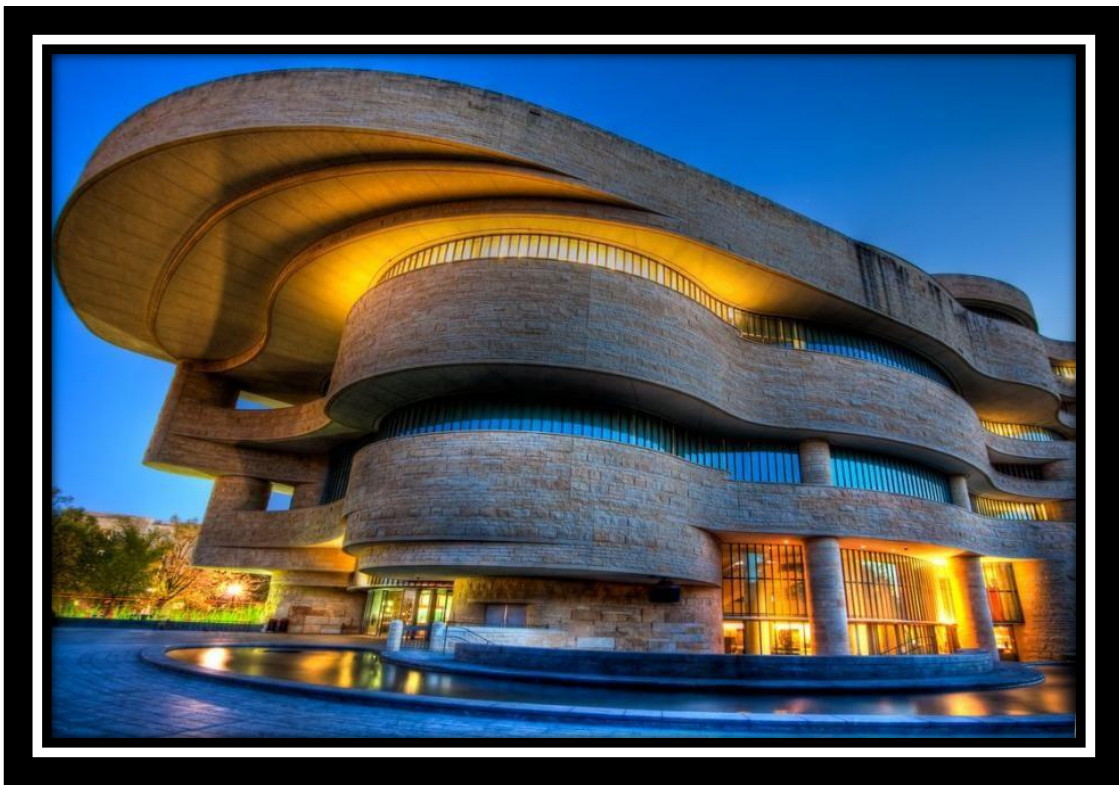


**DOI SELF-GOVERNANCE ADVISORY COMMITTEE  
(SGAC)  
QUARTERLY MEETING  
January 26-27, 2016**



**Embassy Suites DC Convention Center**

900 10th Street Northwest, Washington, DC 20001

**Phone:** (202) 739-2001

**DOI Self-Governance Advisory Committee and Technical Workgroup  
Quarterly Meeting**

Tuesday, January 26, 2016 (8:00 am to 5:30 pm)  
Wednesday, January 27, 2016 (8:00 am to 12:30 pm)

**Embassy Suites Washington DC - DC Convention Center**  
900-10<sup>th</sup> Street NW  
Washington, DC 20001  
Phone: (202) 739-2001

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Tab 1: SGAC Info

## 2015-2016 National Calendar

Date	Meeting	Location
January 26-27	DOI SGAC Quarterly Meeting	Embassy Suites-DC Convention Center
January 27-28	IHS TSGAC Quarterly Meeting	
February 22-25	NCAI Executive Council Winter Session	Washington, DC
March 13-17	National Indian Gaming Association Annual Conference	Phoenix, Az
March 21-24	TIBC	Washington, DC
March 21-24	RES	Las Vegas, NV
March 29-30	DOI SGAC Quarterly Meeting	Embassy Suites-DC Convention Center
March 30-31	IHS TSGAC Quarterly Meeting	Choctaw, MS
April 3-6	National Indian Child Welfare Association Annual Conference	St. Paul, MN
April 6	Self-Governance/ Indian Health Services Training	Anchorage, AK
April 18-19	NAFOA Annual Conference	Phoenix, AZ
April 24-28	2016 Annual Consultation Conference	Buena Vista Palace-Orlando, FL
May 10-12	TIBC	Washington, DC
June 7-8	Self-Governance/ Indian Health Services Training	TBD- Portland Area
June 27-30	2016 NCAI Mid-Year Conference & Marketplace	Spokane, WA
July 19-20	DOI SGAC Quarterly Meeting	Embassy Suites-DC Convention Center
July 20-21	IHS TSGAC Quarterly Meeting	
September 7-8	2016 Tribal Self-Governance Annual Strategy Session	TBD
September 19-23	NIHB Annual Consumer Conference	Tucson Area Reno, NV
October 5-8	NIEA National Convention	
October 9-14	73 <sup>rd</sup> Annual NCA Convention & Marketplace	Phoenix, AZ
October 25-26	DOI SGAC Quarterly Meeting	Embassy Suites-DC Convention Center
October 26-27	IHS TSGAC Quarterly Meeting	
November 7-9	TBIC	Washington, DC
November 14-17	RES	Santa Fe, NM
November 16-17	Strategy Session	TBD



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(January 5, 2016)

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(July 27, 2015)

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**SGAC & Technical Work Group Membership List**  
(July 27, 2015)

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Tab 2: Commitee Buisness

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## DEPARTMENT OF THE INTERIOR SELF-GOVERNANCE ADVISORY COMMITTEE AND TECHNICAL WORKGROUP QUARTERLY MEETING

EMBASSY SUITES – WASHINGTON DC CONVENTION CENTER  
900 10TH STREET, NW  
WASHINGTON, DC 2001

### MEETING SUMMARY October 7-8, 2015

**Wednesday, October 7, 2015 (1:00 to 5:00 PM)**

Meeting of the SGAC and Technical Workgroup Members

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#### **Office of the Assistant Secretary – Indian Affairs Update**

*Ann Marie Bledsoe Downes, Deputy Assistant Secretary Policy and Economic Development, Office of the Assistant Secretary – Indian Affairs, DOI*

- Prior to her current position, worked for Ho Chunk Inc. in economic development; served as President of Tribal college, Administered the Indian Legal Program at Arizona State University Law School
  - Oversees the Office of Self-Governance and the Office of Indian Energy and Economic Development (including Climate Change)
  - Coordinates the White House Council on Native American Affairs and the five (5) subgroups:
    - Health,
    - Education
    - Energy
    - Economic Development &
    - Environment
- Cabinet members meet 2-3 times a year.
- Assists with Planning the Tribal Nations Conference to be held the first week of November. It will be broken out into a half day and full day session. NCAI will host pre-meetings the day before. There will be a breakout session in the afternoon and the next day will be a full day conference. Speakers include Holder, Biden, Burwell and others. The focus will be on interaction with Tribes. There will be a call out for questions when the formal announcement is sent out. Members of the Department will participate in pre-conference breakouts and take notes at the Tribal Nations Conference which will be shared agency-wide. There will be a request for agency follow-up and themes involving interagency collaboration. There will be a formal press release early next week.

#### **Sovereignty and Tourism**

The states are benefiting by marketing Tribal lands and stories. The goal is to take back our stories.

- What can we do better?

- Establish a Native American travel website where Tribes can contribute information and the site is driven by Tribal input.
- Visit American Indian Alaska Native Tourism Association <http://www.aianta.org/>
- Point of Contact is Ed Hall
- National and International – create a package for when visitors come to the US.

#### Budget - Continuing Resolution

- We are in the middle of a Continuing Resolution.
- Contract Support Costs is an ongoing issue both as far as settlements and the policy going forward. The Agency is working toward closing the loop in each area.
- SGAC members expressed a concern that the Department is emphasizing grants over contract/compact funding. Where does the Administration think Self-Governance is headed with respect to Tribal shares?

#### White House Council on Native American Affairs

- SGAC requests that a subcommittee be created to specifically address Natural Resource Management/Treaty Rights issues.

#### Advisory Group for Office of Justice Services (OJS)

- Self-Governance Tribes are not receiving updates and reports from OJS.
- There are gaps with communication and issues with consistency of services.
- TIBC endorsed the creation of a Tribal Advisory Group for OJS.

#### Trust Modernization Strategy

- At the core of Trust Modernization is Self-determination.
- SGAC hopes there is a willingness on the part of the Administration to look seriously at the Trust Modernization principles.

