**Self-Governance Advisory Committee Meeting**

**September/October 2019**

Attendance: A quorum was present for the meeting.

Action Item: SGAC approved the minutes from the July advisory meeting.

**Sharee Freeman, Office of Self-Governance (OSG)**

*OSG Workforce:* Rufina Villicana will serve as the Acting Finance Manager. Thomas Gubatayao retired. Vicki Hanvey and Miles Reader will each assume some of Thomas’ responsibilities associated with audit and CSC. Miles Reader is also working on Tribal Base calculations. OSG is seeking to fill several vacancies, including 2 Financial Specialists and a Compact Negotiator. OSG is working internally on a workforce development plan. OSG also drafted a succession plan that is completed and under review by AS-IA.

*Self-Governance Participation:* There are 288 Self-Governance Tribes and there continues to be interest in Self-Governance from Tribes across the country. Specifically, 11 Tribes expressed interest in learning more about Self-Governance in recent months. Three of the eleven Tribes entered into Self-Governance agreements and eight did not enter at this time for various reasons.

*Finance & Funding Related Updates:* OSG received and obligated $532,068,337 in FY2019 to Self-Governance Tribes. Regarding CSC distributions, $85,894,989 was paid to Tribes this year. For FY2018, DOI is still waiting on $1 million to cover CSC. Regarding end of fiscal year activities, FBMS closed September 20 and will open back up on October 8. Likewise, ASAP closed September 25 and will reopen on October 9. Indian Affairs is undergoing a review of the process for moving funds through the system and out to Tribes. At this stage, various offices are identifying any bottlenecks and how the process can be streamlined.

*Other Updates:*

* Ms. Freeman reminded attendees about the importance of submitting crime reports. If these reports were not submitted, Tribes didn’t receive opioid funding. A number of Tribes missed out on opioid funding because of the missed reports.
* OSG prepared a self-governance curriculum for regional directors, line officers and BIA employees. The curriculum was sent to 3 regional directors for input. Once the input is received and the curriculum revised, OSG will share it with SGAC.
  + Comment: Tribal leadership expressed the importance of having Tribal involvement in the development of any curriculum to ensure Tribal point of views are included and that Regional Directors and others within BIA are aware of Tribal expectations. Ms. Freeman stated that SGAC will have an opportunity to weigh in on the curriculum.

*Follow-Up: Status of Self-Governance curriculum for BIA officials and timeline for SGAC review of curriculum.*

**Anna Maria Ortiz, Director, U.S. Government Accountability Office**

Ms. Ortiz provided the committee a list of ongoing GAO reviews and evaluations.

*Background:* GAO is an independent, nonpartisan organization and we are here to help Congress with its oversight function. We do financial and performance audits of government programs, of specific agencies, any sort of government spending. And we try to make recommendations that will improve government functioning and efficiency. Our requests are congressionally driven and that can be through either a request letter or from several Congress people or through a mandate that says we must do a report. We do have a lot of say over the specific questions we ask and the um, methodology that we use. We want to retain a lot of independence on that so that we can really let the facts speak for themselves.

GAO has 14 different mission team is focused on things from justice to health care to physical infrastructure. And a lot of the time we're not communicating across those lines. We've also had challenges with external communication, both on the Hill when we go to talk to different congressional representatives or to staffers and also when we come out to talk to tribal governments.

*Tribal Advisory Committee within GAO*: Tribal leaders went to the comptroller general and identified the need of a Tribal Advisory Committee and the comptroller general made a commitment to develop such a committee.

*GAO’s Inclusion of Federal Management of Programs that Serve Tribal Nations and Their Citizens*: BIA continues to be on GAO’s High-Risk list because of needed improvements in management and program administration. It is important to understand that GAO could close all of the open recommendations made to BIA and that might not change the High-Risk status. GAO is looking for a serious leadership commitment to make institutional improvements that will improve its capacity to serve Tribal Nations and their citizens. The next update for the High-Risk list is a year and a half away or so before the next high-risk list comes out. So far, GAO has not seen a management commitment to make significant reforms—specifically, there is no action plan, the agency hasn’t identified the root cause for management deficiencies, and the agency has not addressed the widespread workforce shortages.

