

DOI SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication and Education
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DOI Self-Governance Advisory Committee and Technical Workgroup Quarterly Meeting

Wednesday, March 29, 2017 (1:00pm to 5:00pm)
Thursday, March 30, 2017 (8:30am to 1:30pm)

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

Wednesday, March 29, 2017 (1:00pm to 5:00pm)
Meeting of the SGAC and Technical Workgroup Members

Invocation – (All Participants and Invited Guests):

Chairman W. Ron Allen, SGAC Chairman, provided the opening invocation.

Roll Call

Eastern: Cheryl Andrews-Maltais, Chairwoman, Wampanoag Tribe of Gay Head (Aquinnah)

Eastern Oklahoma: Karen Ketcher, Proxy for Bill John Baker, Principal Chief, Cherokee Nation
Mickey Peercy, Proxy for Gary Batton, Chief, Choctaw Nation

Midwest: Annette Johnson, Treasurer, Red Lake Band of Chippewa Indians

Northwest: W. Ron Allen, Tribal Chairman/CEO, Jamestown S’Klallam Tribe (SGAC Chairman)

Pacific: Scott Sullivan, Council Secretary, Tolowa Dee-ni’ Nation

Southern Plains: Kasie Nichols, Proxy for John Barrett, Jr., Chairman, Citizen Potawatomi Nation
Kay Rhoads, Chief, Sac and Fox Nation

Southwest: Rueben A. Romero, Governor, Taos Pueblo
Chris Gomez, Lieutenant Governor, Ysleta del Sur Pueblo

Western: Karen Fierro, proxy for Delia M. Carlyle, Councilmember, Ak-Chin Indian Community

Welcome and Opening Remarks

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

Indian Trust Asset Reform Act (ITARA) Implementation Update

Debra L. DuMontier, Acting Special Trustee for American Indians, DOI

- Hosted Consultation in the fall on Title III of the law regarding Office the Special Trustee (OST) functions and appraisals.
- Section 304: Based on the feedback and looking at the law, Secretary Jewell sent a letter back to Congress informing them that these functions will continue to be performed by a separate office under the Secretary. OST believes this legislative requirement is satisfied.
- Section 305(a) - Appraisals
 - Secretary Jewell determined that appraisals could be administered by another office in the Department, but that the issue needed further analysis and review of the feedback that was received.

- The internal review team is evaluating options for meeting legislative requirements and would like to meet the December 21, 2017 deadline to deliver ideas.
- OST has been meeting with other stakeholders, including BIA to receive feedback as to the services that OST should be providing.
- There is an Executive Order (EO) that requires the Department to evaluate where efficiency can be improved. Appraisals needs to be evaluated as part of that effort.
 - SGAC submitted its view that appraisals should be evaluated.
- Section 305(b) and (c)
 - Provided that the Department publish minimum qualifications for appraisers and that the appraisal process be applied to trust properties.
 - The Department is reviewing the comments and must have the rule finalized by June 21, 2017.
- Current Compact Functions
 - Individual Indian Management (IIM) Program and Valuation Services are currently compactable.
 - Two Tribes compact the IIM Program – Cherokee Nation and Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation.
 - The compactability of the program is based on the number of IIM accounts an individual Tribe has.
 - More Tribes are compacting the appraisal services program.
 - The legislation tries to avoid the secondary review by OST after Tribes perform the primary function.
 - 29 Tribes compact and 6 Tribes contract this function.
 - Lee Frazier works primarily with these Tribes.
- Probate Reform
 - No matter the size of the assets of the individual Indian, OST requires an Administrative Probate.
 - Many of the IIM accounts are of minimal value and OST encourages individual Individuals to use the accounts for savings.
 - OST has been working on possible solutions, which include:
 - Funds payment or transfer upon death.
 - Gift deeding.
 - Use of small estate affidavits.
- Tribal Question: Is OST going to remain separate from the BIA?
 - Response: OST monetary functions will remain in the Secretary's Office. It's difficult to put appraisals back under the BIA due to an apparent conflict of interest.
- Tribal Comment: In Oklahoma, there are major issues with probate reform because the state has not had a Probate Judge for some time. Are there any plans to hire a Probate Judge to fill the position in Oklahoma?
 - Response: Office of Hearing and Appeals (OHA) funding passes through OST. OHA is considering whether the Oklahoma Region could be better served out of Albuquerque. With the hiring freeze, they are still getting advice on how to handle new hires. The big question is how do we get the services provided in the best and most efficient way?
- Tribal Comment: In order for a Tribe to purchase land, the land has to go through probate and there are currently 129 open cases at the Sac and Fox Nation slowing their process to purchase land.
- Tribal Comment: In regards to the Executive Order requiring agencies to evaluate for efficiency, what is going to happen with the Under Secretary position discussed during the ITARA Consultations?
 - Response: All comments that were received have been provided to the Administration and OST hopes that they will be used in any reorganization plan. However, there is not

a reorganization plan. OST has not heard about whether there will be more consultation on this particular issue, but plans to host a consultation for Title II and other OST functions soon.

- Tribal Comment: It is important to hold a consultation on the Under Secretary position because of the impact on all Tribes, not just Tribes who are more engaged on other OST issues.
 - Response: There is no mandate to create an Under Secretary position, but the DOI Secretary has the ability to do so if one is needed.
- Tribal Comment: This was something that was an attempt to address issues Tribes have with other DOI agencies.

