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| **Recorder Form** | |
| **Onsite Contact Tami Snow 918.388.7428** | |
| Recorder: Jeri Loretto | Date: 04/26/2018 |
| Session Title: Track D: Funding Agreements Between Self-Governance Tribes and Non-BIA Bureaus of the Department of the Interior Consultation Session | |
| Panelists:   * Ken Reinfeld, Senior Policy/Program Analyst, Office of Self-Governance, DOI * The Honorable KathyHope Erickson, Tribal Chairman and Lawrence Widmark, Vice-Chairman, Sitka Tribe * The Honorable Thomas P. O’Rourke, Chairman, Yurok Tribe * Seth Moore, Ph.D, Director of Biology & Environment, Great Lakes Restoration Project, Grand Portage Band of Lake Superior Chippewa Indians * Ms. Charleen Fisher, Executive Director, Council of Athabascan Tribal Governments * The Honorable Rodney Mike, Chairman, Duckwater Shoshone Tribe of the Duckwater Reservation * The Honorable Russell “Buster” Attebery, Chairman, Karuk Tribe * The Honorable Thomas P. O’Rourke, Chairman, Yurok Tribe * The Honorable Ryan P. Jackson, Chairman, Hoopa Valley Tribe * The Honorable Beau Mitchell, Councilman, Chippewa Cree Tribe of the Rocky Boy’s Reservation * The Honorable Shelly Fyant, Council Member, Confederated Salish & Kootenai Tribes of the Flathead Reservation * Ms. Charleen Fisher, Executive Director, Council of Athabascan Tribal Governments * Craig Jacobson, Partner, Hobbs Straus Dean & Walker, LLP * Reed Robinson, Tribal Relations Indian Affairs Manager, National Park Service, DOI * Kelly Titensor, Acting Director, Bureau of Reclamation, Commissioner’s Office, DOI | |
| Summary of Issues and Items Discussed:  Ken Reinfeld introduced session and indicated that this is CONSULTATION on non-BIA funding agreements. He showed memo sent to tribes regarding the Federal Register Notice regarding tribal consultation on non-BIA funding agreements. Federal register notice that explains the non-BIA FA. Documents are available in the jump drive given out during registration.  Ken gave overview of federal register and named the non-BIA agencies availaibe for funding agreement. Under Title IV, identifies non-BIA agencies available to include in FA.  Tribe will have to have FA for Indian programs and after tirbe has a FA then they can negotiatie with FA with Non-BIA agency.  US code 11-51 – benefits of Indians; identifies land that can be taken into FA; land geographically close to reservation; historical connection to tribal lands.  Identifcation of lands are discussed in federal register and on jump drive.  FA must be awarded on non-competitive basis.  Bureau has discretion to award PFSAs on non-competitive basis.  Cannot include PFSAs that are federally trust functions. Even if area that tribe is in interested in is not listed in federal register that does not preclude tribes from including in FA.  Sign onto letter to Anthony Bedel – transportation rulemaking and negotiated rule – extend SG to Dept of Transportation  1st speaker:  Kathy Erickson - Sitka tribe of Alaska   * FA with NPS – FA has done so much to extend our SG. Thank NCAI for support and “hosting” tribes and other tribes with lands close to Natl Parks and asking to co-manage PFSAs * FA sent to congress in Feb 2018 and waiting for 90 waiting period to co-manage park – interpretation services * Provided historical review of park in Sitka and displayed map of Sitka…no roads going into Sitka…have to access by air or sea * Introduced delegation form Sitka…Woody Woodmark, Sitka Chair, Ann Davis, Jerry Hope * 1990’s STA Council members started discussing managing Sitka Park. It was in strategic plan for many years. And pursuant to Federal Register started going after co-manaing * Requested management of interpretation * 1st Road block - fax number was not working * October 2016 – submitted resultion to NCAI to manage Sitka Park * April 2017 – SG conference in Spokane – send notice to receive FY18 funding and received notice to meet and negotiate; NPS responded and interested to negotiate. But, what is “inherent federal function?’’ Got back response “closely federally related.” * Late last year and this, held negotiation meetings. * Signed FA with NPS.   LESSONS LEARNED   * Had to use congressional staff to located FA so advised that tribes keep close track of FA. * They are now in the 90 day waiting period to get FA signed. * They are moving forward to employ staff * Negotiation take longer * Inherently federal function define and fight for higher level position * Format of agreement – NPS may try to push for cooperative agreement instead of FA * Outstanding issues – IDC not included; STA; * Using tribal funds to implement before FA is signed   PFSAs requested – cultural and natural resources; interpretation; and maintenance  Ron Jackson- Hoopa Valley Tribal Chairman, California   * FA with Bureau of Reclamation to co-manage Trinity River * 1955 until now, dam built - water has been degraded and salmon have decreased * In 80s – study to determine adequate level of water needed; follow up study in 1990 and in 2000, bruce Babbit signed Trinity River restoration agreement and new FA with Bureau of Reclamation * Difficult process to get FA with Reclamation. * Negotiate every year for restoration program with Reclamation * Trinity River Hatchery Program – indigeneous species – trying to take over compete program, but problems with State of California. * Other tribes that have FA to take over their hatchery and they haven’t had problems, but according to Ken these tribes are not SG. * In last 30 years, only about 10 tribes have gotten FA with non-BIA agencies. It’s been difficult and has to go through congress…they are afraid to release control to tribes but we have able to prove that we have successful in managing programs. * Tribes should be active and push to develop Fas. Federal agencies have damaged our resources and doubt tribe’s ability to help co-manage.   