

DOI SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication and Education
P.O. Box 1734, McAlester, OK 74501
Telephone (918) 302-0252 ~ Facsimile (918) 423-7639 ~ Website: www.tribalselfgov.org

DOI Self-Governance Advisory Committee and Technical Workgroup Quarterly Meeting

Wednesday, March 25, 2015 (2:00 pm to 6:00 pm)
Thursday, March 26, 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, March 25, 2015 (2:00 pm to 6:00 pm)
Meeting of the SGAC and Technical Workgroup Members

Invocation

Robert Keith, Chairman, Chairman of the Board, Kawerak, Inc. provided the opening invocation.

Roll Call

Alaska

Robert Keith, Chairman of the Board, Kawerak, Inc.
William Micklin, 1st Vice President, Central Council Tlingit and Haida Indian Tribes of Alaska

California

Ryan Jackson, Council Member, Hoopa Valley Tribe
Bradley Marshall, Council Member, Hoopa Valley Tribe

Eastern

Tobias Vanderhoop, Chairman, Wampanoag Tribe of Gay Head (Aquinnah)

Eastern Oklahoma

Vickie Hanvey, Government Resources Self-Governance Administrator, Cherokee Nation
Mickey Percy, Self-Governance Executive Director, Choctaw Nation of Oklahoma (Proxy for Chief Batton)

Southern Plains

Kasie Nichols, Self-Governance and Grants Analyst, Citizen Potawatomi Nation (Proxy for Chairman Barrett)

Southwest

Shawn Duran, Tribal Programs Administrator, Taos Pueblo and Vice Chair, Self-Governance Advisory Committee (SGAC)

Western

Karen Fierro, Self-Governance, Contracts & Grants Director, Ak-Chin Indian Community (Proxy for Vice-Chairman Carlyle)

Introductions – (All Participants and Invited Guests)

Opening Remarks

Shawn Duran, Tribal Programs Administrator, Taos Pueblo and Vice Chair, Self-Governance Advisory Committee (SGAC)

Secretarial Order on Rangeland Fire Prevention Listening Session was on February 4th and consultation was on February 19th. On Tuesday, April 17th there will be a teleconference call. The information will be on the Tribal Self-Governance website.

SGAC Committee Business

MOTION:

Kawerak, Inc. made a motion to approve the meeting summary from the January 29, 2015 meeting.

Choctaw Nation seconded the main motion.

Motion was approved.

SGCE Director reviewed the Annual Consultation Conference Agenda and requested volunteers to moderate and record breakout sessions.

Office of Self-Governance Update

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

- Negotiation Guidance
 - We have been working on the negotiation guidance. Even though it is a hundred (100) plus pages long we really only have 32 pages. The additional documents are for new Tribes.
 - We added Climate Change contacts for FY2015 because some Tribes received money.
 - Map 21 expires May 31st so there is language in the addendum that covers the program.
- OSG Finance Training
 - OSG and SGCE collaborated to offer a Self-Governance and finance training for Self-Governance Tribes, federal employees, and others.
 - The training was well attended (80 plus people)
 - OSG will offer similar modules during the Annual meeting on Sunday.
- Funding distribution
 - Rights Protection/Bolt Decision \$1.9 million has been obligated.
 - The second round of additional Contract Support costs went out on March 13th and 16th
 - This distribution included funding from OIP
 - TANF 2nd quarter funding was distributed on February 17th
 - TTP \$9 million was distributed on March 10th
- Contract Support Costs funding
 - A teleconference call was held to discuss the “calculation tool” We [OSG] was using a paper that was prepared by Nic Longley but we were foreclosed from using it because it did not have an OMB number on it. We have been gathering input from people on what it should look like.
 - OSG distributed seventeen overpayment letters to Tribes
 - Of the \$92 million sent to Tribes, OSG estimates that Tribes received nearly \$388,000 more than needed. We have reduced the number to ten and hope to get it down to zero before the Report goes to Congress. [Hankie Ortiz, Terri Parks, Sabrina, Tommy Thompson, Sunshine Jordan, Chris Jock, Tommy’s Chief of Staff]
 - Every Friday the DOI/BIA internal Contract Support Cost policy workgroup meets to update the CSC policy
 - Tribes received 90% of CSC estimates for FY 2015
- Other funding
 - Welfare Assistance
 - April 13th is the initial deadline for financial and narrative information on Welfare Assistance [Ken Reinfeld is the lead]
 - May 1st last day to request additional funding [let Ken know if you run out of money]
 - Climate change adaptation funding will be available and the deadline is April 24th
 - Welfare Assistance Webinars – March 25th at 1:00pm & March 26th at 11:00am. The training is on Welfare Assistance and their funding methodology.
 - Please thank them for hosting those webinars
 - This was the first time we’ve seen some of the formula distribution information.
 - There are still issues but nonetheless the presentation was the first time we have seen the funding methodology. The stuff that we looked at was great.