Advance Notice of Proposed Rulemaking (ANPRM) on Indian Traders Regulation

Tana Fitzpatrick, Senior Counsel, Assistant Secretary--Indian Affairs, DOI

- The Department sought and received several comments on the ANPRM beginning December 2016.
- Over the last few years the Department has received several requests to revise these regulations.
- Regulations Overview:
 - The regulations were developed under a 1903 Indian Traders Statute
 - It's been 30 years since they were last updated
 - Generally, the regulations are meant to oversee the licensing of persons authorized to conduct trade in Indian Country.
- The Department visited seven locations seeking recommendations to determine: if the regulations should be revised; how they should be revised; if they are revised, should new regulations include all areas of trade; and what traders should be included?
- Tribal Question: How many comments have already been received?
 - Response: Currently there are ten comments. Additional comments are needed.
- Tribal Comment: One reason there may be a low number of comments is that Tribes did not understand what kind of opportunities may exist under the Indian Traders regulations. Originally the regulations were intended to empower Tribes to leverage economic opportunities.

Kasie Nichols, Assistant Director, Office of Self-Governance, Citizen Potawatomi Nation

- To date, most of the comments submitted have not been submitted by Tribes.
- SGAC is currently drafting comments that should be shared shortly.
- NCAI has a great understanding of the larger implications of the ANPRM as it relates to Indian Country.
- Citizen Potawatomi Nation (CPN) is drafting a letter regarding the ANPRM and is willing to circulate that document which reflects a Tribal perspective.
 - CPN's position is to completely replace all of the regulations and honor Tribal law and regulations.
- Tribes need to respond and CPN requests that you encourage your Tribal Leaders to do so. It is important that these regulations be updated and brought into the modern era.

Clyde N. Romero, Jr., Taxation Officer, Taos Pueblo Governor's Office

- Kevin Washburn stated that he did not foresee any tax reform laws that will be introduced to address our top issues like dual taxation and economic development. As a result, Tribes need to take advantage of this opportunity to submit comments and revise the regulations to benefit Tribes.
- A good document that evaluates implications of current regulations is included in the meeting packet.
- As dual taxation continues, Tribes are missing out on much needed revenue.

- Tribal Comment: It is important to look at what the next steps should be and if we should request an extension so that Tribes have the opportunity to better understand and reflect on the benefits to be derived in Indian Country from the revision of this regulation.
- Tribal Comment: We need to make it obvious to the Administration that these regulations need to be updated. It will be helpful to develop a draft sample letter regarding this issue for Tribes to use when addressing the Administration. It would also be helpful to create a working group that can address what we want these revisions to look like.
- Tribal Comment: In updating these regulations, we should probably make them broad enough to include online and international markets.
 - Response: One way we think this can be done is to incorporate the language that refers to Tribal law. CPN's attorneys feel as though there would be more opportunity for regulatory changes than legislative changes.
- Tribal Comment: We should hope that this reform would fit into the Administration's mission of cutting red tape and deregulation to increase greater economic development throughout the Country.
- Tribal Comment: Who is the contact person for these comment correspondences?
 - Response: Liz Appel, Director, Office of Regulatory Affairs.
- Tribal Comment: Are non-280 states treated differently than 280 states?
 - Response: Many of the notes have requested that the Department specifically mention jurisdiction to avoid problems.
- Tribal Comment: How will the regulations affect current agreements between States and Tribes?
 - Response: There is some language that speaks to the importance of protecting current agreements.
 - Response: The Department is simply trying to determine if there is a desire to update the regulations. Additional details will be worked out if the proposed rulemaking moves forward to an official proposed rule with a comment period.
- Tribal Comment: When thinking about the regulations, especially with the two for one EO to end overregulation. If it is a revision is it considered to be a "new" regulation?
 - Response: The Office of Management and Budget provided guidance that only "significant" rules would trigger the EO requirements.
- Tribal Question: Once comments are submitted, what is the timeline or plan for next steps?
 - Response: We do not have a set timeline and are awaiting additional guidance and political leadership within the Department.

SGAC Committee Business

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

MOTION

- Approval of Meeting Minutes (January 2017)
 - Corrections:
 - pg. 2 there's a typo on "only" at the bottom
 - Pg. 3 & 12 Deerman should be corrected to Dearman
 - Pg. 3 "Funding is" has an L
 - Correct "Gay Head" Aquinnah throughout the document.
 - Taos Pueblo moves to approve minutes as amended.
 - Wampanoag Tribe of Gay Head (Aquinnah) seconded the motion.
 - Motion passed without objection.

MOTION

- Resolution to approve Eastern Region Representative.
 - Primary: Cheryl Andrews-Maltais, Chairwoman, Wampanoag Tribe of Gay Head (Aquinnah)
 - Tolowa Dee-ni' Nation made a motion to approve Chairwoman Andrews-Maltais
 - Sac and Fox Nation seconded the main motion.
 - Motion passed without objection.