*Follow-Up: SGAC would like to be updated routinely on the progress of BIA and BIE to address the management challenges that caused the agency to be included on the High-Risk list.*

**Legislative and Judicial Update**

John Simermeyer, Policy Advisory, and Chase Goodnight, Senate Committee on Indian Affairs provided the following information:

* SCIA working on a bill to establish a demonstration project at the Department of Labor that would authorize the Secretary of Labor to enter into 638 self-determination contracts with tribes for the management of job corps sites located on or near tribal lands. Essentially, this would be part of a larger push that the Committee has been making to expand the principles of ISDEAA into other federal agencies.
  + A Committee Member asked why the Senate is not including Title IV type authority instead of only providing Title I type authority when they are introducing legislation to expand Self-Determination to other agencies.
* Staff offered a friendly reminder that we need to keep up our momentum getting the PROGRESS Act passed in the House.
* Staff expressed concern with DOJ’s administration of VOCA funds to Indian Country.
  + A Committee Member noted that a solution is to expand Self-Governance into the Department of Justice.

Dan Lewerenz from the Native American Rights Fund provided the Committee with an update from Brackeen v. Bernhardt.

Updates on the case and materials can be found at:

<https://sct.narf.org/caseindexes/brackeen_v_bernhardt_lower_courts.html>

**Budget Update**

Tyler Scribner, Policy Analyst, NCAI, & George Bearpaw, BIA

Friday, September 27th, president Trump signed into law HR 4378 a continuing resolution that will keep the government open through November 21st, 2019.

There was a recent GAO legal opinion to Congress that concludes that the DOI violated appropriation's law during the shutdown, when it obligated certain fees for expenses that it would normally charge to another appropriations line for the national park service.

The House Interior and Environment Appropriations bill includes 3.5 billion for BIA and BIE—a $432 million increase above fiscal year 2019 levels.

DOI is required to report a plan for addressing 105(l) leases to Congress within 90 days after enactment of the budget. A couple of the challenges DOI is considering include:

* There are new OMB regulations on depreciation that affect leases.
* At TIBC, DOI heard that Tribes do not want the agency to touch program and service money to pay for leases.
* Indian Affairs does not have dedicated staff to deal with leases.
* The Committee noted that Tribes are pushing IHS to identify all the buildings in the inventory so they can develop a dedicated line item. A similar approach should be considered within Indian Affairs. Also, the Committee hopes DOI will consult with Tribes to address the 105(l) lease situation—as called for in a Senate Committee Report.

Budget Related Questions

1. Did BIA get all funds disbursed out to the Tribes or did any funds “expire” and go back to Treasury?

Response: Indian Affairs is still working on carry-over and will then analyze what is left. When the system comes back online, Indian Affairs will know the status. In general, expired funds go into the trust management improvement project fund (TMIP fund) and can be used for trust related projects administered by Tribes or BIA. AS-IA Sweeney recommended that Indian Affairs come up with a carry-over policy for two-year money as well as other funds. The Assistant Secretary wants to know what the balances for all accounts are and anything over 7% must be justified. The new policy was signed a couple of weeks ago. Indian Affairs is also working on the allocation processes brought up at the last TIBC and set a deadline of December 31 to identify every fund.

1. Indian Health Service made a request to OMB to have an Appropriation Exception so they are authorized to give SG contracting and compacting Tribes majority of funding. A Committee Member suggested Indian Affairs meet with IHS to find out how they justified it so DOI can make the same request.

*Follow-Up: A copy of the carry-over policy and report will be provided to SGAC and actions associated with Section 105(l) leases need to involve Tribal consultation.*

**Department of Transportation**

Ron Jackson, Assistant General Counsel for Operations, DOT

DOT and the Tribal Workgroup reached a tentative agreement on rulemaking subject to inter-agency review process. DOT finished its inter-agency review process and distributed the rule to other agencies. The final rule is being published in the Federal Register on October 2. DOT will hold several consultations, specifically: October 21 at the NCAI Annual Convention in Albuquerque; November 5 at USET; November 15 in Seattle; November 21 through an online session.