- Sharee Freeman (OSG) will work closely with them and ask them to run the webinar again.
- It is very confusing at the end of the year before you know what your amount will be.
- Law Enforcement – free training is being offered
- Rangeland Fire – Secretarial Order DOI will sponsor meeting with BIA, BOR, Fish and Wildlife and the Bureau of Land Management at the training center.
- Tribes are concerned about the interim policy, what and when will the proposed changes be shared with the workgroup?
 - The workgroup will review the internal policy changes being developed soon.
 - We are waiting for Indian Services to give us more money; we only distributed 90%. Right now the Regions are reconciling and giving money back to Central Office.
 - Tribe - We would all be in better shape if the agencies read the law and complied with it instead of making discretionary decisions.
 - Tommy did an analysis of CSC and he did pay-as-you-go. The worst scenario is pay as you go because it doesn't respect the lump sum concept. It is just not going to work. 90% distribution – we run into problems with overpayments but the 85% distribution does not run into overpayments. It doesn't follow the law and policy either. Do we want to do what the law and policy says or change the policy? The agency does pay-as-you-go but it doesn't match up with the way Self-Governance does business. Every year we ask for more because we are 115 Agreements and larger than Alaska and California. We are always going to be reconciling.
 - Tribe – Everyone should not be held hostage for one or two Tribes. We use to get 75% up front and the remainder at the end of the year. You indicated that the internal group was working on the policy. Is it going to be brought to the CSC Workgroup to review?
 - The interim policy will be brought to the CSC Workgroup.

Budget Update

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

- FY2016 – there has been Hearings and Testimony at every Committee level. All of my colleagues will be testifying today and tomorrow.
- The President put forward a respectable budget and everyone wants to talk about it.
- The House markup is this week and we have received positive feedback.
- Projections – Spending Control Act is back in place. FY2014/FY2015, there was a two year moratorium. The House mark brings back the old trajectory and there will be a substantial reduction if it goes through.
- Funding levels from the House Budget would reduce Indian Affairs money by \$300 million, about a fourth of the IHS budget will be impacted
- There is still work to do on FY2016 Budget
- Policy Changes for FY2016 – White House Convened a meeting on what they could do for Indian country (wrap around services for other agencies) The Greenbook references all these initiatives. The common thread is “What can we do for the next generation?” We are excited and ready for the challenge to meet this obligation.
- Greenbook delay
 - The White House convened the cabinet to determine what they are doing for Indians
 - Tied to Tiwahe and Generation Indigenous together
 - Indian Affairs is the touchstone for many of those programs.
- There have been many conversations about converting CSC to a mandatory account. It is a heavy lift and balancing it against the House Appropriated Budget is difficult to achieve. It really comes back to Treaty obligations.
- DOI is providing as much data and back up information as possible
- They have made Tiwahe look more like wrap around services

Amber Ebarb, Policy Analyst, National Congress of American Indians

- The President's Budget is positive but it relies on the assumption that the caps will be raised. This week the Senate and House are dealing with their budget resolutions, neither of which raise the statutory caps.
- NCAI is encouraging Tribes to meet with members not on the Interior subcommittee, members from your district, and members of your forefathers' district. Raise the profile for Indian programs.
- TIBC has had a lot of discussions about new proposals for data and one stop shop Tribal support center. They are also requesting to include child abuse and neglect funds in the Tiwaha initiative. They passed a Resolution to tighten up the evaluation of the budget formulation process for FY2017. Evaluate the programs at the Regional level and examine how well the priorities from the Regions are making it into the Budget Request. Where can Indian country have some wins?
- Presentations made in the hearing are important, but additional follow up is needed to continue to support Indian Country's budget requests.
- Is there a reconciliation bill that has to pass both of the committees to raise the caps?
 - Under the current allocations being considered, Congress does not have a plan to raise the domestic discretionary non-defense funds. It is a difficult Subcommittee to enact the President's increases.
- Congressman Cole presentations made in the Hearing are very important. We need letters of support and follow-up. In FY2014/FY2015, they favored the BIA over the other agencies.
- Where does that leave us with sequestration? We don't think there will be another across the board reduction but expect that there will be lower caps in the beginning.
- Lower caps at the beginning will result in hard choices between Indian Country's numerous requests.
- OMB estimates that \$19 billion [now \$21 billion] in Congressional funding goes to Tribes.
- Ten year estimates of the CBO budgets show a lot of cuts at the end of the 10 years. Best case scenario is to continue to be in no-growth/small growth. There is concern that the Budget caps will be long lasting.