Office of Self-Governance (OSG) Update

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

- OSG is distributing remaining Fiscal Year (FY) 2016 and new FY 2017 funding.
- FY 2017 CSC Distributions
 - CR #1 - \$18,616,015
 - CR #2 - \$37,401,131
- FY 2016 CSC Update:
 - \$98 million distributed in total
 - \$322,363 (0.33%) in overpayments
- FY 2015 CSC Update
 - \$97 million distributed in total
 - \$18,987 (0.019%) in overpayments
- Government Accountability Office (GAO)
 - GAO has been meeting with OSG about how Tribes can assume greater control over energy related activities.
 - Asked for data on 638 compacts; number of compacts; where data is stored, availability, and reliability; and if any Tribes had started contracts and then backed out to later move into compacts.
 - GAO wanted to know what factors prevented Tribes from entering into SG.
- Office of Inspector General (OIG) Evaluation of Tiwahe Increases for Self-Governance
 - OIG is evaluating whether Bureau of Indian Affairs (BIA) has sufficient policy to distribute increased appropriations. In response, OSG released a lot of documents and information documenting agreements, reprogramming, etc.
 - OIG was not comfortable with releasing information regarding the evaluation with Tribes.
 - OSG requested that OIG submit the report to OSG before publishing it in order to prevent the report from hurting Tribes.
 - Requested info regarding: OSG description; List of Tribes participating in SG; Communication between the offices distributing increases; Claims or lawsuits; Communications with Tribes to determine funding increases; Documentation for final amount paid.
- DOI Office Space Consolidation
 - OSG headquarters is located in South building and there is possibility that they will be moved to DOI main building. However, it is unknown where they will be moved for sure.
 - Tribal Comment: It's important for OSG to remain within the DOI building. Tribes don't have the extra resources to travel far distances to visit with OSG.
- FASSR Reports
 - FASSR reports are due May 1st.
 - OSG still has not gotten all of the reports and they need the information so that BIA can assess the Welfare Assistance needs of Tribes. The Bureau needs all of the information so it can determine the final Welfare Assistance distribution.
 - If there is a need for additional funds, those requests are due by May 6th.
 - Tribal Comment: If you have to have all the FASSR reports for Tribes to assess if they need more funds, how are they going to be able to make that assessment?

- Response: The original due date was January 30th, but an extension was provided for Tribes to submit their FASSRs. The national need will be compared to the capped Welfare Assistance appropriation enacted by Congress to determine whether a pro rata reduction is necessary to stay within the capped appropriation.
- Tribal Comment: For Tribes that have already submitted, will they be penalized for submitting early?
 - Response: All we know at this time is that we need the additional information will determine whether a pro rata reduction from the full need level will be necessary.
- Land Buy Back Listening Session:
 - Scheduled for April 25, 2017 at the Tulalip Resort Casino.
- OST Financial Literacy Training
 - Provides training for Native and non-Native communities.
 - Brian Ross, Director of Financial Education is based in Tulsa, OK and you can request training through Genevieve_billia@ost.doi.gov or 202-768-4076.
- Tribal Comment: When OIG was reviewing TIWAHE increases, did they start with appropriations increases?
 - Response: Yes, they asked questions similar to that.
- Tribal Comment: The Government is under a CR, could this impact Tribal agreements and funding?
 - Response: Agreements are subject to appropriation. If the CR changes funding levels, those changes will impact Tribes.
- Tribal Comment: What is the percentage of cuts that are being considered?
 - Response: The President proposed a 3.5% cut in the FY 2017 appropriations, which would have to be absorbed in the last five months of the fiscal year.
- Tribal Question: It is interesting that OIG has chosen TIWAHE to inquire about and is wondering why that decision was made? Especially considering that this increase was corrected.
 - Tribal Discussion:
 - This Administration is looking at discontinuing initiatives from the previous Administration.
 - Perhaps they were also reviewing the selection of TIWAHE pilot project sites.
 - Of the \$10 million provided to ICWA and social services in FY 2015 only \$1.99 million went to pilot Tribes. Then in FY 2016 most of the \$12 million went to expand the pilot project and some went to base increases.
 - This is concerning and at the end of the day it is politics. We have to work both sides of the appropriations process – legislative and administrative processes.
 - It may be necessary to host several Tribal caucuses so that Tribes can get all input, especially from those who do not always attend quarterly meetings.
- Tribal Comment: Thank you for preparing and anticipating cuts. OSG has to keep fighting and toughen up to take on that fight. We are here to help, but you will have to be the ones doing it. It sounds like you have just given up on these matters and that is something that cannot happen.
- Tribal Comment: The Department of Health and Human Services (HHS) Secretary's Tribal Advisory Committee (STAC) met last week. During that meeting, Price was well briefed and resonated with Tribes. He also expressed interest in visiting different Tribes so that he could see the differences that are happening. In DOI the same thing needs to be done with Secretary Zinke. Even though he has had a lot of exposure, continuing to educate him will be helpful.

Preparing for the New Administration's Investment in Infrastructure and Economic Development

Matthew Jaffe, Partner, Sonosky, Chambers, Sachse, Endreson & Perry, LLP
F. Michael Willis, Partner, Hobbs, Straus, Dean and Walker

- Infrastructure has been one of the most bipartisan issues, during our most partisan period.

- For instance, Secretary Chao had bi-partisan support.
- She will be critical to the infrastructure plan and has suggested establishing an advisory committee to come up with details of Trump Infrastructure proposals.
- This is one of the top three packages – health care, tax reform, and infrastructure. These elements need to come together for funding to work out properly.
- Trump Proposal: American Energy and Infrastructure Act
 - \$1 trillion package that consists mainly of tax credits to bring overseas investments back to the US.
- Tribal Concerns with the Package
 - Administration has not involved Tribes very much and the extent to which Tribes will be engaged is still unknown.
 - Most of the underlying principles proposed are ones that favor large population areas.
 - Tax credits have generally not been beneficial in Tribal communities.
 - Public Private Partnerships have also presented many obstacles.
 - Tribes should be asking questions about how they can be competitive and what type of projects do we want to make sure are included.
- Senator Barrasso has brought up how some of the proposals will not work in rural areas, so there is support for Tribal communities in the Senate.
- The Democratic response provides an opportunity to create some talking points that identify and request some items that were not included that need to be included.
- Tribal Question: How will Congress look through the White House proposal and find space for Indian Country.
 - Response: That is where large rural states will help to get things worked out for issues in Tribal communities. Similar to these areas, rural communications will request direct funding and fair allocation of funding throughout the proposal.
- Question: What effect does the health care failure have on the Administration's infrastructure proposal?
 - Response: Political turmoil will certainly change the timeline. The issue now is in what order will they consider things? The Administration plans to get to tax reform by August, but that seems optimistic and at this point could delay an infrastructure package.
 - Whatever they do, we want to make sure we get included.
- Other issues to keep track of:
 - DOT Tribal Transportation Self-Governance Program
 - The proposed rule has totally stalled since the Administration transition and it is not likely that the Committee will meet the deadline in September to publish a proposed rule.
 - Volkswagen (VW) Settlement Trust
 - VW will have a massive settlement to reduce emissions. There is a tribal set aside of \$49 million which Tribes can access.
 - The trustee has just been appointed, however they have not yet entered into the trust agreement that will govern the distribution of funding.
 - Tribes should pay attention to this to update old transportation programs and school buses to move to clean power.