Comments:

1. One of the four points of disagreement between the Tribes and DOT has to do with establishing an office of self-governance. We appreciate the federal side looking to commit a $500,000 but would like to see more action on establishing the office.
2. Tribal leaders noted that training of DOT officials to understand Self-Governance should start soon so that program officials do not end up being blockades to the success of Self-Governance at DOT.

**Update from AS-IA**

Tara Sweeney, AS-IA and Mark Cruz

AS-IA Sweeney provided the following updates from Indian Affairs.

*Budget:*

* We are starting off the fiscal year with a Continuing Resolution. The current one lasts through November 21st.
* Our financial systems are still in a blackout period through next week, but we are getting poised to move CR funds as quickly as possible once the financial system is up and running.
* We are hopeful there will be no lapse in appropriations, but we are taking the necessary planning steps in the event of a lapse.
* One the lessons learned last year was the need to process available CR funds to tribes quickly in order to avoid the problems we had during the lapse in appropriations.
* I sent out a request to Tribes asking for input on how we can improve our service to Indian Country during a shutdown.
* In response to your suggestions, we are developing communication plans to better engage with tribal leaders during a shutdown. This includes:
  + Plans to conduct regular calls with Tribes.
  + Developing a website to gather input form tribes on shutdown-related challenges;
  + Better utilizing existing emergency messaging systems to keep employees informed; and,
  + Clarifying guidance for staff regarding critical administrative functions that can be implemented during a shutdown.
* Regarding Congressional appropriations, we are closely tracking House and Senate activities.
* So far, the bills have been supportive of our priority areas such as law enforcement and missing and murdered Native Americans; and both versions include separate budget accounts for BIE.
* The initial House mark was more generous than the Senate.
  + The 2020 House mark provided roughly $342 million over the 2019 enacted while the Senate was $51 million more than the 2019 enacted.
  + The Senate report language directed Indian Affairs to engage tribes and tribal organizations to develop the necessary policies to evaluate future 105(l) lease requests.
  + The report language noted Indian Affairs should work with IHS, DOJ and OMB to formulate budget and legislative strategies to address increasing lease costs, including consideration of an indefinite appropriations as we have with Contract Support Costs.
  + I raise this because there is a growing interest in 105(l) leases, but under current funding levels, it is a challenge to support them.
  + We look forward to engaging with you to ensure 105(l) leases are strengthened to become a financially sustainable tool for facility and infrastructure support.
  + As an update, there are a total of 29 HEARTH leasing regulations for 27 tribes in various stages of review or awaiting approval.
    - 2 are in final form and ready for official approval;
    - 1 is in the final review stages;
    - 7 are with the applicant Tribe for modifications;
    - The remaining are proceeding through the review process at the regional level and with the Office of the Solicitor.
* Finally, many Tribes asked for the Departments support of advanced appropriations to address lapse in funding.
* Last week, our Deputy Assistant Secretary for Management testified on H.R. 1128, stressing the challenges created by any lapse in appropriations and our need to ensure Indian Affairs has the full capacity without interruption to meet our trust responsibilities to Indian Tribes. No position was taken, however, we did note technical changes that would improve steps to mitigate impacts during a shutdown.

