communication.
- Facilities construction coordination
- PL 280 Jurisdiction
 - What can we do to improve and assist tribes trapped in PL 280 states without certain jurisdiction?
 - Unfortunately this does come down to funding because the state is not working cooperatively.
 - We don't put the funding problem up from, put the solution on the table first, because we really need a solution.
- SURVIVE Act
 - Allows for a tribal set aside and suggests that the money be transferred to OJS.
 - Passed out of committee yesterday and would total \$130 million for Tribes.
 - This would be a good time for the DOJ to do this as block grant, rather than three year competitively.

Contract Support Costs

- SG Tribes believe the Senate version is a little better for Tribes.
- We want to increase 15-18% and want IBC and OMB at the CSC workgroup
- The challenge really is that we are trying to simplify a very complex process.
- We will develop a justification for the increase to 18% on direct contract support costs.

DOI Strategic Plan

- We want to make sure that the goals are infused across the entire strategic plan.
- We want to make sure that we are able to secure the Trust Responsibility across the agencies.
- The strategic plan doesn't guide the day-to-day work of the Department as much as the Secretary's priorities do.

Adjourn Meeting

SGAC adjourned the meeting at 12:30 Eastern time.