Matthew Jaffe, Partner, Sonosky, Chambers, Sachse, Endreson & Perry, LLP

- Many Tribes have submitted letters in support for naming a Deputy Assistant Secretary for Tribal Government Affairs and those efforts need to continue.
 - This position is critical to moving Tribal priorities forward in DOT.
- There are a couple questions that Congress must answer to move an infrastructure package forward:
 - What is the government's role and how should that role play in Infrastructure?

- If yes, then what is the level of participation (appropriation level)
- What is the mechanism through which the funding should be distributed?
- Who is paying for it?
- Without answers to these questions, Congress will remain at a stalemate.
 - As such, they will probably have to tackle tax reform before they can tackle infrastructure.
 - Tribes are primarily a part of the larger rural American communities and those issues will have to be addressed before anything happens.
- Tribal Comment: Trump has proposed eliminating the Tiger Grant in his skinny budget, which is concerning.
- Tribal Comment: We have to watch proposals like this because they push administrators to push funds through states.
- Tribal Comment: Indian Country is not ready for shovel ready, because they have not been given the support to get these types of projects ready to go. Right now they are not talking about infrastructure, so the question is when will that happen?
- The Office of Management and Budget (OMB) relies on data to distribute money. There is a need in Indian Country to provide streamlined data. Tribes should focus on this to try and provide data ahead of time.
- Tribal Comment: If we are looking to send a letter to DOT, we need to emphasize the language of the law and what it is required under the legislation. Additionally, it is interesting that communication and transparency seems to slow even though access seems easier for DOT employees to meet with Tribes here in DC.
- Tribal Question: What is the role of the reconciliation bill that is coming up shortly?
 - Response: First, Congress has to pass a budget resolution. However, the probability of that happening is pretty low.

Legislative and Executive Order Update

Geoff Strommer, Partner, Hobbs, Straus, Dean and Walker

Mary Pavel, Partner, Sonosky, Chambers, Sachse, Endreson & Perry, LLP

Mathew Jaffe, Partner, Sonosky, Chambers, Sachse, Endreson & Perry, LLP

- Labor Bill H.R. 90
 - The House hosted a hearing on H.R. 90. It was a good hearing and the Republicans seemed very supportive.
 - Not a lot of Democrats showed up – which is good because it may be a sign they do not want to get into the issue.
 - Overall there seems to be good support and Tribes were well supported.
 - A number of Republican members requested that the bill move forward before the summary break.
 - We have probably got a solid 56 votes in the Senate, including four democrats who will vote for cloture.
 - However, cloture is a messy process, so the goal is to find a large bill that people likely will not vote against.
- Regulatory Reform and Hiring Freeze Executive Orders (EOs)
 - There are three EOs
 - 13771: Reducing Regulation and Cost of Regulation or “Two for One.” It is the role of the government to reduce and control costs of a regulation. The net costs of the regulation must be zero.
 - 13777: Regulatory Reform Regulation. This requires an appointment of a Regulatory Reform Office (RRO). This will require a task force which must be assembled by the end of April.

- 13781: Comprehensive Plan for Reorganizing the Executive Branch. The goal is to identify agencies or independent agencies to provide costs savings. Five questions must be evaluated by OMB:
 - Is it appropriate for the Federal government to operate?
 - Would it be better left to other governments or private industry?
 - Are the programs and services redundant?
 - Are administrative capabilities redundant?
 - Are costs justified by public benefit?
- Tribal Question: Is there a sunset for 13771?
 - Response: No, in FY 2018 and moving forward, agencies have to meet incremental caps that OMB will set. The goal is to cut regulations and red tape, as President Trump promised.
- Hiring Freeze
 - The Hiring Freeze, which is typical of a new Administration, froze all Federal hiring and was followed up with a memo that outlined exemptions.
 - HHS acted quickly to publish memos and identify what positions would fall under those broader categories of exemption.
 - Has been stated that the EO will stay in place until OMB identifies a proposal to shrink Federal positions to attrition. This shows their goal is to reduce the size of the government, which could be a major problem for Tribes.
 - Tribal Comment: At TBIC, OJS has said that even if the freeze was lifted they would not be able to hire anyone because they are out of funding.
 - Rural states are the ones who are the most reliant on Federal hires and they are the ones who are the most affected.
 - There were 2.69 million federal employees in 2008. In 2014, there were 2.66 million federal employees working in civilian positions.

SGAC Preparation for Discussion with Acting Assistant Secretary – Indian Affairs

- Jennifer McLaughlin, Tribal Co-Chair of the Technical Workgroup, reviewed the issues discussed during Tribal caucus and the presentations during the day and will have talking points prepared for the meeting tomorrow.