*Public Safety*

* As I have consistently reported to you, improving public safety in Indian Country is one of my top priorities.
* October is Domestic Violence Awareness Month, and the Department’s initiative to address this tragic epidemic is going strong.
* In June we held a tribal leader roundtable at Gila River Indian Community and since July, Indian Affairs has held two “Reclaiming our Native Communities” listening sessions in Nome and Bethel, Alaska.
* These are proving to be extremely helpful in developing multi-disciplinary solutions to public safety challenges; especially those involving cold cases, violent crimes and missing and murdered American Indian and Alaska Natives.
* Next week, we will hold a fourth missing and murdered listening session in Rapid City, South Dakota, in partnership with the Department of Health and Human Services.
* This event will be hosted by the Great Plains Tribal Chairmen’s Association and I look forward to continuing this important collaboration with our tribal, state, federal and public partners.
* Our Office of Justice Service is making progress on its deployment of TAP kiosks.
* Tribal access to national crime information databases is extremely critical to our effective law enforcement efforts.
* The expansion of these TAP kiosks will help tribes protect victims of domestic violence, register sex offenders, and help locate missing people.
* Last week, our first kiosk was successfully installed at the BIA Anadarko agency, and certificates of training were presented to the staff from the Office of Justice Services, Indian Services and tribal Social Services.
* I am happy to report we will deploy a second kiosk at the Northern Cheyenne Agency in Montana and a third at the Northern Pueblos Agency in New Mexico.
* Our goal is to install all kiosks at the designated sites by the close of FY 2020.
  + Mescalero Agency
  + Colorado River Agency
  + Eastern Nevada Agency
  + San Carlos Agency
  + Southern Paiute Agency
  + Truxton Canyon Agency
  + Ft. Apache Agency
  + Hopi Agency
  + Uintah & Ouray Agency
  + Crow Creek Agency
  + Lower Brule Agency
  + Turtle Mountain Agency
  + Ft. Totten Agency
  + Standing Rock Agency
  + Winnebago Agency
  + Yankton Agency
  + Blackfeet Agency
  + Crow Agency
  + Wind River Agency
  + Concho Agency
  + Miami Agency
  + Ponca Agency
  + Minnesota- Nett Lake

*Broadband Summit*

* The framework of our policy approach at Indian Affairs is to empower Indian Country.
* Empowerment can take many different forms; through education, law enforcement, and resource development, for example, but these are only effective with access to modern technology.
* 35 percent of Americans living on tribal lands lack broadband service, compared to 8 percent of Americans overall. (2018 report form the FCC)
* This month we hosted the first National Tribal Broadband Summit.
* This was an unprecedented event that we developed in collaboration with the Department of Education and the Institute of Museum and Library Sciences.
* We had over 300 registrants for this two-day event, which brought together representatives from Tribes and tribal organizations, private industry, federal programs, and other stakeholders.
* The goal was to connect Indian Country with federal, private and non-profit partners aimed at building capacity, identifying investment roadblocks, explore new technology and to create an environment that fosters potential private investment for broadband deployment.
* The President is a champion for affordable, accessible, and secure broadband for all of America.
* Last year, through Executive Order 13821, President Trump established a national policy for the executive branch to accelerate deployment and adoption of affordable and reliable broadband to rural communities.
* Earlier this February, the President established the American Broadband Initiative, a comprehensive all-of-government effort to stimulate private investment in broadband.
* Under Secretary Bernhardt’s leadership, DOI is focused on implementing these measures and carrying out the President’s broadband agenda.
* BIA and the other DOI permitting agencies are working to identify, and reduce or eliminate, regulatory barriers to broadband.
* For example, under review at BIA is a Right-of-Way Handbook that will streamline and clarify the Right-of-Way process.
* This long overdue Handbook will help with investment in Indian Country by clearly explaining how to work with the Bureau of Indian Affairs, Federal partners, Tribal governments, and landowners when doing business in Indian Country.
* BIA is also exploring programmatic partnerships with other federal agencies that have an oversight or regulatory role with respect to broadband infrastructure.
* During the summit, I also announced that DOI is making a huge investment in broadband deployment: $1.2 million dollars for the Indian Affairs Tribal Broadband Grant.
* The Tribal Broadband Grant will offer competitive financial awards to Tribes and Alaska Native villages for activities supporting connectivity, such as feasibility studies, that identify the barriers and the solutions to broadband deployment within Indian Country and Alaska Native villages.
* The grant program will also complement the Administration’s Opportunity Zone initiative, by giving preference to those locations near Opportunity Zones.
* We’ll be announcing more details about the grant program over the next few weeks.

*TERA:*

* We are reviewing all the input we've received on the Tribal Energy Resource Agreement (TERA) rule, but given the overall level of support for TERA revisions, we are excited to issue the final rule once this process is complete.

*BIE:*

* We are also reviewing comments received on two BIE rules: the Standards, Assessments, and Accountability System rule and the Johnson-O'Malley (JOM) rule.
* We are working to address those comments and, in particular, will be looking at how to ensure the final JOM rule better acknowledges that many of you receive JOM funding through your self-governance contracts and compacts.