Ken Reinfeld – how can we build upon what has happened in the past and strategies to move forward. New Title IV amendments may allow us more opportunities to negotiate FA.  Shelly Fyant – Confederated Salish and Kootenai Tribal Council, Flathead Reservation   * Negotiating IIM program with OST * Presented power point, copied to laptop * Flathead Allotment Act that gave away land around the lake. * Last century, SKT have repurchased land lost * SG, in 1988, SG demo project * Beaverhead Peak * Manage power utility under 638 contract * Pilot tribe with OST to test new on-line evaluation methodology * 1996 – redesign IIM with little opportunity to redesign the program * Now working to put this under FA instead of MOU with OST * Ruth Swaney, SG, Coordinator and master mind behind MOU with OST   Rhonda Pitka, Chief, Village of Beaver, Council of Athabaskan Tribal Goernement – consortium of 10 tribal governments, found in 1985   * Came together because we had no control over our lands * 1st initiative – health care and started operating clinics * We want to manage our traditional territories so SG is only of main pillars of negotiation * Took years to get to FAs with non-BIA agencies * Difficult process – FAs get lost on someone desks so have to track; tribal leadership has to be engaged every step of the way; “they” don’t understand FA * Agreements are expensive and take a lot of time. * They have to pay you what it cost them to operate the programs. * What we learn is to build relationships with people working on the ground * FAs are pathways for where we want to go.   Dr. Charlene Fisher, Alaska Tribal Government   * FAs with US Fish and Wildlife * USFWS 809 Agreements were in place for years * 809 helped proved our ability to run programs * USFWS AFA – harvest data collection, moose population surveys, etc – showed funding amounts for the AFAs. * Artic Wildlife Refuge has a camp for kids in the and through addendum, we are going to negotiate this program * AFA with BLM – train forest fighters – red card training; Problem with BLM going to using “contract crews” instead of using tribal crews. * Lessons Learned – establishing relationship with federal staff; showing capacity and ability to run program; important to have tribal leadership support and other political support; 90 day rule and have funds to run our programs. * AFAs are very unfunded and we have to provide our funds.   Craig Jacobson, Hobbs Straus Dean and Walker, LLP   * Federal agency present – Reclamation and Indian Affairs * Involved with few Title IV FAs. * Language in Title IV applicable to BIA and non-BIA agencies * Be aware of how info is shared among non-BIA agencies * Language of “services carried out FOR Indians.” Some agencies take limited view of services that can be compacted. * Fish and Wildlife – how is “land based” defined. Each national park and wildlife refuge has its own unique history. If you review HOW these places got started, it may give you idea how services are provided by federal agencies and why. This will give you clue on how to deal with them and negotiation tool. * What is authorizing language on how they were established and run programs? ALL AMERICANS and doesn’t specify “Indians.” * NPS overseeing Bison range – it has unique tribal history. It has a history with tribal people. * If you can identify specific tribal history, it gives language and criteria for co-manage * Get to know as much as you can on what established the land and authority on how that land is managed. * Get an understanding on PFSAs that they provide and distinguish between what THEY have to provide and what is discretionary. Understand statues that specify what ONLY THEY CAN DO. * Identify what is clearly “inherent federal function.” When you go into negotiate, as agency to EXPLAIN why this is inherent federal function? How do these federal functions fit INTO people’s job descriptions and the funds that go with that. * It’s a good time to talk about FAs with non-BIA agencies now. The philosophy in DC now is to de-centralize PFSAs. Position yourself as a tribe that can manage these decentralized PFSAs. * These decentralized PFSA than can be used in AFAs to take over management within these non-BIA agencies   Ken Reinfeld – need to determine how non-BIA agencies are interpreting these agreements. | |
| Questions from the Audience:   1. Should we have follow up on these discussions to open dialogue with non-BIA agencies. Overwhelming “yes” by participants. Ken will send invitation for conference call to discuss this further. 2. Gerald Hope - US DOT trying to open up discussion with regard to AFAs with DOT | |
| Follow Materials, Documents, Websites for Reference:  Karen Ketcher – Cherokee Nation – karen-ketcher@cherokee.org  Kelly R. Titensor, Policy Analyst, Commissioner’s Office, Bureau of Reclamation, 1849 C. Street, NW., Washington, DC 20240 ktitensor@usbr.gov  Julie Roberts-Hyslop – Native Village of Tanana POB 130. Tanana, AL 99777 [JRobertsHyslop@yahoo.com](mailto:JRobertsHyslop@yahoo.com) | |