Adjourn for the Day

Thursday, March 30, 2017 (8:30 am to 1:30 pm)

**Meeting of the SGAC and Technical Workgroup with Acting Assistant Secretary – Indian Affairs,
Department of the Interior
(Only Members of the SGAC and Proxies to be seated at the table)**

Invocation

Welcome & Introductions

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

Budget Update

*Dave Conner, Director, Natural Resources, Red Lake Band of Chippewa Indians
George Bearpaw, Director, Office of Budget Management, Indian Affairs*

- Update on FY 2017 Continuing Resolution (or other spending bill)
 - At the last meeting handouts were provided to outline the second Continuing Resolution (CR). There are no changes to that comprehensive table.
 - This CR goes through April 28th.
 - Congress is meeting to determine how it will fund the government after that deadline.
 - This Administration is proposing to save funding from domestic programs for defense funding.
 - There is a possibility of a shutdown if Congress cannot come to an agreement on what to do for the budget moving forward.
 - Tribal Question: It has been mentioned that there is a desire to cut funding from the DOI budget. Are you hearing anything that you will be instructed to look for possible cuts in the Indian Affairs budget?
 - Response: For FY 2017, No.
 - Tribal Question: The previous Administration requested additional funding for TIWAHE.
 - Response: They were scheduled to get an increase, but that didn't happen because of the CR.
 - Tribal Question: There have been statements by members of Congress that a shutdown will occur without an increase in defense spending.
 - Tribal Question: This initiative also supports many of the initiatives that the Trump Administration wants to address to fix the opioid issue and it is important that we use that messaging to convey how much it is needed.
 - Tribal Comment: We need a tight and succinct messaging to support TIWAHE.
 - One way to look at Tiwahe is that it is a "Building a Safer Community" initiative and incorporates many of the things Trump highly supports, such as police officers.
 - Tribal Question: Is there any Tribes who have expressed concerns regarding the wall?
 - Response: The only one we know about is Tohono O'odham Nation. They have voiced their concerns on the proposal to build a wall along their border. If this were to happen, it would split the Tribe in half and cause even more barriers to improving their way of life.
 - Tribal Comment: Ysleta del Sur also has to deal with the issues that are created by building a wall. There is also a major question of how far the wall will extend, because the current fence does not extend all the way across the border or the reservation.
 - Tribal Question: If they do not come to an agreement on the budget, what will likely happen? Will they continue the CR?
 - Response: There may be another CR, but if they cannot find an agreement at all, there is the possibility of a shutdown.

- Tribal Comment: Last year, the idea was that they would continue with a CR and then begin with the next fiscal year. Current talk is that the budget levels will be at the FY 2016 level with a 5% cut, which is the same as the last sequestration. Additionally, they want to make even more cuts, which are making sequestration look better than the possible cuts we are facing.
- Tribal Question: Do you know about a memo regarding cuts to social services to Tribes?
 - Response: No, we are not aware of that memo. It seems like it is a direct service Tribes issue and is a regionally driven process.
- Tribal Question: Has there been talk about extending the debt ceiling?
 - Response: No, we have not heard anything yet. The last Administration did approve that. However, it is unknown what this Administration will do.
- Tribal Comment: Last time there was a lot of reacting and additional strings were attached to the ceiling cap issue. We will want to pay attention to the discussion to prevent appropriations cuts as much as possible.
 - Response: In FY 2017, they did place a cap on spending and it is something that will come back up in FY 2018. Under sequestration law, you cannot increase the budget for defense at the expense of discretionary spending, so there is a challenge for the Republicans to deal with. This would also mean they would have to change the law in order to move forward.
- Tribal Comment: At what point does the priority process affect funding levels?
 - We tried to tie the priorities to the Trump Administration so that the write up agrees with the Administration's language.
- FY 2019 Budget Formulation Process
 - Currently we do not have any instructions on how to formulate the budget, but it still has to be done.
 - A strategy we are focusing on is to look at the Administration's priorities and how much cross over there is with Tribal priorities so that DOI can build a case that shows Tribes share similar priorities.
 - Tribal Comment: If we continue to mirror their priorities, it could cause problems for some Tribes, especially in terms of service delivery.
 - Response: Mirror is not the right way to describe it, rather they are trying to look at how they can fit the priorities of Tribes, such as education, infrastructure other than pipelines, economic development, etc., into the priority categories of the Administration. Essentially, they are trying to think of creative ways to continue moving forward and at the same time address Tribal issues.
 - Tribal Comment: We can use the messaging that the Administration is putting out to further Tribal priorities. They have talked about education improvement, road maintenance, housing issues, etc., which are all things that Tribes are also trying to address.
 - Tribal Comment: Historically, we have always tried to tailor how we address things to the Administration, but this is not a normal Administration. Perhaps, it would be better to work more closely with the Congressional and Senate Committee Indian Affairs Members and staff because they will be a more stable group of people.
 - Response: Yes, this is not a normal situation. Currently, we do not have the information to develop budget details and the Department is concerned about the timing. We are trying to work with what we have and prepare as much as possible in anticipation of the quick turnaround time from OMB.
- The senior staff did meet with Secretary Zinke regarding Tribal priorities. The meeting was very positive. However there was not a lot of specific information to share.
- TIBIC did meet and has taken the position that Tribes have to be held harmless.