*REALTY, Fee To Trust:*

* Last year we heard from Tribes about the lengthy fee-to-trust process, and since then, our realty staff has focused its energies on expediting their reviews.
* This month alone, we completed review of 7 on and off-reservation applications for five tribes.
* We are also working on developing a system that provides Tribes an up-to-date status report of their applications.
* At the last meeting, you asked what the Department’s guidance is on new off-reservation fee-to-trust applications.
  + We have renewed the policy regarding the authority for review and approval of off-reservation applications under the 151 regulatory process.
    - My office can provide you copies of that memorandum if you are interested.
  + For an additional year, the Office of the Secretary will retain authority over this function.
  + Upon its expiration next year, we will consider whether it will remain a permanent policy.
* In fiscal year 2019, 95 fee to trust cases have been approved for a total of 16,003 acres brought into trust.

Other realty activities include:

* The approval of 402 leasehold and trust land mortgages this fiscal year.
* We issued a policy memorandum that standardizes the process to request and receive certified title status reports.
* We issued a policy memorandum providing guidance for tracking mortgages.
* We finalized the Indian Affairs Mortgage Handbook and a contact guide for lenders.

*BIA TRIBAL TRANSPORTATION*

* We just concluded consultation on reducing regulatory burdens for tribal transportation programs and hope to have the final rule published within the first quarter of 2020.

*FACA E.O.*

* At our last meeting, you asked about the Executive Order on Evaluating and Improving the Utility of Federal Advisory Committees.
* By September 30, each agency was to terminate at least one-third of its current committees, and you asked that we recommend an exemption for the SGAC and other DOI advisory committees like TBIC.
* We investigated the FACA committees and neither SGAC nor TBIC are FACA committees.
  + The only 2 BIA FACA committees are:
    - The BIA Advisory Board for Exceptional Children; and,
    - Standards, Assessments and Accountability system negotiated rulemaking committee.

*CONCLUSION*

* In closing, I wish to thank you for your continuing efforts and hard work in advancing self-governance.
* Strengthening government-to-government relationships with tribes is a top priority of the Department.
* The successes of the self-governance program are not limited to executing funding agreements, but are attributed to the growth tribes have demonstrated in their own independent initiatives.
* We promote these kinds of successes and strive to support where appropriate and encourage prosperity and security among your communities.

Tribal Questions

1. Land into trust process that you are trying to improve and streamline – Who do I contact because the realty division is in Albuquerque but things do come back here to DC. Can you send out a memo to clarify the process for the off-reservation applications that are non-gaming and who to contact within Indian Affairs?
2. Kiosks for reporting – we are part of SORNA for DOJ and they have the website but we cannot access it yet. Kiosk component seems like it could be a bridge or conduit working with DOJ so we don’t have to go through local counties or states. Is there any plan to implement this initiative in the eastern region?

Response: There was a need west of the MS based on stats and numbers so I had discussions with OJS to deploy TAPS Kiosks to address these issues. I would like to work with you for how we can have a presence east of the MS. USET 50th Anniversary Conference is in November 4-7, 2019 Mississippi Band of Choctaw.

1. Right of way issues are complex because of the HEARTH Act and other federal regulations for right of ways. The regulations are unclear as to the pathway forward because the form isn’t intuitive. Policy for every utility for every new line you need a new right of way. We have broad discretion under the Settlement Act. Waiting two years means lost opportunity. Appreciate the effort but because of the timeframe we are looking at losses.

Response: We are taking proactive steps to address the templates and make sure they are aligned with the regulations. I am bringing on capacity to focus on these types of issues. Jesse Young came from Solicitors Office and said if there is anything she can do to improve the rights of way process she would assist.

1. Any way to lump sum broadband funding instead of using grants? Is there a better way to take the smaller dollar amounts to attack the problem? Look at how we can engage a consultant so there is a more balanced review. Opportunity Zone we are ignored again

Governors of each state developed opportunity zones – as discussions about Opportunity Zone 2.0 advocate for all of Indian Country inclusion.

Response: There may be some misalignment between our permitting process and USDAs permitting process. Learned USDA may not have money for feasibility studies for Tribes who wish to do this. Some Tribes may have a viable project but they cannot leverage funds without a feasibility study. There may be an opportunity for reimbursement to Tribes but there is no up-front money. We are examining if we have the capacity to develop a grant program for Tribes to access for feasibility studies. We understand that a one-size-fits-all approach doesn’t work for Indian country. Help us understand what those needs are so we can assemble the right team of people internally. We are creating pods of team members from across Indian country.