#### Funding by Formula v. Grant

- Tribes who receive funding via grants do not receive indirect costs nor are they allowed to recover funds they have spent for staff and other expenditures for the project from the grant program.
- When the Federal Government farms out these services to contractors it impedes developing capacity at the Tribal level and limits the Tribal government's ability to grow staff and expertise.
- Question from DOI: Is this particular to the grant scenario or is it more general?
- SGAC Response:
  - It is more general. Most Government agencies are doing this now and we think it may be an Office of Management and Budget (OMB) directive. OMB favors grants because they think the reporting mechanism is better but we are not non-profits; we are governments so we operate differently.
  - SGAC requests greater flexibility without limitations on use and other administrative burdens that distract from delivery of services.
  - SGAC members agreed that a conversation at the White House Council on Native Affairs regarding inter-agency cooperation regarding leveraging different funding sources across the Federal government to solve crosscutting issues would be helpful and may encourage great coordination.
  - One concern is that some agencies are using Grants.gov as the vehicle for the application process and Self-Governance Tribes want to make sure that Tribes are not getting lost in the process. DOI does not go through grants.gov. Instead, the money is funneled through SG compacts. We need



to be sure that compacts do not become a collection of grant funds. A compact is an agreement between two sovereigns. On the HHS side, all funds go through grants.gov and there is an application process whether it is tied to a funding agreement or not. We don't want it done this way at DOI.

## **Budget Update**

*Thomas Thompson, Deputy Assistant Secretary - Indian Affairs (Management)*

- The Budget situation is difficult. We experienced a 2% reduction in FY2015.
- Democrats voted on the budget yesterday.
- President Obama indicated he will not sign another Continuing Resolution (CR) in December.
- Debt Ceiling is set to expire on November 10<sup>th</sup>.
- The new Speaker of the House will have a direct impact on the budget and debt ceiling.
- Senator McConnell is proposing a two year budget deal. If you recall, Murray/Ryan came up with a fix for FY2013/FY2014.
- At this point, it is difficult to project a sequester amount for FY2016 if Congress does nothing.
- There are three different budget numbers: OMB sets their mark in February; Congressional Budget Office proposes a number; and Congress has their own number.
- There is still hope for mandatory CSC. The House and Senate didn't give what the President had asked for but the Senate made it an indefinite appropriation so it wouldn't impact Tribal programs and services. The House side would make it X year funds and put the cap back on.
- CSC class action was presented to the judge. They are in the process of identifying all of the class members and giving folks who want to drop out of the class action the opportunity to do it. The expected timeframe for this process is 3-4 months. If there are no defectors, they can move through the process faster.
- SGAC Response: Once the settlement money comes out of the judgment fund, the main issue will be how we continue to implement 100% funding and try to get a handle on where the landmines are. We have been in discussions with folks on the Hill and have been engaging with appropriations staff. Mandatory appropriations are the target but we cannot transition to mandatory in 2016/2017 until the authorizing committee approves the concept. We are in a CR until December 11<sup>th</sup>. What is the timing for the Tribes to receive their funding allocations?
  - Response: Next Tuesday we will be loading into the system the budget allocations and make the sub-allocations to the regions and OSG. We are doing away with blame and looking at solutions to move forward. There are 119 lines in the comp table when we reprogram line to another line it takes time.
- SGAC Discussion: Understand that this happens at the Tribal level too. Who do we talk to so when we design the Tribal GPRA we can tie it into the Federal GPRA?
  - Response: George Bearpaw is developing "accountability measures" rather than GPRA measures.
- SGAC Discussion: In SG compacts we often have funding from BIA, BOR, Law Enforcement and others, SG Tribes want to report to the Federal government. How do we report it? We designed a system at the Tribal level to report it back and we are broadening it out into other agencies. We want to report without multiple reports.
  - Response: Grants.gov will come out with a policy. Notification will be on grants.gov but because we asked for an exemption we can get away from

application issue as Indian Self-Determination Education Assistance Act awards and not contracts and grants. Some funding is asking for collaborate responses on research and activities. There may be an attachment to the Funding Agreement because they want to connect the funding to data. You should receive CSC on all of the funding because it is part of the annual funding agreement. We will do internal training so that it is applied equally across the board.

- SGAC Discussion: Regarding grant.gov notification for new funding, will Tribes have to search for it or will notice come to the Tribe?
  - Response: One of the initiatives out of the White House Council and TIBC is Native One Stop (a referral system for Tribes). It will link to any resources that are available across the government. Tribes will receive notification. It will address the Buy Indian Act. All procurement plans will be posted there and it will create a repository of Buy Indian vendors to address it in a more proactive manner.
- SGAC Question: Will it tie into the Crosscut?
  - Response: The dollar amounts will not be out there but the resources will be available. It will grow over time. We have asked our sister agencies for data calls. In the FY2016 Budget Request, we requested additional resources for the collection of data and community development technical assistance but neither the House nor the Senate authorized it in the first mark.
- SGAC Request: The Tribal Transportation Program High Priority Projects is important and we ask you to support Tribes in getting it funded. The Data Management Committee – we need new traction on this effort.
  - Response: We have to look at the matrix to see what we want the outcome to be so we can tell the story of Indian country to OMB, the Department and Congress. We need to focus on marketing.
- SGAC Discussion: SG Tribes feel as if there has been an effort by the Federal government to undermine the project.
  - Response: I don't know if we have a solution. If we throw enough mud on the wall, something will stick. We need to demonstrate progress and how we are meeting the metrics.
- SGAC Discussion: VPSO Program is important in Alaska because they are the First Responders for any accident. The VPSO, Tribal Police and Health Aids work in tandem. There has been a lot of discussion about opening up the Arctic but they are leaving Alaska Natives out of the discussion. Major Industrial Nations are using that passage and there are public safety concerns. Our communities need staffing and housing.
  - Response: Have you done any outreach to Homeland Security? The Coast Guard reports to Homeland Security.
  - SGAC: We have had discussions about the needs of the coastal villages. We put in a proposal with the legislature about creating a Western Alaska Emergency Response Center.
    - Response: You should talk to Loudermilk about getting this on the agenda at the Providers Conference.
- SGAC Discussion: There are silos. How do we deal with those issues? There are too many boxes and lots of agendas to try and deal with the issues that come up. The Federal Government is not ready for Climate Change.

## **SGAC Business – Priority Areas and Subcommittee Structure**

In order to support greater output from the SGAC the Technical Workgroup is proposing a formal/informal subcommittee structure. The subcommittees will:

- Identify Key Federal Partners
- Develop a list of issues and questions
- Prepare talking points
- Coordinate invitation to quarterly meetings when necessary

The subcommittee areas and involved individuals include:

1. Budget Equity Funding – Charles (Dave), Terra, Kasie
2. Funding Program Matrix – Cyndi, Karen, Vickie, Clyde, Danny
3. OJS/DOJ Workgroup – Jennifer, Linda, John, Bruce, Liz Peterson, Eugena Hobucket, Shawn
4. Trust Review – Robert Scabby, Brenda Golden, Eugena
5. Expansion of SG in EPA – Pitt, Vickie, Tom, Karen, Jennifer
6. Transportation – Jerry, Vickie

### **Thursday, October 8, 2015 (8:30 to 1:30 PM)**

Meeting of the SGAC and Technical Workgroup Members

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## **SGAC Tribal Caucus**

### **Title IV Update**

Title IV legislation passed on the Senate side. The Bill is specifically BIA focused. Last couple of years, it has been challenging trying to address BOR concerns and we had to navigate through the language to make sure it didn't do any harm. Association of Fish and Wildlife Agency (State Agency) has an objection to the legislation. We met with them yesterday morning but their interest is a State Sovereignty Issue (State v. Federal Government) and whose sovereignty is greater. They were misreading the law. Bishop, Cole, McCullum and Kiel Weaver (staffer) are involved in the discussion. Kiel put a hold on the Bill due to water issues but we met with him to address his concerns. Bishop is in control of the bill and we want him to accept the Senate Bill but he wants to hold his own Hearing and wants a House Bill with someone other than Congressman Young as the sponsor. Our best chance for passage is if they accept the Senate version at the House. We have been trying to get Cole and McCullum to co-sign a letter to Bishop but McCullum is hesitant.

The Association of Fish and Wildlife (AFWA) sent letter after the bill passed the Senate on July 7<sup>th</sup>. Chairman Allen responded to the letter and sat down with the Committee on Indian Affairs to address their concerns last week. Chris Fleur email indicated he will meet with Geoff Strommer next week. They want a provision in the bill that Tribes/Feds would have to consult with the state agency before a funding agreement could move forward. They want to change existing law so that states have more of a role. Tribes are only trying to preserve status quo. Kiel is going to reach out to AFWA. Cole and McCullum meetings went well. They are supportive.

There is a vote for the House Speaker today but a final vote will take place at the end of the month. Debt Ceiling and Appropriations issues are looming. Looming is the AFWA issue and we don't want it to gain traction. Kiel Weavers issues have been addressed with the help of Cole and McCullum. The Bill has been referred to the subcommittee but we want it

to be reported to the Full Committee and voted on the House Floor. Congress may extend their session because of critical issues (Continuing Resolution, Debt Ceiling, and Transportation). We have to get the Bill into one of their markups.