Tribal Discussion

- We are currently experience historic lows of federal spending as a percent of GDP.
- TANF spending was frozen in 1996 to control welfare (\$923 month 1996 – 2015) We are worried they will use the same method to control spending on the SNAP program. A lot of spending has been frozen at certain levels while needs continue to grow. We need to quantify what it would mean if we brought TANF up to current and/or index it over five (5 years) to bring it current. Do we have any mechanisms or is the Administration prepared to look at these programs?
- The House Budget Resolution proposes to Block Grant SNAP dollars and cut the overall amount. NCAI is addressing the proposal. As for TANF, we need to check with the TANF workgroup to pull the data. There is a Democratic Alternative Chris Van Hollen released and it probably doesn't include dramatic decreases for the needy.
- If Tribes knew that they would see the increase in dollars, they may help the administration in advocating for additional dollars
 - We need to balance maintaining Tribal budgets and grant projects to continue Tribes to participate in the Congressional advocacy needed.
 - If you look at the 12, 13, 14 budget, they were flat. There was nothing in any of those budgets that you could claim was a divisible piece of the pie.
- We've went back and reviewed each law to improve the process and have shown the deficiencies
- It may not be that there is a substantial increase for each and every Tribe; the core funding is there for Tribes.
- The budget formulation process is forward looking, not backward and Tribes are losing ground on Sequestration
- Service population data is skewed due to collection processes
- Relationship between consolidated program and cost centers for the funds (477 programs)
 - About 63% of the funding is pass-thru from HHS-Labor

- We need empirical evidence that operating consolidated programs is more efficient
- How can the BIA show consolidation and collaboration? Redesign for the BIA program?
- Additionally Tribes should consider how to build the President's legacy around Self-governance and other Tribes. Perhaps a report should be developed to detail this legacy.
- Data Initiatives – How will it work and what information will be part of it? \$9 million would go to the Census and the rest would beef up program evaluation and needs assessment of the BIA overall. We will focus on the youth first and then consult with Tribes on the measures. We want to work hand and hand with TDE and Self-Governance. Partner with academics with specialties in certain areas. Help us get our arms around data. We need help prioritizing areas to address first. We need to quantify the effect of sequester as well. Defense put forward a forceful story is the same message being offered up to the Budget Appropriators/Congressional Members from Interior? If not, shouldn't it be a theme? It seems effective and is in wide use by others. Behind the scenes we are providing data and doing everything we can do. One thing we do not do is engage in compassionate speeches in front of the Committee. We try to put data together from the standpoint of here is what the impacts are. It is not only what we send up; it is the messages from TIBC and the White Papers. If we get before the Committee with conflicting statements the answer will be no.
- Concern with the data initiative is that the money is going to an outside agency, Census. We have a data subcommittee under TIBC but very little resources go to that effort. Census occurs every ten years but we need stats in hand.
- TIWAHE – We tried to put a face behind the issue to make it more difficult to pull it apart. When we start to bundle services we get a better avenue to discuss the impacts.
- We have one more meeting the week after next.
- Tribes expressed concerns about TIWAHE, Generation Indigenous and other initiatives because at the Tribal level you may not see any of the money if it isn't distributed by way of a formula. While Tribal base budgets have been decreasing the BIA has been funding certain areas or grant programs. It is hard for Tribes to advocate for money if the money comes in and we never see it. However, when it comes to sequestration Tribes take the hit in funding. We need to balance this. Our concern is if the funding caps remain in place we will take another hit.
- BIA – If you look at FY2012, FY2013 and FY2014 you will see flat budgets. The only way to get increases is to look at initiatives. We know it goes against the trust obligation. We are trying to find a path forward. We are trying to bring 5-6 groupings together in a package that will be easier to convince Congress to fund it. It starts as a pilot project but we intend to expand it. We have also been trying to collaborate with the other agencies to put a foundation in our budget.
- Tribe – It was nice to get an increase in ICWA. Even though there is a big push to help the youth there is not a big increase to social services.
- BIA – FY2015 is the demonstration year and then we should be able to move beyond that in FY2016.
- Tribe – Small correction, in FY2012, FY2013 and FY2014 budgets \$75 million in resources were there but the Administration decided to fund the President's Budget Priorities. The Defense Hearings were impressive when it came to making the case to exempt Defense from Sequestration. We need Interior and BIA to do the same and tell Congress the impacts and damages of sequestration on Tribes.
- There are a lot of problems with flat budgets and we made a concerted effort to move BIA money. We can look at how we find a path forward to mitigate circumstances. Initiatives get other things funded. Once we can demonstrate the ability to successfully operate programs it brings other programs into it. We need a different method to market what we are doing. There are a lot of challenges to make it fair and equitable for 566 different Tribal entities. We have to keep everyone unified for Indian country and we hope the budget reflects this.
- Tribe – The Office of the Special Trustee is taking part of the BIA budget. Where is the redesign plan for the Bureau? We have consolidated programs and services. We know how to do it at the Tribal level.
- Tribe – Assistant Secretary says he strongly supports Self-Governance but some of the President's initiatives run counter to this. Policy changed in 1998 and we got more money. We are getting hit on the BIA side with policy resistance to Title IV. We should address it at the next