1. Executive Order calling for a 1/3 reduction in Advisory Committees should exempt Tribal committees because Tribes have a nation to nation relationship with the federal government and this is one way of implementing that relationship.

Response: Happy to raise this with the White House directly and with the inter-agency Tribal roundtables. Tyler Fish is now at the White House – strong, articulate, reliable and a welcomed addition to the White House team and a strong ally for Indian country.

1. Public Safety and Justice Summit – Collaboration between DOJ and OJS is critical. Missing and Murdered Native Women is a big deal and we have challenged them about their database, so we know where they have come, age, etc. The fields that they have do not provide that kind of data to provide all of us the data they need. WA state passed a law and they are required to collect that data. It wouldn’t matter if it is COPS money VOCA money – etc. – urge them not to be overly restrictive. I don’t think they do it to the states. We should have the same discretion. DOJ made it look like there was not a need for resources and it is not true. We made the request at TIBC to try and transfer money over to BIA.

Response: OJS and DOJ have been working with NEMUS – last year they instituted a new field that allows for identification of Tribal affiliation. Lack of data is hindering our ability to advocate for resources and data drives decisions. At Gila River there were over 100 cases in NEMUS and Tribal leaders said that number is grossly underestimating our people. After that we saw a dramatic increase in the numbers from 100 plus to 300 plus. We need to continue to remind people to get the information out there. Parity between treatment of states and Tribes – there was an interest in gathering information from Indian country where we can provide information back when there isn’t parity. As the SG group recommend you to send in an exhaustive list – identify the areas where there is disparity in treatment between Tribes and States so we can provide it to the White House Domestic Policy Council.

1. 105(l) leasing agenda – We need to get our arms around the number of facilities. How can we get our arms wrapped around it – will staff come up with a process for inventory?

Response: Administration is committed to infrastructure in Indian Country. Regulations are old and that is part of the challenge there is no program, design or office to handle this request. We are trying to be thoughtful and identify which programs are eligible and how we are going to process these requests. We met with OMB a lot of times and as we process these we are kicking them over to OMB. We will issue guidance but we are not sure in what form. Gila River advocated for themselves the money via an earmark so it made it easy for us to process it. We need a discussion on how we handle this. Concern is will we rob Direct Service to pay for Tribes with more means to develop their infrastructure. *(This comment solicited concern for Tribal leaders as it comes across as the agency trying to cause conflict between self-governance and direct service Tribes and it was asked that DOI officials refrain from making those types of comments because it is not productive.)*

1. Advanced Appropriations and Exception Apportionment Authority is a nice angle when dealing with shutdown because you can get the money up front. We are going to keep pushing the envelope and improve on how we serve the Tribes. Public Safety was a big issue and although there were certain exceptions it is something we need on the record.
2. Land into Trust – Ak Chin it has been almost 7 years and when we get close to the 16 steps it stops. More frustrating receive an email we got your documents 2 weeks ago but we will start work this week. We don’t have a status report. We voiced our concerns. There was a small plane that crashed into our rooftop and the water company that serves that area the pressure is low but we cannot do anything because it is fee status.

Response: Concerns me that you are still waiting on a status report on land into trust. (Follow-up item)

1. Broadband – we are near Maricopa but we cannot get access to it. Our students come to the Tribal office with their iPads so we open Council Office to them. We purchased individual hot spots for college students to connect to the system.

Response: Financial Accounting Class via teleconference – I understand that struggle which is why I have a strong desire to ensure our remote communities are connected. Until there are opportunities for electrical transmission into remote communities and reliable broadband service into our communities (remote is also unconnected Indian communities near urban centers). We are looking at innovative ways to ensure our kids are connected. We have some ideas and we are working on these issues.

Opportunity Zones are a tool for Indian country – for you to leverage dollars to spur investment into your community. Unfortunately, Indian Country wasn’t aware or included in discussions with Governor as to what areas qualified. It is a little complicated to get investors in there because you have to show a revenue stream.