### Tribal Transportation Unity Caucus

Share link with other members. They said that the US Department of Transportation (DOT) doesn't understand Self-Governance. Tribes have been very clear about what they mean. In February, we had a meeting and discussion. Tribes need more meetings with the US DOT.

There are growing pains with the progression of moving things along. Self-Governance provisions are a step in the right direction. We need a technical workgroup.

### Tribal Data Exchange

Chickasaw has been engaging with Interior. Part of the problem is our fault because we only have a handful of Tribes involved. We are going to try to use TIWAHE as an area to get more Tribal involvement. TDE's purpose is to show that you are using the Federal money effectively. \$220,000 is the funding that is needed to support this effort.

Tribes need to unify and be passionate about these issues and support Tribal driven initiatives.

### White House Tribal Nations Meeting

Sometimes Tribes lose energy and focus on their own issues. The White House meeting is the first week in November. On November 4<sup>th</sup> NCAI will lead the discussion on Strategy and in the afternoon we will go into breakout sessions. November 5<sup>th</sup> is the meeting with the President.

- We need a discussion paper on why Self-Governance is important for the White House meeting. Weave into it a discussion of our issues: Title IV and Title VI; Mandatory CSC; Desk at OMB; Consultation Policies – government to government relationship including how the agencies are complying with the policy and reporting back on how they are implementing the policy.
- The technical team can pull together a list of issues that are important to us. (ICWA, Taxation, NLRB, etc.)
- We need to keep working on the Title IV legislation but if there are things that we can do administratively to address some of the issues, it is important that we try to go that route. Public Safety/TLOA/VAWA – capacity to implement the legislative authority, the requirements and needs of Tribes and concerns of Tribes in PL280 states are all issues to consider.
- This is the last year the President will hear and try and execute something. There are a lot of issue areas but what are the overarching principles? Have a Secretary and Assistant Secretary who are very supportive of Tribes. Provide ideas for a longer term vision for the future of Self-Governance for the next Administration. Obama needs to up the anti so we can get closer to the vision. Ask them to take Affirmative Action.
- Make permanent the White House Council on Native American Affairs. We need an Indian desk at OMB. Focus on the top level issues and then we can start to pick things off. Describe what we want, what we think we can do and challenge them.

## **Meeting Called to Order at 8:25**

### **Invocation**

Delia Carlyle, Councilmember, Ak-Chin provided the invocation.

### **Roll Call**

Alaska:	Robert Keith, Chairman of the Board, Kawerak, Inc. William Micklin, 1 <sup>st</sup> Vice President, Central Council of Tlingit and Haid Indian Tribes of Alaska
Eastern Oklahoma:	Vickie Hanvey, Self-Governance Coordinator, Cherokee Nation Mickey Peercy, Executive Director, Choctaw Nation
Midwest:	Jessica Burger, Councilor, Little River Band of Ottawa Indians
Pacific:	Danny Jordan, Self-Governance Coordinator, Hoopa Valley Tribe Scott Sullivan, Council Secretary, Tolowa Dee-ni' Nation
Phoenix:	Lindsey Manning, Chairman, Shoshone-Paiute Tribes of the Duck Valley Indian Reservation
Southern Plains:	Delia Carlyle, Vice Chair, Ak-Chin Indian Community
Southwest:	Rhonda Butcher, Director, Citizen Potawatomi Nation Louis Romero, Governor, Pueblo of Taos Chris Gomez, Lt. Governor, Ysleta del Sur Pueblo
Portland:	W. Ron Allen, Chairman/CEO, Jamestown S'Klallam Tribe Tyson Johnston, Vice President, Quinault Indian Nation

### **Committee Business**

#### **MOTION**

Chairman Robert Keith (Alaska Representative) made a motion to approve the July 2015 SGAC Meeting Summary as submitted.

Lt. Governor Chris Gomez (Southwest Representative) seconded the main motion.

Motion was approved without objection.

### **Opening Remarks**

*Kevin K. Washburn, Assistant Secretary – Indian Affairs, Department of the Interior*

#### **CSC: Ramah Settlement**

- DOI has a proposed settlement and if it goes through it will save 10-15 years of litigation with each Tribe. We hope Indian Country agrees to mandatory funding for CSC. We asked for it but the House and Senate have not provided it yet.
- SGAC Response:
  - We received an update yesterday from Tommy Thompson on CSC. We understand the court issues need to be sorted out. If everything goes well, we will receive our checks sometime in the spring. We are excited about this. The negotiations were challenging. We are aware of the desire for mandatory funding for CSC but we are also seeking another route and have proposed transitional language. We are engaged on the CSC issue and do not want the obligation to fund CSC 100% to infringe on program needs. We appreciate the work you have been doing to update the CSC policy. The BIA is leading the way in this area.
  - The Indian Health Service may approach the BIA looking for direction because we keep saying that the BIA has it right.

Budget

- We are under a CR until early December. We continue to look for opportunities in the Budget. We will consider the Budget again in December. The President asked for a \$300 million increase for Indian Affairs.
- SGAC Request: We ask that you continue to champion and support our request for an exemption from sequestration.
  - Response: Every agency of the government wants an exemption from sequestration. Frankly, it is up to Congress and I would encourage you to keep up the advocacy efforts on this. We cannot meet our trust responsibility if the budget is cut.

Native Hawaiians

DOI proposed rule for Native Hawaiians will give the Hawaiians a path to follow similar to the Tribes if they choose to go down that path. There are people in Hawaii who do not want to be recognized as a Government, they just want Hawaii back. Currently, there is no government-to-government relationship with the Native Hawaiians but there are more than a dozen statutes that deal with Native Hawaiians.

Carcieri Fix

The 2009 decision leaves some Tribes out of the land-into-trust process. Only Tribes that were under Federal Jurisdiction in 1934 can take land into trust. We tried to take administrative action by developing the Patchak Patch and we are working on a Solicitors Opinion on how to interpret the Carcieri Case. We recently took land-into-trust for the Mashpee Tribe. We are continuing to work on a Carcieri fix. Senator Barrasso introduced the Interior Improvement Act but the administration has taken no formal position on the bill. We have taken 304,000 acres of land into trust. Cobell restored more than 1.4 million acres to Tribes. Some Tribes are not able to take land into trust (Narragansett Tribe has houses sitting empty because of this issue).

- SGAC Response: Tribes have been very vocal about their support for the Barrasso Bill. It provides too much authority to local governments and diminishes Tribal authority. We know that he is trying to do the right thing. It is not helping in that it will slow down land-into-trust. The closer we can get to a clean fix the better. We feel a clean fix is the solution. Trying to address other issues is not the answer.
  - ASIA Response: The Interior Improvement Act codifies what is already in practice. We have been trying for six (6) years to fix this. We believe in a clean fix but a compromise may be in order.

White House Tribal Nations Conference

This will be the 7<sup>th</sup> White House Tribal Nations Conference. What do all of the agencies need to be focused on so the positive aspects of Obama's legacy carry forward? What other kinds of things can we push across the finish line? We need broad participation across Indian country. During the Clinton Administration, the land-into-trust regulations were issued during the Lame Duck Session but they were not effective for 30 days. The first thing that George Bush did was to issue an Executive Order that all regulations that were not in effect were put on hold indefinitely. We want to make sure that everything that we worked hard to accomplish happens. Ongoing work includes:

- Indian Child Welfare Act – we faced a lot of opposition and survived the first major motion in the court.
- Tribes are unified over protecting Indian children. ICWA dramatically improved things. We are trying to tighten up the loop holes. Since that time, there has been backlash in Congress on Indian programs as evidenced in the Hearings held last

spring. Our efforts to take 304,000 acres of land into trust have caught the attention of some members of Congress who are opposed to this. We may see members of Congress who oppose ICWA.

- SGAC suggests that the BIA staff that deals with the documentation of the effectiveness of ICWA try to spin this in that way. In Washington State, the law requires the state to comply with ICWA. Interior should be proactive on this and expect a bill to emerge. The public relations perspective is difficult. We have been employing NCAI and NICWA to help us. We need your help too.
- Right of Way Regulations – drawn fire from the states, public utilities, telecom companies. They are opposing it because the proposed rule defers to Tribal sovereignty. The regulations are at the White House for final review and we hope to issue those within a matter of weeks.
- Leasing Regulations and Hearth Act Regulations we are trying to get finished have a broad theme to promote greater Tribal self-determination and Tribal sovereignty by expanding and protecting Tribal sovereignty.

SGAC is reflecting on our recent Tribal Strategy Session and how we prepare against the backdrop of issues that Self-Governance would like to highlight. We need to collaborate on how we envision progressive growth of Self-Governance for this Administration and tee up for the next Administration. We know that you are actively involved in shaping the agenda and messages – this issue (Self-Governance) has to stay front and center as one of the success stories.

