

# IHS TRIBAL SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication and Education

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August 28, 2019

RADM Michael D. Weahkee, MBA, MHSA  
Assistant Surgeon General, U.S. Public Health Service  
Principal Deputy Director  
Indian Health Service  
U.S. Department of Health and Human Services  
5600 Fishers Lane  
Rockville, MD 20857

**RE: Summary of Issues from the Tribal Self-Governance Advisory Committee (TSGAC) Meeting July 15-16, 2019**

Dear RADM Weahkee:

On behalf of the TSGAC, we thank you for attending the July 15-16th Committee meeting. We appreciate your steadfast leadership and continuing commitment to attend TSGAC meetings and engage in critically important discussions with Tribal leadership. On behalf of the Committee, I have provided a summary of recommendations and comments from the meeting below.

**Support establishment of the IHS Negotiations Sub-Workgroup.** After several lengthy discussions with the Agency, the TSGAC has taken action to establish a sub-workgroup and assign a number of longstanding tasks for the sub-workgroup to address and develop recommendations for TSGAC consideration and action. This work will include development of recommended changes and updates to the IHS Tribal Self-Governance Program Negotiation Handbook and the IHS Headquarters Programs, Services, Functions and Activities Manual. In order for the workgroup to successfully provide recommendations, TSGAC requests that the Agency fully support the workgroup and assign a few current Headquarters technical staff and Agency Lead Negotiators to actively participate in the sub-workgroup discussions. TSGAC has identified the following Committee and Technical Workgroup members to serve on the sub-workgroup:

- Melanie Fourkiller, Senior Policy Analyst, Choctaw Nation (Oklahoma Representative)
- Cyndi Ferguson, Self-Governance Analyst, SENSE Inc. (TSGAC Tech Workgroup Member)
- Terra Branson, Director, Planning, Grants & Self-Governance, Muscogee (Creek) Nation (TSGAC Tech Workgroup Co-Chair)
- Alberta Unok, Deputy Director, Alaska Native Health Board (TSGAC Tech Workgroup)
- Candice Skenandore, Self-Governance Coordinator, Intergovernmental Affairs, Communication & Self-Governance, Oneida Nation (TSGAC Tech Workgroup)

**Continue Tribal Consultation on the Sanitation Deficiency Systems (SDS) Guidance.**

TSGAC is receipt of your letter dated May 24, 2019, which provided notification that the Office of Environmental Health and Engineering (OEHE) intends to issue the updated SDS by September 30, 2019 for use in Fiscal Year 2020. TSGAC appreciates the effort and result of the Tribal Consultation. However, more than one-third of the Tribal comments remain

unresolved due to “statutory requirements and/or longstanding policy direction.” As TSGAC has reported to you previously, the Sanitation Facility Construction Program and Division has not had a substantive review or update since passage of the Title V of the Indian Self-Determination and Education Assistance Act in 2003. Many of the issues that the Agency suggests “conflict” with this policy and run counter to the tenets of Title V. As such, TSGAC respectfully request that the Agency continue to engage in meaningful discussion with Tribes regarding the outstanding/unresolved Tribal comments received during the consultation period.

**Promote the use of Tribal Advisory Committees and Workgroups within the Department of Health and Human Services.** TSGAC is aware of Executive Order 13875, “Evaluating and Improving the Utility of Federal Advisory Committees,” which intend to evaluate, reduce, and limit the number of federal advisory committees established under the Federal Advisory Committee Act (FACA). TSGAC asks for your leadership within the Department of Health and Human Services to assert that its Tribal Advisory Committees and Workgroups are not established under FACA, that these Committees and Workgroups serve a critical role in ensuring the Federal Government fulfill the government-to-government relationship and support Tribal consultation, and that Tribal Advisory Committees are essential for effective delivery of programs that serve Tribal Nations and their citizens.

**Provide data related to use of the IHS Director’s Emergency Fund, Management Initiatives Fund and Emergency Accreditation Fund.** During our discussions at the recent TSGAC meeting, it was clear that additional data and information regarding this funding would be helpful to the Committee’s understanding regarding the purposes and use of these funds. TSGAC would appreciate additional data regarding the distribution of these funds over the last three years and any written policy associated with the funding source.

**Establish a workgroup to assist in development of a formula to project 105(l) lease cost needs.** The TSGAC has previously suggested that a technical workgroup may be useful to leverage institutional and field knowledge regarding the expected future costs of 105(l) leases. TSGAC hopes the Agency will take action on this request soon and consider nominees from the TSGAC and Direct Service Tribes Advisory Committee.

In closing, the TSGAC appreciates our continued partnership and willingness to engage in discussion with the Agency. If you have any questions or would like to discuss these comments in further detail, please contact me at [lmalerba@moheganmail.com](mailto:lmalerba@moheganmail.com). Thank you.

Sincerely,



Chief Lynn Malerba, Mohegan Tribe of Connecticut  
Chairwoman, IHS TSGAC

cc: Jennifer Cooper, Acting Director, Office of Tribal Self-Governance, IHS  
TSGAC Members and Technical Workgroup