1. Can you provide an update on the 477 Plans and the status of the response to the Congressional letter sent to all the agencies on improving the MOA?

Response: We held our first Federal partners Tribal meeting 3 weeks ago in September. It was a healthy discussion that enlightened the Federal partners Tyler Fish from the White House was there and it was heard loud and clear. It was a discussion that needed to happen. DOI is the Administrator on behalf of all federal partners. It is the start of a longer relationship and building a foundation of trust and it may take awhile. Goal is to foster those relationships and dialogue. There is value in having an open dialogue. Other Departments are hesitant – some agencies should be included that are not in it. We want to make sure the Plans are flexible like SG.

1. Has there been any movement to help Tribal leaders with Social Security? We still have no mechanism for how we achieve social security.

Response: I would like to learn more about the Social Security issues.

Resume Discussion with Mark Cruz

1. GAO noted vacancies in the Bureau and we are curious about what the leadership view is on filling these vacancies? People are not there to do the job or staff is overloaded.

Response: Aware of vacancies and we have a number of challenges – OJS is having trouble with OPM Standards for hiring federal employees and it makes it challenging to find qualified applicants and we lose a lot of folks with the drug test. We have attorneys looking at requesting an alternative set of criteria for law enforcement officials. In some regions some RDs are better at hiring than others. Jim James has brought in HR folks into the meetings to make sure RDs are well trained and equipped to make those decisions. WA – out of date org charts and budgets that do not align with current staff. We are trying to clarify hiring requirements and tying resources to people and clarifying processes. House and Senate are both asking for hiring plans.

1. We would like the actual dollar amount that is going back to the Treasury. (FOLLOW-UP ITEM) Not all the regional directors communicate completely with the Tribes. Eastern region did not hear anything about year-end money that is available. Is the regional office communicating with OSG on available funding? What is the methodology being used to distribute money?
2. What are you doing as far as intercommunication with the other Interior Agencies?

Response: All the Tribal liaisons in the other Bureaus meet once a month and we talk about grant opportunities and agreements for Tribes. We talk about legislation and bring in people from other agencies – first connection to discuss across the board issues. Whenever there is a Funding Agreement ready to go our office is involved in it before it moves forward. We are also sometimes involved with drafts or surname process. Still trying to develop a cheat sheet with Bureaus that I can polish – what is it that Tribes can expect?

As we continue to advance SD and SG it is important. On the policy side it is just awareness – Eagle Feather Retention Policy – the Acting Fish and Wildlife Director was good friends with Tara and asked staff if they shared it with Indian Affairs. Their documents used different terminology when it came to Indian lands so we assisted with addressing it.

1. Is there an intention to create an Advisory Committee for BIE?

Response: Part of the Reorganization – take over 3 functions, school safety, acquisitions and facilities. BIE did their mitigation report assessments this year. We told BIE to develop a cost for mitigation for 183 facilities. JOM process worked they are working on a regulation. Staff drafted a new proposed rule and caught an error. One area of concern in the education space is two-fold: JOM – up until 2 years ago no one was overseeing this; IDEA – Individuals with Disability Act handled by contract and BIE did not do a good job with oversight. As we set 2020 goals those are two areas we will drive policies to make them better.

Ninety percent of Indian Country students are in public schools so we need to rely on DOE dollars and we need a strong advocate for that. We do not know the last calculation of impact aid and the formula that is being used.

**477 Update**

Spike Bighorn, Office on Indian Services, BIA

Congress expressed concerns with the MOA. Federal partners asked DOI to submit a response back to Congress.

DOI is not able to compel all the other agencies to come to a meeting to revise the MOA and the only people who could do that was the White House. Tyler Fish from the White House did indicate he would take those concerns back to the White House.

Competitive grants are another issue that has presented concerns. Some Federal agencies are interpreting the 477 program as only being able to include grants that only Tribes receive.

Questions

1. Has the Bureau given any recommendations to Tyler Fish on what changes could be made to the MOA and will you?

Response: We have not as of yet and that is likely a question for Tara Sweeney.

1. Educate federal partners on minimizing the Administrative burden on reporting.

Response: If it is required by law it can be included but if not required by law it will be discussed.