- SGAC Question: What is the most important Self-Governance issue – the big thing that the Administration can accomplish?
  - Response: We got full funding \$940 million. Mandatory funding would be perfect. It is a big one to try and get across the finish line. We are still working on the CSC process.
- SGAC Discussion: Just give us the tools to do for ourselves. If you last 17 months (as AS-IA) will you be breaking any records? There was a period during the last Administration when we didn't have an AS-IA forever.
  - Response: I think the President had a ball in Alaska. He really enjoyed it. There is nothing better than when the President spends time in Indian communities. Appreciate the Alaska Natives making it a positive experience for him. We always do a conference in November/December and one thought was to do it earlier. Would propose Hawaii but given the logistics it is important to do it in Washington DC. We want the other agencies at the table, the cabinet secretaries and important staff. Longest serving AS-IA in 15 years, Kevin Gover served slightly longer. We are getting a lot of things across the finish line.
- SGAC Discussion: We appreciate the consistency of leadership. In the last Administration, the team kept changing. Staying for the long haul is important. We know that you are trying to fill key leadership positions. We want to make sure to move Self-Governance forward (EPA, HUD, Transportation and other agencies). We need help to get Title IV passed. Send a strong message that we are in a new frontier of strengthening the capacity of Tribes. We need a report on what we have achieved in eight years.

### CSC Policy

Data Call needs to be better for CSC final 2015 amounts Funding Agreement. There was a total of \$88 million in CSC distributed as of September 25, 2015.

- SGAC Question: What kind of breakthrough did you have for facilities?
  - Response: We have had discussions about Operation and Maintenance square footage formula.
- SGAC Question: We never received facilities money from OJS. There are different kinds of facilities: education, detention, etc. Is there a special facilities formula?
  - DOI: The National Distribution Methodology is used for law enforcement, Tribal courts, etc. Buildings have been built and some Tribes have base square footage in there.
    - SGAC: Many have Tribal courts but we don't receive anything relative to the formula. Our Tribe did it at our own expense.
      - DOI: All of the Federally owned buildings that Tribes are using nationwide are part of the formula funding. FY2015 Budget the Tribes were funded about 48 cents to the dollar. It is all based on whether it is federally owned. If it is a Tribally operated facility it can go into the indirect cost pool or you can directly charge it to the program. If the Tribe builds it for their own exclusive use they should enter into an Agreement. Allocation of costs will be negotiated based on the origin of the funding.
- SGAC Question: We have been negotiating our position but our fringe benefits are only 15%. Why is it so low?
  - DOI Response: Fringe should raise it to about 35%.
    - The Portland area said 15% is the standard that they have been using.
    - DOI Response: If you count service employee it is less but if it is new it is about 35%. Cost information for pay costs includes fringe benefits for health insurance. The cost for FY2016 is going up about 7.5 % so it will go into our calculation. It is important to report current staffing levels.
- SGAC Discussion: Our FY2015 AFA is held up on our Tribal name. It is finished, signed and ready to go. We filled out the worksheet for CSC and sent it in. We submitted comments to Nic Longley. The table is a good tool but some areas need further definitions.
  - DOI Response: At the next meeting of the CSC workgroup we can take it up.
  - SGAC Discussion: The spreadsheet is pretty onerous. We need to come up with a one pager with precise information. We need to do this so it is easier for Tribes to provide the information.

### **Update on Contract Support Costs (CSC) Ramah Settlement**

*Don Simone, Partner, Sonosky, Chambers, Sachse, Endreson & Perry, LLP*  
Settlement

- The case was filed as a class action in 1990 and has been pending for twenty-five years. In 2012, the class won the claim in the Supreme Court by a 5-4 decision. Finally, the Class Action Suit has reached a settlement, which was filed three weeks ago.
- Proposed settlement of \$940 million is the projected payment to the class.
- There were approximately 12,000 separate contracts and each of which had their own damages calculation. To individually assess each contract would have taken ten plus years so the method used was sampling.
- There is a strong correlation between the amount the class received and the amount owed. Able to allocate money over all class members.



- There is a listing of the percentage for each class member by name. Go to the class website [RWCSettlement.com](http://RWCSettlement.com) (estimated dollar amount) the percentage of fees will be applied to the net amount after. There are attorney fees, reserve account administrator and litigation fees that will be deducted from settlement.

#### Process for Settlement Approval

- Three weeks ago we submitted to the District Court with a request for preliminary approval. The Judge held a Hearing and granted preliminary approval of the settlement. It triggers formal notice to the class regarding the terms of the settlement. The notices were mailed out last Friday by class counsel, the BIA and it was published in major newspapers.
- Class members have a forty-five (45) day period to file comments or objections with the court. Then, there is a month (mid-December) for class counsel and the government to respond.
- The judge set a fairness hearing for February 20<sup>th</sup> and objectors can argue support for their objections.
- After the Fairness Hearing, there will be a decision of the court on whether to grant final approval of the settlement. (estimate that this will take about two months mid-March 2016)
- If the court grants final approval, there will be another sixty (60) day period and if there is no appeal then the final decision will be issued within 10 days.

#### Payment Process

- The Department of the Treasury will pay the settlement to the class and start the distribution process. (next spring April/May)
- An Administrator will be appointed by the court and will send out the claim form with a specific amount.
- The class member has to sign the form and send it back.
- The process will be supervised by the class monitor.
- The dollar amounts are a percentage of the net estimate.

#### Discussion

- SGAC Question: Is there any expectation of any objectors? Do you think that it will be minimal if there are objectors?
  - I think the settlement is very good and the alternative is not good. The government will argue that the class will be decertified.
- SGAC Question: Does every Tribe has the option to opt out?
  - No. The vast majority of class members had two opportunities to opt out in 1993. In 2002, there were additional claims so the opt out is really right at the beginning when the class is formed. A subset of class members (Alaska became a class member in 2002) will be given the opportunity.
- SGAC Question: Will there be communication regarding no good alternatives?
  - We are trying to do as much outreach as we can do. Notices were sent directly to class members and are posted on the class website.
- SGAC Question: Will class council make work papers available on Tribal shares?
  - No, because it is covered by the confidentiality of the court. We have made a percentage available for review.
- SGAC Question: How does the Tribe evaluate the number?
  - The theory is the more CSC the Tribe received, the greater their settlement. Navajo received the largest amount.

- SGAC Question: The case was based on the framework of self-determination so it applies to BIA and IHS?
  - No, it only applies to the BIA. Due to the case, Congress and the Administration changed their position on fully funding CSC.
- SGAC Question: It flows to the IHS because it dealt with the cap issue last year. With regard to the amounts, is there a comparison of the funding levels in the Green book?
  - \$4 million in reserve has been set aside for Administrative costs.

## **Legislative Update**

### **Mandatory CSC**

The President's Budget proposed mandatory funding for CSC. However, we have to work with the Appropriators and Authorizers to get it passed in Congress. There are two versions in the House and Senate. The Senate side has language establishing a CSC line item that would not be capped but it would still be under the discretionary budget. The House said the final bill will reflect the Senate language. Some language that needs to be discussed is the IHS "incurred cost" approach but decided to wait on it to allow the Self-Governance group to work with the IHS on it first. Discuss strategy for active advocacy on the hill which involves the Budget Committee and need to have conversations with the Majority and Minority staff. It will be an education process. We have appropriators who are supportive of making this mandatory. They have already accounted for it with offsets.

### **Sequestration/Rescissions/Reductions**

Budget Control Act (BCA) 2011 made a series of cuts to the tune of about a \$500 million impact on the BIA and IHS. The 2013 Budget Agreement offered temporary relief but it is set to expire in 2016. Tribes need to consider how sequestration will impact their programs. The Budget is below 2015 enacted levels. Tester/Udall introduced S.1497 which would exempt BIA and IHS from sequestration. Before 2011, the IHS was exempted from sequestration. In 2011, the IHS was taken out of the excepted programs. It is very difficult to get back into the exempted programs because the money would have to come from somewhere else so it would be robbing Peter to pay Paul. We need to keep hammering away at this. Why are any Tribal programs subject to sequestration? Tribes need to plan for the worst case scenario. The leader of the Republican Party wants a Budget deal. If there is no deal we are left with FY2015 levels with a 2% off the top cut. Encourage Tribal CFO to plan for a 2% cut.

### **Tribal Labor Sovereignty Act**

Labor Unions and the National Labor Relations Board (NLRB) are of the position that Tribal sovereignty is less important than employee bargaining. We have an opportunity to pass the legislation in the House and think that a vote will happen anytime now. We have a real chance in the Senate if it is framed as a sovereignty issue. Shakopee sent a letter to the White House asking them to support it as a matter of sovereignty. We may be able to push this through if we frame this as a self-governance issue. Tribes' set terms of employment issues with employees not some outside organizer. It only has to be one aggrieved employee in any sector of government to go to the regional office of the NLRB and they can file an unfair labor practice against the Tribal government. The NLRB is saying prove it is a government and prove that you spend money on government functions. It is an intrusive subpoena of records. The NLRB is questioning the Tribal preference provisions, the basis for Tribal ordinances and the fairness of Tribal courts.

