**DOI Self-Governance Advisory Committee (SGAC) Meeting**

**July 14, 2020**

Note: Due to the COVID-19 pandemic, the SGAC meeting was held virtually instead of in-person. A quorum was established for the meeting.

**Office of Tribal Self-Governance Update**

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

Director Freeman began the OSG update by welcoming Mr. Douglas Dan as the new Financial Specialist for the OSG NWFO. Mr. Douglas is a member of the Swinomish Indian Tribal Community and brings experience from working at Providence Health & Services and working for the Portland Branch of the Federal Reserve Bank for 21 years.

Director Freeman notified the group that there is now an available option of reprogramming the CARES Act funding that comes from the BIA. Tribes can reprogram Welfare Assistance and Aid to Tribal Government Tribal Priority Allocation funds received under Division B, Title VII of the CARES Act.

As of the beginning of June, the OSG had 21 Tribes that have not provided their contract support data for FY 2019. Contracts Support Costs (CSC) cannot be paid unless they receive the data. However, as of this meeting, the list of Tribes who have not provided data has been reduced to 13.

The Department determined Title I and Title IV tribal agreements will be exempted from using Grant Solutions.

Small Tribes that are considering entering self-governance are discovering that they do not meet the population threshold of 750, so they do not have a Single Audit Act audit. Director Freeman sought support from the group for the admittance of the Tribes, who cannot provide a Single Audit Act audit due to failure to meet the population threshold pending their submission of some form of audit or financial statement.

Director Freeman asked the group if they were comfortable with receiving an electronic version of their funding agreements, amendments, and reprogramming requests or if their record recording requirements can be met with electronic versions of the documents. The Assistant Secretary of Indian Affairs is completing the negotiation of an MOA with GSA that would allow DOI to provide FBMS a list of tribal funding agreements and contracts, without sharing the funding amounts, that the GSA could use to determine whether a tribe is eligible to lease a GSA vehicle(s). The deadline for the list is February 14.

Director Freeman mentioned that the AVSO would maintain the status quo for PL 93-638, Title I, and Title IV tribal appraisal programs using the AVSO/Tribal MOA. However, AVSO is working on a PL 93-638 draft appraisal guidance that they plan to finalize and incorporate in an AVSO handbook.

**Q/A and Comments:**

**Q**: Regarding the GSA leasing program, why isn't your office simply directing them to the Secretary's list that is printed every January? The Secretary of Interior is required by law to produce a list of federally recognized Tribes eligible for programs and services because of the special status of Tribes, and that list should be sufficient for them to understand that any Tribe that is eligible for programs and services is eligible for the GSA leasing program.

**A:** We understand that the GSA underwent an audit, and it was discovered that a Tribe (not a self-governance Tribe) that does not have a police department received a police car. That is how we ended up moving away from that list.

**Indian Affairs Budget Update**

**Jason Freihage, Assistant Secretary for Management, Office of the Assistant Secretary Indian Affairs, DOI**

**Jeannine Brooks, Deputy Director, Office of Budget and Performance Management, DOI**

Mr. Freihage indicated that they continue to work on moving forward with securing an exception apportionment form the OMB to utilize if a continuing resolution is needed to avoid a government shutdown.

The initial House mark includes $2.134 B for the BIA (an increase of $276 M above request).

Everything that had been proposed for elimination has been restored. There is $1.6 B for the Operation of Indian Programs ($194.4 M above request). The mark includes $731 M for BIA TPA programs. The House mark included increases for most of the TPA line items.

The mark included $981.697 B for the BIE ($106 M above request and $38.6 M above FY20 enacted). Education construction did come in below at $249.277 M ($180 M below request $1 M below FY20 enacted). Additionally, language was included that authorizes tribally controlled schools to access GSA

motor pool resources (including school buses).

Language for the indefinite appropriation to fund 105(l) leases was included in the legislation. They are hopeful that the Senate will also be supportive of the language. The 105(l) lease language for the BIA did not include a cap on facility square footage.

**Q:** Where are we with the 105(l) lease process?

**A:** The two listening sessions that we had last week were focused primarily on clarifying the types of information that we need and letting them know about some of the templates that we have. We are refining the process as we move forward.

**Q:** Is there a draft outline for the proposed policy?

**A:** We do have a draft that we are developing for the internal process. Hopefully, we will be able to share that soon.

**Updates from Mark Cruz****, Deputy Assistant Secretary – Indian Affairs for Policy & Economic Development**

Mark Cruz noted that the BIA has been working to quickly get resources into Tribes’ accounts and worked diligently to close all 183 BIE schools within a matter of days to ensure the safety of students and staff. Since April, they have worked with Treasury to hold consultations to uphold their responsibilities related to the COVID-19 relief funds.

Regarding the BIE, there was an initial allocation of $69 M, and they worked quickly to get those resources to the schools using the weighted unit student formula that is described in the green book. A portion of those resources goes to the tribal colleges and universities. Concurrently, they were working with the US Department of Education on the education stabilization fund, where BIE had a carve-out of $153 M. That took time because it required tribal consultation.

They have also been busy working with the BIE on school reopening consultations. They had a consultation regarding the funding that was distributed, and they had two consultations regarding general reopening guidance. Information relating to those consultations are available on their website. They are planning to continue to improve upon and further develop the guidance based on feedback received.

They have processed a number of fee-to-trust applications since March and continue to do so. They continue to approve HEARTH Act applications. They continue to approve gaming applications. They have approved a few probate codes and liquor ordinances. They anticipate making their broadband grant awards in the coming weeks.

**Q/A and Comments**

**Q:** Regarding Tiwahe, are we prepared to avoid making incorrect payments or non-payments based on our experiences should increase for those programs that are provided?

**A:** We are prepared.

**Q:** Are there any reserves left in the BIA allocation of the CARES Act funding?

**A:** Most of the money went out by the formula. We held back $20 million for any contingencies. And right now, we are considering options for how to utilize the reserve.

**CARES Act funding/COVID-19 – Q/A and Comments**

**Q:** IHS has made a decision that CSC is applicable to our COVID-19 funding that was sent to the BIA and IHS for distribution. Can we get an update as to where you are with that position?

**A:** The CSC does apply. CSCs are eligible from the indefinite appropriation; however, we don’t pay for CSCs out of the funds appropriated to the operation of Indian programs.

**Q:** What is the Department’s view regarding the timeline for the use of COVID-19 relief funding?

**A:** For the funds appropriated directly to us, once they are allocated to Tribes, I believe they don’t expire.The two-year timeline only applies to us as Feds. We have to have the funds obligated by September 2021.

**Comment:** I request that we have an introductory conversation with AVSO and that Tribes be included in the development, or at least have an opportunity to review that document before it is finalized.

**Response:** Agreed.

**Comment:** Many of the regions do not receive acceptable feedback regarding issues concerning the CARES Act. It appears to be confusion from regional personnel regarding what is allowable pursuant to the CARES Act.

**Response:** We will continue to work on improving communication and efficiency.