- Tribal Comment: It would be helpful to get the information to show how much it will take to improve the schools and roads so that they can understand that Tribes must be held harmless and have critical needs that must be met.
- Tribal Comment: It is important that we go to Congress and address the real issues. We need to do something different and approach it a new way because this Administration does not support traditional government and does not know much about Tribal communities.
- Tribal Comment: Last year there a different approach was used. Tribes tried to provide information to justify and identify the true need. Did the regions get the information you needed?
 - Response: It is better than what we have seen in the past, but there is still a need for continuing education, especially in regions that did not seem to quite understand or follow the instructions. In general, the information will certainly be more useful.
- If there are Interior cuts in the future, they should be absorbed equitably among all the Bureaus. In the past, equitable distribution of cuts was not a priority.
- Tribal Comment: We are now facing a different situation and, in addition to our normal process, we need to approach other people and committees who can also address our concerns.
- There is promise from Secretary Zinke and Senate Committee Indian Affairs as shared during the March 8th hearing. Senator Heitkamp made it a point to emphasize that Tribes need someone who will fight for them in the budget process. In the past few years, there have been weak proposals and we need to get the message to Secretary Zinke that he has to fight for Tribes in the budget so that we can address all of the issues we are facing.
- Tribal Comment: Tribal funding is not just in the Interior budget. We need to remain vigilant about Tribal funding that is available in other departments and agencies.
 - Response: That has come up in meetings and senior staff recognize that.
- Tribal Comment: We need to develop a unified, simple message and hold to that message just as was done in TBIC, who has taken the stance that there cannot be any cuts to Indian Affairs budgets. Our message should be the same. We do not have room for cuts because they will cause irreparable harm in our communities. You can address the issues and implement initiatives, but it cannot be done at the expense of the trust responsibility. The battle will be the Hill and get ready to make our arguments. Currently, we are struggling to determine who is in charge. Those who have been placed in these positions temporarily have their own very conservative agendas. In addressing anything we do, we have to stand united with the same message.
- Tribal Comment: Jim Cason and Steve Bannon should be invited to Tribal communities and villages. The update from TIBC regarding shifting our messaging to align with the Administration's priorities is good advice and should be followed.
- Tribal Comment: We collected information differently this year and we are still trying to determine the strength of the information provided.
- Tribal Interior Budget Committee Update
 - Last July, TBIC approved the National Congress of American Indians (NCAI) to contract with an outside firm to review the TBIC budget process to streamline the process and make it as simple and effective as possible. The contractor will also review at the Greenbook.
 - There are two phases: Phase 1 is to review and repost findings. Phase 2 is to review the report and implement all helpful recommendations.
 - Tribal Comment: The July TBIC meeting will be an important meeting to see the recommendations and determine which should be implemented. Hopefully, we will also know more about the Administration's plans. However, one of the challenges in TBIC is that it is hard to get consistent representation from all of the regions. Due to the nature of TBIC, there is a need for an orientation for new Tribal Leaders so they are prepared and understand the process.

- If you cannot make the meeting in Flagstaff, there will be reports circulated regarding what took place during the meeting.
 - Reports get posted on NCAI's webpage. The reports from the last meeting, except for the regional reports, are not currently posted.
- Tribal Comment: A better education of exactly what data has to be provided will help to bring in more Tribal participation.
 - Response: There is work being done to make this data collection process more user friendly, specifically in the form of an app.
- BIA is holding meetings in May to meet with Tribes across the regions so they can take Tribal comments back and incorporate them into the DOI 2018-2022 Strategic Plan.
- Census is holding a one day workshop on September 19th in Maryland on service related issues, including accurately developing population reports.
- TBIC has requested face-to-face meeting with both President Trump and Secretary Zinke to discuss Tribal priorities.
- The DOI strategic plan is an important GPRA implementation mechanism. Given that Self-Governance Tribes have the authority to consolidate and redesign programs and reallocate funding, it would be helpful to suggest revising the Strategic Plan to measure not only the existing program by program approach but also the synergy that is gained by tribes operating related programs under an integrated tribal service delivery mechanism.

Public Safety in Indian Country

Kay Rhoads, Principal Chief, Sac and Fox Nation of Oklahoma

Tricia A. Tingle, Associate Director, Office of Tribal Justice Support, BIA

- Tribal Court Resource Guide
 - OTJS assesses Tribal Court processes and finds resources in other departments that Tribes can utilize to strengthen the operations of their Tribal Courts.
 - OTJS identifies resources that are not from or advertised by the BIA, but are still available for Tribes.
- Violence Against Women Act (VAWA)
 - There is VAWA implementation funding. However, we do not know how that will be distributed in FY 2018. There is a \$1 million in implementation and \$1 million in training.
 - UN Ambassador spoke on VAWA, specifically in relation to Native women, at the March meeting.
 - Stated that VAWA was a significant law that has made large strides in protecting Native women.
 - OTJS funds VAWA trainings that are hosted and run by Tribes.
 - There will be trainings held in AVCP and Muscogee (Creek) Nation in May and June.
 - DOI is happy to facilitate trainings for any Tribe who would like to bring one to their area.
 - The first training was held at Pascua Yaqui and there were 46 participants and 13 Tribes who were trained.
 - Every Tribal officer, prosecutor, judge, etc. should be trained and there is no reason those people should be barred from receiving training.
 - Tribal protective orders are not registered by the local non-Tribal law office and in order to have those protective orders enforced, they have to be recognized by the non-Tribal law office.
 - Tribal Question: Is there any language templates to assist in negotiating agreements with outside justice agencies?