### Interior Improvement Act

Tribes have engaged in dialogue with the Committee for a clean fix to Carcieri. Bills in the House and Senate have bipartisan support and like Carcieri any parcel in trust is confirmed to be held in trust.

### Tribal Transportation

Expiration of the Highway Reauthorization the issue is about finding offsets. In order to do an extension, they will need to find an offset. Shuster wants to get this done.

### 477 Update

There was a good Hearing in the House. The Administration (HHS) opposes the Bill. The BIA has been a terrific advocate and has been working hard with the Authorizers in the House and Senate to move it forward. Hopeful to get it out of the House Committee.

### Tribal Capital Improvement

Change the IRS code to have Tribe as members of an S Corp.

### Voting Rights

Tester has introduced a Bill. Murkowski has joined Leahy staff's approach but this is a low not high priority for the majority on the Senate. It is a tough battle. Alabama just shut down their DMV and you need the DMV to register to vote. Legislative approach is one aspect but there is an effort to get more litigation. In 2016, this will be a critical issue. There is litigation in Indian country in Alaska on bilingual and remote access.

### NAHASDA

The Senate wants to move their bill. The House passed their version. There are some differences. NAHASDA reauthorizes the Native Hawaiian Block Grant and the Senate objects to the reauthorization. Barrasso kept it in the Bill. He is a leader and well respected in the Republican caucus. There is no funding for it in the budget this year because there is a backlog in spending and this is a difficult obstacle. Young has no intention to drop it. Murkowski is supportive of it. Hawaii remains a significant issue. Mike Andrews came from HUD and worked in ONAP and has made this one of his highest priorities.

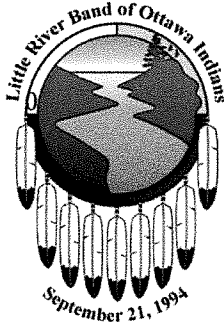
### ESEA

Bills have been passed in the House and Senate and it is ready to roll depending on how the stars line up.

### Budget

McCarthy withdrew so the Speaker position is wide open. FY2016 Continuing Resolution 19.67% of sequestered amount from FY2015. Across the Board Reduction off of 2015. \$2.6 Billion of FY2015 enacted sequestered amount is 5.843 million which would lower the 2016 amount to \$2.59 million. \$510 million for all operations comp table will be loaded on Tuesday. There are 130 lines, 130 protocols times 567 Tribes. There may be 3-4 protocols for a singular fund. FY2016 forward will depend on who is the House Speaker. Treasury has indicated that the first week of November they will be out of funds. OSG needs to get the money out before the first week of November. If Congress doesn't address the BCA, we are looking at Across the Board Cut for the entire year. Hopefully, they will come up with a Budget deal so we can plan accordingly. \$2.9 Billion President's Budget Request. The CR money will go out two weeks from Tuesday to Tribes. FY2017 the priorities and initiatives are the same as they were for 2016. TIWAHE – need to work on metrics that shows it is a viable option and ties into President's Gen-I initiative. In 2018, Tribes need to be engaged

at the regional level. 10% needs based initiative form at the regional level to justify your numbers. After the regions complete their meetings, the 12 proposals will be consolidated together. Under the need issue, you can identify the agencies who need to participate. We are working on changing the silo model.



*Gaa Ching Ziibi Daawaa Anishinaabek*  
**Little River Band of Ottawa Indians**  
2608 Government Center Drive  
Manistee, MI 49660

November 24, 2015

Ms. Diane Rosen, Acting Director  
Bureau of Indian Affairs  
Midwest Regional Office  
5600 West American Boulevard, Suite 500  
Bloomington, MN 55437

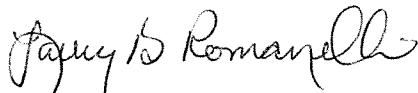
Dear Ms. Rosen,


The Little River Band of Ottawa Indians (LRBOI) is pleased to submit the nomination of Jessica L. Burger, LRBOI Tribal Councilor to fill the Midwest Region vacancy on the Department of Interior Self-Governance Advisory Committee (SGAC).

Councilor Burger is uniquely qualified as a seated elected official of LRBOI due to her experience and service on the Tribal Self-Governance Advisory Committee as a member of the Technical Workgroup (TSGACTWG) for the Department of Health and Human Services (DHHS). Councilor Burger also participates in the quarterly meetings of the Self-Governance Advisory Committee (SGAC) to the Department of Interior, the latter inclusive of the participation of the Assistant Secretary of Interior's Office and OMB.

Little River Band endorses Councilor Burger's appointment to the SGAC, believing she will represent the Midwest Region's priorities and concerns well in all aspects of the SGAC's deliberations.

Sincerely,

  
Larry Romanelli,  
Ogema

  
Virgil Johnson, Speaker  
Little River Band Tribal Council



# RED LAKE BAND of CHIPPEWA INDIANS

RED LAKE NATION HEADQUARTERS

BUREAU OF INDIAN AFFAIRS  
WEST REGIONAL OFFICE

15 MAY 29 AM 10:28



PO Box 550, Red Lake, MN 56671

Phone 218-679-3341 • Fax 218-679-3378

## OFFICERS:

DARRELL G. SEKI, SR., Chairman  
DON R. COOK, SR., Secretary  
ANNETTE JOHNSON, Treasurer

## DISTRICT REPRESENTATIVES:

GARY NELSON  
RANDALL KINGBIRD  
JULIUS "TOADY" THUNDER  
ALLEN PEMBERTON  
ROMAN "DUCKER" STATELY  
ROBERT "BOB" SMITH  
RICHARD BARRETT, SR.  
ROBERT "CHARLIE" REYNOLDS

## ADVISORY COUNCIL:

7 HEREDITARY CHIEFS

SGAC

May 12, 2015

Diane Rosen, Midwest Regional Director  
Bureau of Indian Affairs  
Norman Pointe II  
5600 West American Blvd. Suite 500  
Bloomington, MN 55437

Dear Regional Director Rosen:

Please consider this letter as a formal request for placement of Treasurer Annette Johnson, Red Lake Band of Chippewa Indians on the Self Governance Advisory Committee as the Alternate representative. Currently, the position is vacant and at times the region has not been properly represented.

Red Lake is already best positioned to take on the additional role and responsibility. Red Lake already sends its staff members to every committee meeting in Washington, D.C. and has been doing so for quite some time. Red Lake's Tribal Council has, by unanimous resolution, paved the way for Annette to join the committee. Allowing Red Lake to participate only increases the region's presence on the national stage and allows a Tribe—a tribe with experience in representing an entire region and an amazing track record for doing so—the wherewithal to make a positive impact for our region.

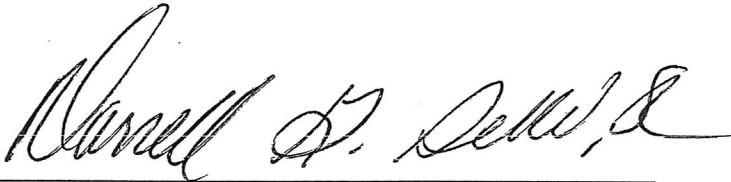
Red Lake raised the request at the regional break-out session at the Self Governance Consultation Conference in Reno this past April 29, 2015. Tribes such as White Earth, Sault St. Marie, Grand Portage, and Grand Traverse were present and did not seem opposed to this. During the Regional meeting, Ken Reinfeld, Scott Sufficool, and Darren Smith discussed at length, Red Lake's unselfish contributions to advancing tribal self determination, self governance, and budgets across the Region and the Nation, while asking nothing in return.

Strategically, allowing Red Lake the additional responsibility is a wise move. The Midwest Region does not currently have a female serving as representative on either SGAC or TIBC. Annette is highly qualified, with a Master's Degree in Tribal Administration, and formerly the CFO of Red Lake Gaming Enterprises prior to being elected Tribal Treasurer. And with a Michigan representative currently the Primary representative, having a strongly qualified individual from Minnesota as Alternate makes sense. Red Lake representation is also stable, consider Chairman Seki's 14 years representing Midwest tribes on TIBC.

In summary, Red Lake formally requests seating Annette Johnson as Alternate representative on SGAC. It is in the interests of our Region to do so. We believe this is consistent with SGAC guidelines and your authority as Regional Director. A letter could be sent to self governance tribes in our Region announcing the appointment, and offering to host a meeting of self governance tribes at the upcoming Partners Conference to discuss the appointment, and also to discuss developing a more formal process if the tribes desire this.

We thank you for your time and hope you, for the reasons mentioned above, honor our request.

Respectfully,

A handwritten signature in cursive script, reading "Darrell G. Seki, Sr.", written in dark ink. The signature is fluid and stylized, with a prominent initial 'D' and a trailing flourish.