- conference – the President’s legacy with respect to the BIA/IHS losing money from sequester and inflation.
- BIA – Rather than fight for money we want to engage the other agencies to work with us on integration of services. We haven’t talked about the transfer of funds. We want a conduit of services and to break down the silos.
 - We worked diligently to make the budget formulation process transparent and published the rules in October. We will publish the rules about FY18 budget process soon.
 - We received input from all 12 TIBC Regions
 - TIBC subcommittee will review, make recommendations, and match it up with ASIA recommendations
 - In July OMB provides marching orders for the next Fiscal Year’s preparation.
 - We negotiate in February when the budget comes out. It makes it easier when we have Tribal input on where you want to go.
 - We will evaluate each region’s response and try to improve the process.
 - It makes the DOI’s job a lot easier if there is Tribal input through the TIBC budget development process.
 - Tribe - Why would Tribes request priorities when we don’t receive the money?
 - BIA – There is always conflict with competing interests.
 - Tribe - We need to figure out the formula on how the law enforcement distributes the money.
 - BIA – Tribal courts and detention centers did resonate with TIBC. In the FY2016 budget we moved Tribal courts into TIWAHE. At first glance it doesn’t look like a fit but if you look at the issues that are being brought before the court it is really family issues that are being addressed.
 - Tribe – There is a disparity between smaller and larger Tribes. Maybe you could give the money to OSG and then let OSG and Self-Governance Tribes come up with a process.
 - BIA – Challenge you to participate in the process.
 - Tribe – You ask Tribes to pick their top ten priorities out of 200 line items so there is a problem with the process. The more engagement we have the better it is because in FY2014/FY2015 Natural Resources didn’t rank high on the list of combined regional priorities but the ranking process is not the only consideration and Natural Resources still received an increase. The Bureau does pay attention to regional input. The numbers are not as important as what people are saying.
 - Tribe – Is there a possibility of rolling up into broader categories?
 - BIA – You will see some of it in FY2016 but we left the swim lanes there. We are laying the foundation by collapsing those in our write ups. We have been doing it this way since the 1800s and if we move line items then people go to the hill and say you can’t let the BIA do this.
 - Results included high level rankings for education and aide to Tribal governments.
 - DOI has asked for unmet obligations. DOI needs to be able to support the unfunded mandates that Tribes are required to conduct in their communities.

CSC Workgroup Update

Rhonda Butcher, Self-Governance Director, Citizen Potawatomi Nation

- The workgroup has not met for a number of months and needs to meet soon to move things forward.
- The workgroup should get to see a preliminary copy of proposed changes to policy that the internal DOI/BIA workgroup has been drafting.
- We know there was a concern with overpayments but OSG did a good job mitigating these payments. Self-Governance Tribes continue to support OSG’s efforts to mitigate overpayments.
- We sent OSG the template that the IHS is using. We have templates/tools we shared that may be helpful. We are willing to work with the tools to get an accurate prediction of CSC. We constantly meet with the IHS to discuss rates and then we reconcile it at the end of the year.
- We need to make sure funding is getting out as simply and efficiently as possible. Distributing 85% or 90% CSC funds is a compromise because we would prefer to receive 100% but we did compromise and are open to looking at the numbers. However, if you overpay a few Tribes by \$388,000 it should not hold back everyone’s funding.

- BIA – We want the process to be as simple as possible and for the money to out as fast as possible. There is no way that we should be holding Tribes to the same financial standards as states. Tribes do not have the necessary infrastructure to fill out indirect cost proposals. We have to do something different. We have to look at the policy. We need to be the facilitator because they do not understand all of the pass throughs and exclusions. Part of what we are doing is identifying deficiencies with the process and advocating for changes with OMB. We want to make it as simple as we can.
- The Workgroup recognizes the fact that you have recommendations but OMB comes down hard on us. One of the messages you need to include in your advocacy is that the process for securing a rate every year is ridiculous. OMB hasn't been too flexible in the indirect cost arena.
- The process with IBC is difficult, cumbersome, and completely out of our control
- DCSC increase from 15 to 18%
 - DOI is discussing this recommendation, but has not developed an opinion. At first blush, is it broke? If not, don't fix it. However, as we work through the models it is still on the table.
 - Tribe – 15% rate has been in place for a decade and doesn't cover all of the fringe benefits and insurance costs. The rising costs of health care premiums are killing Tribes but the Bureau is able to add new budget authorities to cover these costs on their end. Tribes are strapped with a fixed rate to cover all costs including healthcare costs.
 - BIA – You don't include insurance costs?
 - Tribe – No, the IBC disallows us from doing it.
 - Tribe – The only fringe that is in there is for personnel but not program people.
 - Tribe – We are not allowed to include vehicle or building insurance either.
- Mandatory Contract Support Costs
 - Tribes appreciate the mandatory CSC proposal. It is a heavy lift and there has been some concern expressed about the three (3) year period but we really appreciate the Administration and OMB's support. It may require a few tweaks but it is the only solution so that Tribes don't have to eat into program dollars.
 - FY17 explanation
 - If we take it out of the discretionary budget and Congress does not agree to it this year, then there will be deficit in discretionary funding for 2016. We are trying to protect our flank by taking a defensive posture to make sure it doesn't erode program dollars.
 - Additionally it allowed DOI time to consult with Congress because one of the questions we got back was why we didn't consult congress.
 - Three year explanation
 - They have to score every bill going out and it allows for easier PAYGO discussion with Congressional members. There are advantages to having 3 years because you have X year with two (2) year money. Other programs such as the Special Diabetes Program for Indians uses a three year cycle and the program has been funded for fifteen (15) years. Will it be a lift in three (3) years? Sure but if it is there they will do it.
 - The Department does support x year
 - DOI did not provide a direct offset for the entire amount, but the President's budget does balance.
 - DOI has been telling the Committees if they leave the money in the discretionary budget we have to take it out of program money. Congress created this so we need a fix going forward. Revenue neutral on the BIA side is a little more of a stretch for the IHS side because they have a wider reconciliation issue than us. We do FY2014 forward and the IHS is still working through reconciliations. We think good projections for the three (3) years are the shortfall reports.
 - Tribe – Tribes diligently behind this and we are trying to get one voice. Let the CSC workgroup help you.
 - DOI does solicit Tribal input on budget formulation.