- Response: No there is not a template, but they are willing to provide that assistance if it is requested. Additionally, DOI could bring in Tribes to share additional best practices around negotiating agreements with outside agencies.
- Technical Assistance
 - A majority of the OTJS's budget to providing assistance to Tribes.
- Other Items
 - OTJS is currently looking for a Tribe to host a training focusing on juvenile justice code development and investment.
- Tribal Question: Many Tribes have asked why they cannot combine different things into a single compact or contract. We need a way to better understand and access programs, as well as, a better way to assess what resources are available through those programs.
- Tribal Question: The interagency wrap around initiative may be another opportunity for Tribes.
 - Response: Yes, this is a resource. We do not have the data that shows when an individual needs services versus incarceration. We know that without services, offenders will repeat their crimes. There is also SAMHSA money available to provide addiction and rehabilitation services.
- Tribal Comment: The DOJ is supposed to be creating a resource that tracks all of the services and funding available to Tribes. There needs to be better coordination in providing these services.
 - Response: Indian people do not need to be incarcerated, they need services and to have a healthy community as a whole. There is a lot more to the issues that Tribes face regarding violence against women.
- Tribal Comment: With the One Stop website, it takes a lot of resources and funding which Indian Affairs is required to support with their funding. If other listing agencies supported it that funding would not come directly from Indian Affairs. This is concerning because it then takes funding away from Tribes in order to maintain that database.
- Tribal Comment: It would take about \$3 million a year to support. Congress has stated that they will not provide additional funding and that the agencies need to work it out.
- Tribal Comment: If there is money available we want to have access to it. Often it is hard to get other agencies to agree and see the need to help fund those services. We need to continue this conversation and improve the coordination of these resources and perhaps request that Congress and OMB dictate it to Agencies.
- Tribal Comment: Ak-Chin built a new incarceration facility, but BIA will not offer any help to maintain the facilities, because that facility was built with Tribal funds. It was also stated that, because the facility was not built to the Federal standard, they were not allowed to enter the facility or receive funding to staff the facility.
- Tribal Comment: The Sac and Fox Nation has faced a similar issue, except that their facility was built using BIA funds. There is also a major challenge because the facility was built to serve as a regional facility, but none of the area organizations can afford to transport people to it.
- Tribal Comment: This is a message back to Jason and DOJ that an assessment is needed to determine where Indian Country is in terms of incarceration and funding to support existing facilities.
- Tribal Comment: Perhaps someone from Alaska can be included in the Justice panel at Annual.

SGAC Joint Discussion with Acting Assistant Secretary of Indian Affairs

Mike Black, Acting Assistant Secretary of Indian Affairs, DOI

Bruce Loudermilk, Director, Bureau of Indian Affairs, DOI

Miles Janssen, Senior Counselor to the Assistant Secretary – Indian Affairs, DOI

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

- Opening remarks: There are a lot of questions with what is going on, who is in charge, what are future possibilities, etc. and we are not getting very much communication back from DOI. Our priority is still to push Self-Governance forward and we want to ensure that as you are briefing new leadership and decision makers you are sharing the concerns Tribes have been and continue to voice. As you share information, the message we hear from the Administration is one of self-reliance and in order for Tribes to be included we need the funding, support, and capacity for strong governments. It is important that leadership is aware of these things and does not do anything that would negate the progress Tribes have made thus far.
- We are worried about the recentralization of decision-making to Central Office, because this slows down the Department's response time to Tribes and others.
- We want to hear from you about what direction you think the Department is heading. We are concerned about the tone from Senior Officials about lack of progress in Tribal communities.

Mike Black, Acting Assistant Secretary of Indian Affairs, DOI

- We are about one month into Secretary Zinke's leadership and he is the only political appointee in the Department at this time.
- There is no priority order for appointment of Assistant Secretaries. Instead, it will be based on who can get through the process the fastest.
- The first office Secretary Zinke visited was the Office of Indian Affairs. His message did not include what he thought Tribal Sovereignty actually meant. However, he wants decision making to be delegated to the field because that is where he feels decisions should be made.
- DOI Reorganization
 - The Secretary is looking at a 100-year reorganization plan.
 - Indian Affairs is working to host listening session with Tribes to hear their comments and concerns regarding reorganization.
 - They want to know what Tribes would want to see in the BIA.
 - They intend to include Tribes and conduct Tribal Consultation around this, if possible.
- DOI Budget
 - The President has put out a Blueprint for the President's FY 2018 budget. It looks as though the President's budget will come out in May.
 - Currently the FY 2017 budget is in the hands of Congress.
- Energy, Infrastructure, and Jobs (or Workforce)
 - This is a major emphasis and initiative of the Administration and Department.
 - Secretary Zinke has stated that he will fight to make sure Tribes are included.
 - This is positive because the need in Indian Country is as great, if not greater than anyone else's.
- BIE
 - Continuing to move forward with reform efforts.
 - Currently, they are busy trying to take care of the staffing and implementing the administration of those schools and centers.
- Indian Trader Regulations
 - Recently completed Tribal Consultation on the ANPRM.
 - Tribal Comment: We have heard that there have not been very many comments submitted.
 - Response: Unsure of the actual number, but reported that there was large participation in the last few consultation sessions and it is typical that these do not come in until the last minute.
- Fee-to-Trust