---

Darrell G. Seki, Sr.  
Tribal Chairman

Enclosures



## Summary of DOI Self-Governance Advisory Committee (SGAC) Correspondence Year: 2015-2016

Updated: January 6, 2016

Ref. #	Date Sent	Addressed To	Topic/Issue	Action(s) Needed	Response Received
1.	1/5/2016	Darren Cruzan, Bureau of Indian Affairs Office of Justice Services	Invite to Self-Governance Advisory Committee Quarterly Meeting in Washington, DC January 27, 2016		
2.	1/4/2016	Lawrence S. Roberts Acting Assistant Secretary Indian Affairs Department of the Interior	Invite to Self-Governance Advisory Committee Quarterly Meeting in Washington, DC January 27, 2016		
3.	1/4/2016	Eugenia Tyner-Dawson (Sac and Fox/Shawnee) Executive Director, Justice Programs Council on Native American Affairs and Senior Advisor for Tribal Affairs to the Assistant Attorney General U.S. Department of Justice, Office of Justice Programs Office of the Assistant Attorney General	Invite to Self-Governance Advisory Committee Quarterly Meeting in Washington, DC January 27, 2016		Confirmed attendance for Jan. 26, 2016 at 11:15 am.

## Summary of DOI Self-Governance Advisory Committee (SGAC) Correspondence – 2015

Ref. #	Date Sent	Addressed To	Topic/Issue	Action(s) Needed	Response Received
4.	1/4/2016	Beverly Cotton, Director Division of Behavioral Health Indian Health Service U.S. Department of Health and Human Services	Invite to Self-Governance Advisory Committee Quarterly Meeting in Washington, DC January 27, 2016		Confirmed attendance for Jan. 26, 2016 at 11:15 am.
5.	1/4/2016	Mirtha R. Beadle, Director Office of Tribal Affairs and Policy Office of Policy, Planning and Innovation Substance Abuse and Mental Health Services Administration U.S. Department of Health and Human Services	Invite to Self-Governance Advisory Committee Quarterly Meeting in Washington, DC January 27, 2016		Confirmed attendance for Jan. 26, 2016 at 11:15 am.
6.	9/22/2015	Anna M. Naimark, Presidential Management Fellow Interior Programs Office of Management and Budget	Invitation to Quarterly Meeting of the Self-Governance Advisory Committee, October 8, 2015		
7.	7/31/2015	JoAnn Chase, Director American Indians Environmental Office (AIEO)	Meeting request to discuss "Proposed Draft White Paper: A Self-Governance Concept for the Environmental Protection Agency (EPA)"		

## Summary of DOI Self-Governance Advisory Committee (SGAC) Correspondence – 2015

Ref. #	Date Sent	Addressed To	Topic/Issue	Action(s) Needed	Response Received
8.	4/21/2015	Kevin Washburn Assistant Secretary-Indian Affairs	Recommendations to Improve Coordination and Communication with Self-Governance Tribes		
9.	4/3/2015	Michael S. Black, Director Bureau of Indian Affairs Office of the Assistant Secretary-IA	Report on Budget Needs of Tribal Courts on P.L. 83-280 States	Provide information about the BIA's progress in developing this report, its coordination with the Department of Justice and the methodology being used.	
10.	3/2/2015	W. Ron Allen Chairman, DOI Self-Governance Advisory Committee	Follow-up from the January 25, 2013 and April 4, 2013 Self-Governance Advisory Committee (SGAC) Quarterly Meeting		Response letter from Kevin Washburn Assistant Secretary-Indian Affairs to letter dated March 1, 2013 and May 1, 2013
11.	2/26/15	The Honorable Derek Kilmer Joint letter from SGAC/TSGAC	Self-Governance Tribes 2015 Appropriations Requests for the Bureau of Indian Affairs		
12.	2/10/15	The Honorable Derek Kilmer  Joint letter from SGAC/TSGAC	Self-Governance Tribes 2015 Appropriations Requests for Indian Health Service		

## Summary of DOI Self-Governance Advisory Committee (SGAC) Correspondence – 2015

Ref. #	Date Sent	Addressed To	Topic/Issue	Action(s) Needed	Response Received
13.	2/9/15	W. Ron Allen Chairman, DOI Self-Governance Advisory Committee	Follow-up from the April 22-23, 2014 Self-Governance Advisory Committee (SGAC) Quarterly Meeting		Response letter from Kevin Washburn Assistant Secretary-Indian Affairs to letter dated July 23, 2014
14.	2/9/15	W. Ron Allen Chairman, DOI Self-Governance Advisory Committee	Self-Governance Tribes and the Tiwahe Initiative		Response letter from Kevin Washburn Assistant Secretary-Indian Affairs to letter dated July 1, 2014
15.	1/8/2015	Kevin Washburn Assistant Secretary-Indian Affairs	2015 Self-Governance Advisory Committee Quarterly Meetings and Tribal Self-Governance Annual Consultation Conference Information		

## **2015 Tribal Self-Governance Strategy Session Summary**

Catoosa, OK

September 9-10, 2015

Updated January 15, 2016

*The summary below does not include every idea discussed or proposed during the 2015 Tribal Self-Governance Strategy Session in Catoosa, OK on September 9<sup>th</sup> and 10<sup>th</sup>. It does make an effort to capture the broadest themes of the discussion and includes a list of action items requested during the two-day meeting. Updates were made for the January 2016 Advisory Committee Meetings based on recent changes.*

### **Budget Discussion**

Meet with Congressional members to share top Self-Governance Priorities.

Participants identified their top three budget priorities as (1) exemption from sequestration for Tribal programs; (2) adoption of advance appropriations for IHS; (3) shifting Tribal contract support costs to mandatory funding. A letter was drafted and shared with Self-Governance Tribes to send to their Congressional member ahead of the appropriations discussions.

One-time and short-term funding for Self-Governance Tribes.

Tribes are concerned that Contract Support Costs may be a reason the agencies are more support of one-time or short-term funding mechanism for Tribes. However there was also discussion that Tribal leaders, in an effort to bring in any resources, are supporting these short-term fixes. Participants recommended that the Advisory Committees continue to push back on these funding mechanisms and supported an analysis to determine the loss of capacity and resources when applying, receiving, and administering short-term funding.

Tell "Your" Self-Governance success stories to garner greater support.

Tribes noted regularly that Self-Governance success stories must be shared more often and to a broader audience. Self-Governance Tribes should make efforts to meet with their Congressional members while they are on break in their home state. Tribes also noted there is no formal mechanism to report Self-Governance success to Congressional members regularly. They asked that Tribes support one place and one method to share the best Self-Governance data.

### **Legislative Discussion**

Passage of Title IV Amendments is the top legislative priority.

After hearing from technical experts, Tribal leaders believe this is the time to push the Title IV Amendments to successful passage. Many proposals were put forward to get more Self-Governance Tribes and Tribal Leadership engaged to increase advocacy for the amendments including, organizing Congressional meetings, updating leave behinds, and sharing new letters to send to members.

Continue to support a Carceri Fix.

Self-Governance Tribes were supportive of a Carceri Fix and requested that new draft letters be shared. Tribes also discussed how to evaluate the services and document direct activities that have positive outcomes in the community as a result of economic development.

Coordinate with the Tribal Transportation Unity Caucus (TTUC) to advocate for the enhancement of Tribal transportation provisions and the inclusion of Self-Governance in reauthorized legislation..

TTUC included Self-Governance expansion into the Department of Transportation (DOT) in their request to Congress. However there are several provisions which would increase support for Tribal transportation programs and increase funding to Tribes which Self-Governance Tribes should support.

Additionally, during quarterly meetings, SGAC and TSGAC should look to increase administrative support by sharing the importance of adequate transportation systems and funding for Tribes to develop those systems. Advisory Committee leadership should also consider how best to educate the Department of Transportation leadership about the tenants and vision of Self-Governance ahead of changes at DOT.

*The Fast Act included expansion of Self-Governance into the Department of Transportation. SGCE hosted a webinar regarding the expansion on January 11, 2016. The recorded webinar and supporting materials are available on [www.tribalselfgov.org](http://www.tribalselfgov.org).*

#### Increase communication and updates regarding priorities.

Several ideas were discussed to make sure Self-Governance priorities receive greater advocacy when Self-Governance Tribal leadership meet with the Administration and Congress. Suggestions included, but not limited to a clearinghouse of upcoming hearings, regular communication regarding priorities and updated education materials, and more time for Tribes to act on legislative alerts.

#### Build a voting block for American Indian and Alaska Native Issues.

Self-Governance Tribes can play a critical role in educating citizens about local and statewide elections. Self-Governance Tribes should consider hosting voter registration drives, assisting citizens and employees to understand the voting process by sharing and educating them on filling out a sample ballot, and sharing strategies with local Tribes to increase voter participation by our constituency. In addition, Tribes should consider how best to build a voting block with Indian and non-Indian organizations to align and support Tribal issues. These organizations may be vested in legislative priorities because they are vendors for Tribes, local organizations that depend on Tribal economic development, or carry similar concerns about access to services. Some examples included national health provider organization and the US Chamber of Commerce.

### **Policy/Administrative Priorities**

#### Develop a successful negotiation strategy for transitioning Agency Lead Negotiators and Tribal network to share questions and ideas.