1. When we are providing guidance it needs to respect Tribal sovereignty and that it doesn’t step on the SG component. If discretionary authority to lessen reporting requirements that those are exercised to the fullest extent.

Response: DOI will do whatever we can to minimize the regulatory burden.

1. How many plans have seen denials by other agencies to date?

Response: We have had 2 denials – one on LIHEAP and the other denial is the Department of Education rehabilitation. Programs did not fall within the scope of employment/training.

1. Is there a process that has been established when a new programs funding is being sent to the Tribe? How will that work in terms of codes and transfers of funds?

Response: We did receive a new program – Cherokee dislocated workers program – so we needed to set up the program account. Normally the federal agency will send us a document to let us know which program has been approved and we need to work to set up a new program. OMB was notified of the plan being approved. If you have a waiver the effected agency will go back to their statutes and see if the program is supported by the law.

1. Reallocation of funds for childcare – why is it necessary to check the box?

Response: As we move through this process I think it is reasonable to discuss with Childcare. Any Tribe who didn’t mark the box were not included in the reallocation of childcare.

**Department of Interior, Non-BIA Agencies (National Park Service and Fish and Wildlife Service)**

* The National Park Service works with several Tribes to manage National Lands or to perform specific functions. For example, the Yurok Tribe performs a wide variety of projects, such as trail maintenance, cultural resource inventory, marine mammal contamination studies, etc.
* NPS is working to fill a Tribal liaison position and filling this position is a high priority. NPS also recognizes there is an opportunity to improve the education of NPS superintendents and staff.

Questions

1. Tribes sometimes feel like we are re-starting with each new personnel regarding the education of Self-Governance, but we have proven how successful we can be with these programs. The Bison Range is annoying for those of us who have watched that saga.
2. What policies and process are in place for identifying inherently federal functions?

Response: Process right now is not in place to address it – inherently federal function has been the challenge for all of us.

1. We think NPS and FWS have a lot of discretion and typically Tribes are willing to find a common ground. You have already identified where it has worked. Tribes are good at what we do – we have shown you we have the capacity.

Response: Park Service hasn’t made any recent changes to programmatic changes or eligible activities. The current language is “may be” eligible and we welcome further discussions with interested Tribes. It will be a key component of the future Tribal liaison to work on this issue.

1. The Sitka Tribe was attempting to have an Annual Funding Agreement to assume responsibilities at a National Park. The Tribe is concerned that there is inconsistency in how inherently federal functions is applied and believe NPS is not following the ISDEAA Regulations for reassuming items we have taken under the program or that they follow process as far as moving forward with a new agreement. What positions are inherently federal or perform inherently federal functions?

Response: We appreciate your candor and fully recognize it is an emotional and critical issue. This is being handled at the regional and park level – our colleagues in AK are aware that we are here today and we will carry that message and request forward and see what we can do to provide assistance.

**Department of Education and Bureau of Indian Education**

Tony Dearman, Director, BIE

BIE has completed and implemented all GAO recommendations and is working with GAO to make sure we are monitoring them. There are many hands that touch BIE and there is a lot of coordination that takes place.

BIE is aggressively trying to fill vacant positions. We have different levels – contract employees and Title V employees. We have been comparing what we have been doing with states. We addressed the background checks because it takes so long for it to clear 90 days. We are analyzing data and are now down to 40 days for background. We are doing relocation and student loan repayments. We are in over 300 colleges producing teachers to market our jobs. We are still working on things and training our principals in our Tribes. There is funding the schools receive to help staff go on and get degree. Schools with people from the community have less turnover.

In this years’ budget we have a $1 million dollar line item for teachers’ quarters without new school construction. We have our first ever Greenbook because we are becoming our own Bureau. We need to control our own destiny. Our schools are on different funding cycles. We have started pulling things over. Think about an education system stretched across 26 states – we didn’t order anything before – controlling own contracts and safety inspections. We did 100% all safety inspections which means we are more consistent.

School safety – working with OJS and started looking at who has authority across our system. Two major needs – safety of campuses and behavioral health as well. We need to provide our teachers resources. BIE hasn’t had the data to show what we need and we have started to collect it and make it available across our systems.