Discussion of Issues in Preparation for Meeting with AS-IA

- Present the issues related to the recent Cole Memo and request DOI assistance in preparing for the affects this may have in Tribal communities and pressure Tribal governments will likely experience as a result.
- Tribal leaders have raised concern recently that BIA employees feel they must only serve Direct Service Tribes
- Overview of Budget discussions and issues raised – sequester significantly impacted Tribes; Although BIA initiatives are well intended they do not come with dollars and the prospect of additional dollars for base programs is getting weaker; Tribes want to move away from initiatives and grants because they are an additional administrative burden and starve Tribes of their funds and capacity. Tribes propose to give them the authority, jurisdiction and funds and they will see a better outcome.
- Request that BIA continue to present Tribal priorities included the effects of sequestration in Congressional testimony
 - Emphasize that Tribes support the administration’s proposals
- Request that the CSC workgroup meet again; get money out and don’t hold up Tribal payments until OSG recoups a small percentage of overpayments; raise the issue of having to jump through hoops for rates; let CSC workgroup help DOI workgroup. Emphasize unanimous support for mandatory appropriations for CSC and if Congress proposes something better that we should support it.
- Share updates from the meeting with the OIG during the IHS TSGAC Meeting and Senator McCain’s proposed amendments to Title IV. Request the Administrations continued support the Title IV amendments.
- Request support for the broadband initiative the administration put forward, but it effects governmental foundation, education, safety, and ability to apply for additional resources. DOI should recommend that additional resources be provided to support the initiative.
- Tribes are still experiencing issues with the drawdown process when there are no distinctions of what the money is to be used for after it is in the system.
- Self-Governance Tribes continue to recommend that DOI consolidate OST if there are not enough resources to support their work.
- We need to bring up the \$19 billion and should expect if BIA takes a cut we should have access to other agencies.

The meeting was adjourned for the day.

Thursday, March 26, 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

*Kevin Washburn, Assistant Secretary – Indian Affairs, Department of the Interior
Shawn Duran, Tribal Programs Administrator, Taos Pueblo and Co-Chair, Self-Governance Advisory Committee (SGAC)*

Discussion of Issues with Assistant Secretary – Indian Affairs

What are the ramifications of the Cole Memo and what is DOI doing to help Tribes?

- Hoopa Valley Tribe is voting next month to overturn the cultivation/zero-tolerance policy. There is a great concern about potential threats and ramifications to the community.
- There is concern that Tribal members will not abide by Tribal Council’s decision to prohibit the cultivation and sale of marijuana on Tribal lands.
- Tribes believe their federal funding from numerous agencies would be put at risk if there is cultivation and/or sale of marijuana
- Discussion

Many Tribes have raised similar concerns. BIA did not have a lot of input into it although the AS-IA agrees with the “gist” of the memo that wherever states have the authority to regulate Tribes should have the same authority. Even with respect to the state/federal scenario the sovereigns are clashing a bit. BIA has been struggling with it too.