Several Indian Health Service areas have experienced Agency Lead Negotiator turnover, resulting in the need to create a transition plan and training for the new employees fulfilling this role. Many areas reported differing decisions on previously acceptable changes during negotiations. A successful transition plan may ensure streamlined determinations on similar issues between areas. In addition, Tribes asked that there be a national network for Tribal peers to share information, concerns, and questions.

*This recommendation was echoed by the workgroup that reviewed OTSG Policy and Procedures. Please see the summary under workgroup reports of the IHS TSGAC Meeting document.*

#### Advocate for an exemption from the CHOICE Act

Tribes learned that the Veterans Administration (VA) must submit a report to Congress regarding how the Veterans Access, Choice and Accountability Act of 2014, (CHOICE Act) will affect other providers, including Tribes. During the discussion, Tribes were informed that the CHOICE Act creates a more restrictive environment than current negotiated MOUs. Self-Governance Tribes are encouraged to submit comments that would exempt Tribes from the CHOICE Act.

#### Encourage negotiated improvement to VA-Tribal Memoranda of Understanding.

There are still areas where VA-Tribal MOUs could be improved, including coordination of specialty care and providing services to non-Indian veterans. TSGAC should include Tribes who have successfully negotiated provisions related to these two areas in their best practices track at the Annual Consultation

Conference. TSGAC and/or SGCE should assist Tribes in identifying the best ways to advertise new opportunities to local veterans and in maximizing their reimbursement amounts.

#### Contract Support Costs

##### *Streamline both DOI and IHS Policies.*

The workgroups are currently working on very different policy changes. Self-Governance Tribes should continue to advocate for the simplest policy possible, sharing ideas with other agency workgroups, and creating more consistency throughout negotiations.

##### *Improve distribution of DOI funding.*

Presenters and participants noted one of the largest issues in estimating CSC costs at DOI was the lag in funding distribution. This issue, paired with the inability for BIA to pay CSC based on reprogramming requests, is causing a delay in CSC funding to be distributed and makes it difficult to estimate actual CSC need.

##### *Agree to a final deadline for CSC changes.*

Tribes should come to an agreement about when final CSC changes should be submitted following the end of a fiscal year.

##### *Garner support for the Tribal position on incurred cost methodology and categorical duplication of costs.*

Self-Governance Tribes participating in the IHS CSC workgroup are concerned that IHS is misinterpreting and adversely implementing policy decisions that are set forth in the policy, despite continued advocacy on the part of Tribes. Participants encouraged TSGAC to continue to monitor the IHS Workgroup plans and submit comments on behalf of Self-Governance Tribes which allow for simple implementation and consistency across areas.

#### Build a transition plan over the next twelve months.

Now is the time to start building the Self-Governance transition plan and prepare for the next Administration. Participants identified several priorities that should wait until the next Administration for increased advocacy. Those priorities include, (1) create a Director of American Indian and Alaska Native affairs at the Office of Management and Budget (OMB); (2) establish a Tribal Advisory Committee for OMB; and, (3) increase transparency at OMB during the budget development period.

#### DOI Advisory Committee Follow Up:

- Distribution of Self-Governance funds from BIA to Tribes
  - Timeliness
  - Long term funding versus short term and one time funding
- Continued transparency regarding funding and policy decisions that affect Self-Governance Tribes
- Evaluate how the Tribal Data Exchange can support funding initiatives for Self-Governance Tribes
- Encourage DOI/BIA to keep their websites up-to-date regarding workgroup meetings, etc.
- Monitor CSC workgroup developments and advocate for resolution.

#### IHS Advisory Committee Follow Up:

- Continue to guide the IHS Director nomination process and look to the future to push Congressional delegation to hold confirmation hearings to prevent a long lapse in leadership.
- Exemption from the CHOICE Act

- Tribes need to submit comments to exempt the entire I/T/U system from the CHOICE Act because the environment is far more restrictive than current Tribal agreements with the VA.
- Renegotiated Tribal-VA MOUs may consider including non-Indian Veterans if an exemption is successful.
  - Grand Ronde is currently in negotiations to include non-Indian Veterans. Follow-up and best practices may be useful to share with Self-Governance Tribes.
- Reimbursements for under Tribal-VA MOUs seems low, perhaps there are systemic issues that need to be addressed.
- Ask IHS to maintain an updated calendar of events that, includes all workgroup meetings with a contact person.
- Monitor IHS CSC workgroup developments and continue to push leadership on their position regarding incurred costs and categorical duplication of costs.



<b>ACTION ITEMS</b>		
<b>Item</b>	<b>Responsible</b>	<b>Update</b>
Ahead of Impact Days: <ul style="list-style-type: none"> <li>Provide budget priority talking points and letter for those who cannot attend in person</li> </ul>	SGCE	A broadcast was sent out to Self-Governance Tribes on September 16, 2015 with talking points, white papers, and sample letters.
Self-Governance History and Education for the Following Agencies/Offices: <ul style="list-style-type: none"> <li>Department of Transportation</li> <li>Office of General Counsel at IHS and HHS</li> <li>Congressional Offices from States without Federally-recognized Tribes</li> </ul>	Tribal leaders SGCE	
Identify Tribal leaders in states that neighbor states without Tribes to educate Congressional members on ongoing budget, policy and legislative issues. <ul style="list-style-type: none"> <li>Share staff contact information with Tribal leadership</li> </ul>	SGCE	
Develop an analysis to support parity for Tribal programs within DOI. The analysis should include the costs Tribes expend collecting additional resources to make up for underfunding.	SGAC SGCE	
Letters to Congressional Members that support sequestration exemption from Tribal Programs in all appropriations subcommittees	Tribes and Leadership	A sample letter is available for Tribal use on the SGCE Website
Share IHS Budget Health Summit Recommendation one pager with Tribal leadership ahead of area formulation meetings.	SGCE	The summary one pager is available on the SGCE website and was shared in the 9/16 broadcast.
Encourage more Tribal leadership to attend and participate in quarterly meetings.	SGCE	SGCE sent an announcement through e-mail regarding registration and reserving hotel rooms.
Send a letter to the House of Representatives to include the Senate CSC language in the final appropriations.	Technical workgroup	Completed.
Develop a network to distribute and collect information from new regional organizations such as Alaska Federation of Nations (AFN) and Pueblo Governors Group.	SGCE	
Commission a study to evaluate the health economics of prevention vs. treatment for diseases that are prevalent in Tribal communities	National Indian Health Board and TSGAC	
Create a clearinghouse for Legislative hearings and contact information so Tribes can reach out when necessary to provide testimony, etc.	SGCE	In progress.
Update the Title IV letter to share with targeted House members	Title IV Task Force	SENSE developed a letter and organized legislative meetings for Tribal leadership.  Completed.
Send a letter to Congress and the supporting the authority of the Secretary to take land into trust	Technical Workgroup	

<b>ACTION ITEMS</b>		
<b>Item</b>	<b>Responsible</b>	<b>Update</b>
Collaborate to create a national campaign for a Congressional Tribal orientation	SGCE with other Nat'l Orgs	
Develop a peer review of the Trust Review process.	Salt River Creek Nation	
Coordinate an effort to develop amendments to IHClA and build consensus among Tribes	Nat'l Orgs SGCE	
Develop and share national priorities with SG Tribes ahead of the White House Tribal Nations Conference	Technical Workgroup SGCE	Completed.
Send a letter to IHS regarding the categorical duplication of costs.	TSGAC Technical Workgroup	Completed.
Share Geoff Strommer's presentation regarding Self-Governance history and development	SGCE	A link to the American Indian Law Review (AILR) Article is posted on the homepage of the SGCE website.
Share Alaska's sample language to include specialty care coordination in Tribal-VA MOUs	SGCE Myra Munson	
Develop draft comments to exempt I/T/U facilities from the CHOICE Act requirements.	TSGAC	Completed.

Tab 3: Workgroup Report

## **Tribal Interior Budget Council**

Washington Plaza Hotel, 10 Thomas Circle, NW  
Washington, DC 20005

November 18-19, 2015

### **Northwest Tribal Representatives**

W. Ron Allen, Tribal Co-chair, Tribal Interior Budget Council,  
Chairman/CEO Jamestown S’Klallam Tribe  
Greg Abrahamson, Northwest Tribal Representative, Chairman,  
Spokane Tribe of Indians

### **Agenda Wednesday, November 18**

#### **Tribal Caucus**

Call to Order/Roll Call  
Opening Prayer  
Approval of Agenda  
Approval of Minutes

Opening Remarks	Kevin Washburn/W. Ron Allen
Report from Tribal Caucus	W. Ron Allen/Sam Thomas
Land Buy-Back Program Director	John McClanahan, Program
A Message from PMB Management and Budget	Olivia Ferriter, Deputy Assistant Secretary Policy
Office of Wildland & Fire	Jim Douglas, Director
Cyber Security Information Officer	Sylvia Burns, Chief
Adjourn for the Day	

### **Issues Raised in Tribal Caucus**

**1. Tribal Data Exchange (TDE)** – A marketing and communication strategy will be developed to entice more Tribes into using the system. October 1<sup>st</sup> was the deadline for funding and TIBC representatives will vote on whether or not to renew the funding request. The TDE will expand to include the TIWAHE reporting requirements. Currently, there are approximately 226 required reports for Bureau programs and

services. The system can be used to streamline the reports and cut the administrative burden and costs to Tribes. The merits of the system include: a. It is a tribally-driven centralized data collection system; b. The system is maintained and operated at a fraction of the cost if operated by the Federal government; c. Program performance data is critical for Budget justification to Congress and OMB; d. There is a help desk to assist Tribes utilizing the system; e. System can be used to streamline reports. There will be adjustments made to the TDE website to make it more user-friendly. NCAI has data workgroups available to engage with the Chickasaw Nation/Data Management Committee on Tribally-driven data gathering and community change.