- Fee-to-Trust applications for on-reservation and contiguous to the reservation decisions have been left in the regional office, but any off-reservation applications must go to the Assistant Secretary's Office for decision.
- Tribal Comment: That is a huge bottleneck and creates unnecessary burden on Tribes, as well as, extending the time it takes for Tribes to get land into trust. We also need to know who the person is that those documents will be sent to so we can ensure they do not fall through the gaps.
- Tribal Comment: There are Tribes that have mandatory applications that need to be approved and they are being charged taxes for those land acquisitions.
 - Response: I will check into the delay.
- The Department is trying to keep a handle on the issues coming in and out and working to catch up the new Administration. The Indian Affairs Office is very short staffed compared to where we were prior to the transition. They are conducting a lot of briefings and things are slower than we would like.
- Tribal Comment: There is a major issue with how well the Department is handling the issues that Tribes face. In the Northwest, there is an Endangered Species Act (ESA) determination that would normally be handled by the region, but has been sent to the central office instead and the delay is very concerning.
 - Response: When there are issues that are time-sensitive and urgent, please contact Indian Affairs so that the proper people can be briefed and get a decision made quickly.
- Tribal Questions: What is the difference in the regional and central office review process?
 - Response: The regions will continue to receive and process applications and then analysis and decision will be conducted by central office, but the analysis and the decision should be exactly the same as the region.
- Hiring Freeze
 - Currently the Department has exemptions for public safety and seasonal positions, such as police officers, seasonal firefighters, etc.
 - There are requests for all of the education staff to be exempted as well.
 - The expiration of the freeze is in 90 days and there is no communication what will happen after that.
- Indian Affairs is encouraging Tribes to make their voices heard. Do everything you can to get that message to Congress and senior officials at the Department.
- Tribal Comment: We agree with TBIC's position to not make any cuts. We are already so underserved that more cuts will only be a further detriment. We have to be exempted from any kind of sequestration.
- Tribal Comment: The Indian Trader Regulations and HEARTH Act regulations are about strengthening the authority of the Tribes and creating economic development opportunities. The Leadership should be supportive of that and the Department should be helping those Tribes that do not current have the political and legal infrastructure to support the new authorities.
- Legislation
 - Tribal Comment: There are many pieces of legislation out there that need to be supported. They are ones that fall under the priorities put forth by the Administration and that message needs to be put out there. Our hope is that when you are briefing leadership, you can show them that Tribal priorities are similar to those the Administration wants to see happen.
 - Response: We will work to further your message and will work with the Administration to help them understand what Tribes are facing.
- Title V
 - Tribal Comment: There is a staffer on the Hill that has generated a problem that does not exist. The Secretary could be helpful in overriding any outlying concerns from the Bureau of Reclamation will try to slow down this work.

- Tribal Comment: Securing time with the Secretary seems to be a challenge. It is important that the Secretary have meetings with Tribes and that he spend time in Indian Country. Engaging with the Indian Country individually or nationally will be critical as we move forward. We are hearing rumors that the Administration may be going back and reviewing previously approved land into trust acquisitions.
 - Response: No one has approached me to discuss reviewing land that is already in trust. However, we have discussed looking at the process and reevaluating how the trust applications are reviewed and evaluated. This is a typical request during Presidential Transitions to assure that the decisions are being made appropriately. Relative to meetings with the Secretary, if you have a request please share that with me so that we can get it to the Secretary's scheduler and try to get quicker responses.
- Tribal Comment: Tribes need to be included in any efforts to reevaluate and/or change the land into trust process.
- Tribal Comment: We are concerned that any review of previously made decisions will result in an unstable environment which business and Tribes will shy away from thereby creating unintended consequences.
 - Response: I will take that back.
- Tribal Comment: With regard to the Energy Executive Order, do you know how the newly chartered committee will be established?
 - Response: Currently, I do not have any details. It is essentially a reestablishment of a previous committee. We believe Tribes need to be involved and will work to ensure that it happens.
- GAO
 - Tribal Question: There have been cross-cutting investigations of Tribes and Tribal programs. We want to raise our concern regarding these investigations and there does not seem to be any real guideline. Tribes would like some assurance about what the purpose of the investigation is and what outcome is expected?
- EOs
 - We also have concern with the EO concerning regulations and want to know what your thoughts and plans are around eliminating regulations and what the rules are regarding type and area of regulations.
 - Response: We are trying to gather information as well. The regulation EO applies to a "new" and "significant" rule and many of our regulations do not meet the economic threshold of "significant."
 - Tribal Comment: Meaningful consultation is required and is very important.
 - I have and will continue to reemphasize this. I have raised the issue with the Acting Deputy Secretary.
 - Tribal Comment: Under some legislation consultation is required and that is something that the Department must do. However, that decision is now in the central office and will delay the Department's action.
 - Tribal Comment: It is hard to comprehend why decisions are being centralized when the Secretary has publicly stated that decisions should be made locally, on the ground.
- Transportation Infrastructure
 - Tribal Comment: What does the infrastructure proposal mean for Indian Country, especially in Alaska? Have you received any more information about how this will apply to Indian Country?
 - Response: No. I have not received any more information about how this will apply to Indian Country. The Secretary continues to voice that he will include Tribes, but we do not have any details at this time.
 - Tribal Comment: It is important that Tribes are included because there are not many investors in our communities for infrastructure development. In Alaska, there are many

instances where the situation does not easily translate to the typical Federal concept of doing things.

- Tribal Comment: It is important that we can include all of the people from the different areas of Indian Affairs to attend and participate in the Self-Governance Consultation Conference. It seems like the Department is constraining who can attend, which is not productive for addressing the issues that Tribes face.
 - Response: There is a process of approval we are required to go through.
- Tribal Comment: Many times there is also the question of “what is consultation and why is it important?” and it is important that you pass on that information so that we can have the right people attend.
- Tribal Comment: Please help us relay the message that OSG is of critical importance to Tribes with regard to funding distribution and technical assistance.
- Reorganization of DOI Building
 - Tribal Question: We have heard that OSG may be moved to Reston, VA which Tribal Leaders are concerned is a little too far away.
 - Response: The National Park Service (NPS) lost its lease on the building and has moved 500 people into the main Interior Building. There are scheduled to have renovations in the South Building, which could cause OSG to move temporarily to Reston. We have not heard anything concretely regarding permanent moves.
 - Tribal Question: With respect to NPS, why is their problem becoming Indian Country’s problem? It is unfair to force Tribal Leaders who already a strained for resources to travel to get out to Reston when NPS does not actually work to improve the human condition.

Adjourn the SGAC Meeting

Chairman Allen provided the closing prayer and the SGAC meeting was adjourned.