- There are Tribes on both sides of this controversial issue.
- It is going to be hard to provide clear guidance from the Department because of the controversial nature of the topic.
- Not many of these items directly affect DOI
- DOI needs/should provide the direction about how to spend money and balance demands of the FA/Compact under the new guidance from the Cole Memo.
- Hoopa Valley is in the middle of upgrading their irrigation system and is concerned that individuals will try and tap into it.
- Tribes receive limited funds for enforcement in California and the local county is not interested in enforcing it.
- USDA warned Hoopa if any of the funds awarded to the Tribe are associated with marijuana grow it will cut off funds.
- What about HUD homes that require drug free homes?
- Fee to Trust is another concern.
- This is basically early gaming problems on steroids, but the jurisdiction between states and Tribes are getting really complicated.
- State of California regulates the number of plants but they do not have jurisdiction on Hoopa land. The situation leads to a bunch of Indians being prosecuted by the Federal government.
- There are a lot of repercussions for individual Indians under current sentencing laws
- Media has caused a lot of confusion by misrepresenting the facts. The largest threats are for those rural areas, impoverished and inexperienced Tribes due to the possibility of “economic gains”
- In California the issue is that is a fair amount of prosecutorial discretion.
- This is a cross-agency issue and Tribes need DOJ and other agencies to work together to resolve the conflicts within the memo and Tribal action.
- There are a lot of potential implications for Tribes going down this path including mandatory criminal penalties and jail time.
- The potential loss in funding is significant and there hasn't been any clear guidance so Tribes are looking for a timeline for decisions.
- People are approaching Tribes about using their land base and offering millions of dollars. Some are even looking at Tribal land strips as an option to transport marijuana.
- Discussion:
 - To some degree part of Self-Governance is making hard choices. It seems this decision is about Self-Governance and sometimes part of being a Tribal leader is making difficult decisions. However, the Department can assist folks in thinking through the things.
 - A lot of agencies have spoken clearly; it is illegal. I'm not sure you will get clarity on this issue unless Congress decides it for us.
 - Your discussion is on point other than the fact that the resources management is a shared responsibility.
 - There is not a single federal law that allows marijuana cultivation and we have states that are unwilling to prosecute. All DOJ really said was that Tribes have the same rights that the states have. It is definitely something that needs further discussion.
- Contract Support Costs
 - We want to add CSC for Tribal enrollment in the indirect cost pool
 - The decision, however, lies with IBC.
 - Workgroup would like to meet with IBC to discuss this and other issues.
 - Tribes are expected to do all the financial work that states and universities have to do.
 - Tribes have been hearing that an internal CSC workgroup has been drafting policy changes and Tribes want to work through it together. The workgroup can help because it has developed templates that we are using.

- DCSC is a priority for the workgroup
 - Discussion
 - We can increase the flat rate and makes it more simple
- Tribes are very supportive of the mandatory CSC funding. There are some concerns about the 2% and three (3) year period and Tribes would like it to occur sooner in 2016 than later in 2017.
 - AS-IA knows how important CSC is and is behind a mandatory approach
- There has been a major effort (on the IHS side) by the Tribes to simplify the CSC process
 - Reconciliation within 60-90 days
 - There is contract language to do this.
- The workgroup should meet on a quarterly basis but no one has been responding to our request to meet.
- BIA is allowed to include additional costs for fringe but Tribes are not allowed to do this and the 15% rate has been in place for Tribes since 2006. Tribes have to settle for the flat 15% rate where the federal employees have built in new authorities to cover these costs. We would like to see new authority for Tribes in the FY2016 Budget.
- CSC Workgroup Issues for Discussion
 - National Policy memo is outdated and needs to be revised because now that there is full funding it has to be changed.
 - It should be a joint effort
 - Compact language (what goes into the funding agreement) needs to be updated
 - 15-18% DCSC issue
 - Reconciliation process within 60-90 days.
- We have regular folks doing the work not accountants and auditors.
- The question is really about simplification. We have to base all of our conversation around simplification terms. OMB wants to be able to close the books. We are two years out and we still don't know what we owe people.
- Direct dollars are not getting to us in the current year.
- Budget
 - AS-IA – on the Republican side there is a push for an increase in the Defense side of the budget but the President said if Defense receives an increase than non-defense receives a dollar for dollar increase as well. The Budget has been tight. Mark Trahan looked at this carefully and noted there are not a lot of huge increases in the budget and it is hard to find revenue when there have been no increases in taxes. Mandatory CSC would be helpful.
 - There are assumptions that are unlikely to be realized on the revenue side
 - It's unlikely to be remedied on anytime soon
 - 50% write off for Capital Corporations is not going to expire
 - There will not be a whole lot of new dollars for spending in the future
 - The emphasis that we have is that we need to prioritize tribal jurisdiction and tribal authority. To develop, oversee, and change programs to accurately reflect the needs of local citizens
 - We understand the administration's desire to develop new initiatives.
 - There's little funding targeted to these new initiatives
 - We always step up to support the initiatives and offer to provide education, etc.
 - It's important that we continue to support Tribal sovereignty and governance to overcome the budget cuts or spending restraints that are likely to happen in the future.
 - It would be helpful if you allow us to exercise jurisdiction to manage our trust resources and funds. There is a lot of mistrust that we are taking more money than we need and we are accumulating more funding than we can spend but this is not true.
 - We need to defend our programs and the appropriations that we current have from further reductions and the best way to do that is to support it with data.
 - That data supports self-governance, self-determination and the tenets of each.
 - We find that we are running our programs based on our indirect cost rate and we have so much need. Mandatory CSC, Title IV, and Data are all important to us.

- AS-IA we are trying to get more money for Indians in the budgets of other agencies.
- We are a little disturbed with the initiatives and the agency collaborating with other agencies. Self-Governance deals with agencies.
- AS-IA I think maybe we were not clear. We are not pushing for more – the view is if another agency can get more money for us than we should let them do it. What we are trying to do is to get more money for Tribes in other budgets (i.e. housing for teachers in the HUD budget). Early Childhood education worked on changing the rules so that Tribes can apply for this money. We know you are concerned about the initiative money and grants but with grants you can apply and have an equal shot at securing grant funding. When we get money for initiatives (i.e. law enforcement, we decided to do a pilot program)
- At the last SGAC meeting, OST reported they have no funding to do anymore evaluations. We need to look at consolidating Indian programs.
- When we do get an increase do you add 1% across-the-board or do you target important programs?
- How do we translate data into federal language? We need to have easily available accurate data.
- AS-IA I know we can trust Tribes but the appropriators want us to show them why they should allocate funds this way. We (BIA) need to be better at reporting it.
- We need to emphasize the need for general resources.
- Is Interior putting forth the message about the impacts on sequestration on Tribes?
- Tribes have testified about the damages from sequestration and the fact that they have never recovered. As new Congressmen get elected they need to know what it is.
- The Secretary has said this is really a dumb way to make cuts by going across the board and is 100% for exemption of Tribes.
- Except, they made some exemptions, for example, veterans are exempt.
- AS-IA You are making the right arguments. They can either apply cuts evenly or target them. When you have a 5% across the board cut and you get money in do you put 1% across the board or do you target a program?
- It is not a bad idea to put it back in because we had to reduce staff and programs. You got some of the money back and Congress that we got it all back. You have to balance it. The small increases add up over the years. Balance it by giving us a few increases in addition to grants.
- DOD is providing the impacts of sequestration and it is just like us. We let a lot of people go and we have 84% Native hire. We let people go who have been there for 20 years. If you lose a job in Southeast Alaska it is not like losing a job in other major cities. A return of any funding decreases has to go back into Tribal base budgets. We need help communicating this to Appropriators.
- AS-IA when we get yelled at about a kid dying at Spirit Lake we tell them we are addressing it by putting more money into social services. Law Enforcement and Social Services everyone can relate to but probate is a hard sell so we need a better sales pitch. We are the only agency that really funds Tribal government so we need your help selling it.
- It sounds like you are downsizing programs and building it back up on both sides.
- Title IV
 - OIG was here and staff from the hill. McCain's Office proposed three amendments and Tribes are supportive of the amendments. We provided alternative language. We are still at an impasse regarding the technical amendments and it is the only issue that is outstanding. This may get the bill passed.
 - AS-IA we think that you have to get it across the finish line this Congress. The Administration still supports it but if a new Administration comes in you may not be able to accomplish it.
- Departments within BIA and their support for Self-Governance
 - AS-IA Why should OSG be outside of BIA? Shouldn't the BIA be a huge office of Self-Governance? Gather that Tribes that have 638 contracts still receive technical

assistance from the Regions but Self-Governance Tribes do not receive the same technical assistance?

- It varies from Region to Region.
- AS-IA to me, Self-Governance and 638 are pretty similar. In some Regions we don't have the expertise because the function has been contracted or compacted.
- It is not just a Regional problem. The problem exists at Central Office too. Self-Governance Tribes are excluded. When money for Trust / Natural Resources was increased by 25% the money only went to 638 and Direct Service Tribes. Self-Governance Tribes were left out because they said we don't deal with Self-Governance. There is still a perception out there where they don't understand that we are being excluded from consideration because someone doesn't get it.
- AS-IA we have to get on a better path right now. I have learned that there are a bunch of remedial problems that we have to address. It is a little structural.
- It is the separation of program issues. Once you separate a program into Self-Governance, they say you are on your own. Once we pull out we are not interacting with them anymore. We are working on it.
- If it varies Region to Region the issue is who is running the program.
- We attended the Regional Budget Formulation Process and ambiguous comments were made such as, "I don't really know what Self-Governance does"
- Discussion of OSG work with the Region
- AS-IA Indian Health Service has Self-Governance people in their regional offices should we have OSG spread across the Regions or in DC?
- We entered into an Agreement with the Pacific Office and they distribute our Self-Governance money. We don't need OSG there because the Regional Directors have the same authority. We should be able to decide whether funds should be distributed at the regional level.
- Someone in the regional office and headquarters office need to be educated enough to discuss the functions of the Self-Governance Tribes. I don't see moving OSG all over the country but get the regions in touch with the Self-Governance Office.
- We have asked that all money funnel through the Pacific Region. 98% of the money that goes through OSG comes out rapidly but we were in the 2% where it didn't.
- Self-Governance 2.0 concept is something we should think about. We need to take another step forward.
- AS-IA what are the specific tangible things I could do to improve this? Let us know. If it is more than education let us know.
- It sounds like the vision is that the Bureau is prioritizing Self-Governance but some Regions support Self-Governance differently. It seems that the needs of other Tribes rise to the top and Self-Governance is at the bottom.
- Regions take on the personalities of those Tribes involved. Other Tribes and staff think that we take more than we deserve.
- AS-IA operational flows have a lot to do with it.
- BIA (Ann Marie) There are three challenges
 - Vision/goal of commitment to Self-Governance
 - The structure within the BIA
 - Process of how things flow
 - Everything is people dependent and we can address the people but what other steps can we take to address it?
- All of us are individual Tribes with different approaches. The bigger issue is the relationship we have. We have a Treaty with the United States not with the BIA. The US has redesigned obligations in ways that are convenient to the Federal agencies.
- We 638 contract different programs on our own. Getting a 638 contract from the BIA was like pulling teeth. Recently, the BIA told us to hurry up and get a grant in because they are trying to move money. Self-Governance has had a positive impact on 638.
- We had the same problem in IHS with Title V. We need to bring in additional administrative improvements that are in Title IV. IHS Agency Lead Negotiators are more engaged at the regional level. We don't have that with Title IV.

- If we take the vision to the natural logical conclusion, what are we looking at? We need to promote Self-Governance across the Bureau. Inconsistency is a problem but is it just inconsistency or is there something else underneath? We want a comprehensive approach to this.
- Core of the matter is we want to institutionalize a culture that supports Self-Governance. We had to file a prompt payment act claim because the pattern of activity was not equal. We ultimately had to file a lawsuit to get the attention of the Department. There is unequal treatment and support for Self-Governance Tribes. Officials don't view it as their mission to support Self-Governance unless there are folks within the Region that support it. One or more persons within the Region should be designated with that obligation. Funds have been left there for the Federal government to do those things.
- At the Regional Budget Meeting our Regional Director told us to put in applications. We do it every year but to date we have never received year end funds.
- ASIA requests suggestions from Self-Governance Tribes about how to improve working relationships between BIA and Tribes.

Legislative Update

Caroline Mayhew, Associate, Hobbs, Straus, Dean & Walker

- Mandatory Funding CSC
 - Administrative proposal was for 3 years and 2% administrative support is carved out to begin in FY2017.
 - Lawyers and Tribal leaders are working to find consensus on legislative language to propose because there are different ways that it can be done.
 - Tribes want to ask for an indefinite solution but will support the Administration's proposal if that can't happen.
- 477
 - A bill is pending in the House that was introduced last session. There hasn't been a bill introduced in the Senate yet. Murkowski is gathering co-sponsors. Expect that it will move quickly through the Committee.
- Elementary and Secondary Education
 - There have been efforts to include the Tribal provisions in the Senate version. We hope to see the outcome from that effort soon.
- Map 21
 - There is a desire to adopt a long-term solution
 - Major concern is how to pay for the plan. The gas tax is not enough anymore. It is not clear how it will shape out. The current bill expires May 31st.
 - Self-Governance provisions would extend Self-Governance to the Department of Transportation. There has been push back from Federal highway so it wasn't included in the bill to date.
 - DeFazio and Young introduced a bill and the effort is ongoing. Ask Tribes to have their congressional delegates co-sponsor or support the bill.
 - SG provisions haven't been included in any reauthorizations
- NAHASDA
 - Expired October 2013
 - NAIHC and NCAI have combined forces to try and get it reauthorized. The hang up is on the Senate side "Native Hawaiian provisions"
 - House Bill introduced by Pierce passed Monday and is headed to the Senate. It is not clear how resistance to the Native Hawaiians will be overcome in the Senate.
 - There has been no increase to the \$650 million in funds.
- Title IV
 - Memo went to Senate Committee on Indian Affairs last week proposed McCain Amendments.
 - Following meeting OIG had a side bar with Senate staff and accepted the proposed language.
 - The only outstanding issue is the technical amendments. McCain will give us language next week.

- Hope to move the Bill out of Committee and to the full Senate after Easter.
- House side – Bishop is trying to educate staff about Self-Governance and trying to seek other co-sponsors of the bill. It will likely be Congressman Young but trying to go elsewhere.

Strategic Plan Review and Approval

Proposed Amendment – add word “advance”

MOTION:

Choctaw Nation made a motion to approve the Strategic Plan.

Citizen Potawatomi Nation seconded the main motion.

The motion passed and the Strategic Plan was approved.

SGAC adjourned by acclamation.