**2. US Commission on Civil Rights** – The last report developed by the US Commission, “The Quiet Crisis Report” helped to identify resource gaps for Indian programs. The Report is an important tool that Tribes can use to demonstrate budget needs. The timeline is to have a draft released in April and finalized before June. The Trust is the core principal and the Commission has been reviewing the Treaty exhibit. Representative Kilmer has been asked to be the champion for this issue and to assist in getting Appropriators on board with funding this project. The Civil Rights Commission is funded in the Commerce, Justice and Science Appropriations Bill.

**3. Budget Update** – Interior Appropriations Bill: the House and Senate have their own versions of the bill. The House provides increases for the Bureau of Indian Education (BIE) and the Senate provides increases to core Tribal base programs. Tribes are hopeful to achieve increases in both areas. Tribes are watching the policy riders closely and hope that they will not pose obstacles to an Omnibus Bill. If Interior receives additional funding from the caps being raised, the money should go to support base funding and core Tribal programs that were drastically impacted by sequestration and permanent rescissions. The Bureau should fund Tribal priorities and not just the Presidential priorities. Many Tribes oppose funding trust obligations through grants. The White House Tribal Nations Briefing Book outlines many issues Tribes feel the Administration could complete with the remaining time left. Tribes want to take steps to institutionalize the Nation-to-Nation relationship. Dual taxation and trust modernization are two areas the Administration may be able to do something about.

**4. Congressional Challenges to Secretarial Authority** – Tribes are concerned about the recent Congressional challenges to Secretarial authority and the precedent that it may set. Tribes oppose the position taken by some members of Congress that only Congress has plenary authority over Indian Affairs.

**5. US Fish and Wildlife and Other Agencies** – Tribes would like other Interior Agencies to attend the TIBC meetings and engage in discussions regarding their programs. Tribes want to present their needs to these Agencies rather than having the agencies dictate what they think are the Tribal needs. Agencies need to share information regarding funding opportunities for Tribal programs and how Tribes can access these funds. Tribes want to know how agency dollars are being spent.

**Motion to Adopt the Agenda as a Guide; Second; Motion Carries.**

### **Review of August Meeting Action Items**

1. A motion was made and passed that TIBC would put together a letter written to the Appropriations Committee in Congress supporting Increases for BIA. The letter was sent to the Appropriations Chairs and the Subcommittee Chairs were cc'd.
2. A motion was made and passed to send a letter to the White House Native American Affairs Council on the Bureau of Indian Education (BIE). The letter was sent, as well as, an email to Secretary Jewell. There have also been numerous consultations across Indian country.
3. No action was taken on the Tribal Data Exchange and Data Management Charter; tabled until the next meeting.

### **Tribal Caucus Discussion**

#### ***1. Tribal Data Exchange***

Tribes raised a concern that there hasn't been a formal response to the last two letters that were sent to Congress. NCAI indicated that they do not usually receive an official response but they will share any formal response if they do receive one.

NCAI – Even though there was no official response to the letter to the White House Council, there was action taken in the form of numerous consultations.

Pacific Region – There needs to be more Tribal involvement in getting out more information on the Tribal Data Exchange. There is a communication malfunction. The Pacific Region has three Chairman Associations, the northern, central and southern associations. We need to use the associations to get Tribes to sign onto the Tribal Data Exchange.

Steve Dunn (Chickasaw Nation) – For Chickasaw to continue to maintain and operate the TDE, we need the support of the TIBC.

Pacific Region – You need to get the ball rolling.

Steve Dunn – October 1<sup>st</sup> was the funding deadline for the system.

Alaska Region – The Committee requested a presentation that identifies the pros of using the TDE. This time during Tribal caucus is your opportunity to present on the system.

Eastern Region – Do not disagree with the concept of TDE but our concern is with the investment. We can give it one more year to prove successful but if nothing changes

we will pull back our support. I have been talking to the Tribes in the USET Region and none of them are aware of TDE.

Midwest Region – How many Tribes are utilizing the system? What are the issues? What is the benefit?

Steve Dunn (Chickasaw) – There are six (6) Tribes using the system. The reporting method being used is the GPRA measures. TIWAHE is one area we are trying to expand. If more Tribes participate the system could be used as a reporting tool for TIWAHE. All of the required reports could be consolidated and unique custom reports can be developed. The information can be used at the Federal level and Tribes can go back and check on the progress throughout the year. The information will be housed electronically so it will cut down on paper reports.

Zach Scribner (Chickasaw) – What is the general intent and purpose of the TDE? How do you make a plea to congress for funding without data? What is currently out there? GPRA is a reporting tool but there is not a centralized data collection effort that is Tribally-driven. What are the merits of the system? There is a serious need for this type of data. Centralized process can be used to collect and synthesize data. The data can be used to strengthen Budget justifications. TDE is the only Tribally-driven data collection system. TDE is maintained and operated at a fraction of the cost that it would cost the Feds. If the data is not captured in a Tribally-driven system, then what is the other option? The Feds will collect the data? Program performance data is paramount for justifying budget needs with Congress. The metrics has to be developed at the grassroots level so it is representative of Indian country. GPRA measures have been established from the top down level being able to control the system. A Tribally-driven system uses a bottom-up approach. Data in Indian country is sensitive information and it is protected from the Freedom of Information Act (FOIA) requests.

Alaska Region – If a Tribe in Alaska needed assistance would you send someone in to assist them with gathering data?

Zach Scribner (Chickasaw) – The TDE help desk is a function of the system. Tribal specific data can be saved in a centralized spot. Tribes can look at raw data for detentions, arrests, etc.

Eastern Region – The goal in our region is not to kill the TDE but to make sure it is achieving its intentions. You have a messaging and a marketing problem. Indian country doesn't understand. We have heard different messages that it was created for Self-Governance but the net was cast wider to make it available for everybody. I understood that there are a dozen or so Tribes participating. It was created to be a pilot project and then it was supposed to move across Indian country to streamline, simplify and create what we want to measure. It is an ongoing effort. I know you are making the pitch on the low cost but I contend that you are missing pieces that would allow you to market this. The number of participants hasn't changed. We are given it an

additional year to make it work. Otherwise, we will begin to collect the data ourselves. Can you identify the Tribes that are participating?

Steve Dunn (Chickasaw) – There are six (6) Tribes participating: Jamestown, Red lake, Salt River, Cherokee and three Alaska Tribes.

Alaska Region – What marketing efforts will be used next year?

Zach Scribner – We will look at the issue of duplicative reports to see how this can be consolidated and streamlined with the TDE. If there are three different reports and the same information is being requested the forms could automatically be populated.

Alaska Region – So, the fields and reports could be compiled?

Zach Scribner - The Reports are in the system. You would fill in the information once instead of multiple times. The effort is to streamline all 226 required reports through an automated system that saves time.

Pacific Region – Are we close to the end date? It is important to close up the communication gap. How many Tribes would you like to see come on board this year? Could you elaborate a little on the confidentiality of the system?

Zach Scribner (Chickasaw) – 20-25 Tribes were using the system during the initial rollout. Ideally, we want as many Tribes as possible participating. You need to cast a wide net to prove numbers to Congress. It didn't need to be the Chickasaw Nation that housed the project; it could have been any Tribe. The reason we needed a Tribe to house the project was to protect it from FOIA.

Tribe – I pulled up the website and everyone needs a user name and password to look at the system. It is not user friendly. What are the categories? What are you doing to address unmet needs? What data do you need to prove unmet need?

Zach Scribner (Chickasaw) – The system has three main functions: The Standardized Report Function (i.e., Child Abuse and Neglect Report); the Data Tracking Function for GPRA Measures created through strategic planning process of each agency and the Tribal Specific Function which the DMC is working to develop. We need to get out and speak to Tribal leaders and program managers regarding what it takes to measure unmet need. It has to be a combined effort.

NCAI – This is an important juncture for us to pull together data. A number of Tribes are part of the National Science Foundation Group and a workshop with those Tribes would be valuable. You can have a conversation with Tribes on using data. NCAI would be glad to help orchestrate a meeting with tribes to talk. The working group is sharing ideas on how they are doing Tribally-driven data gathering. There is another group that is examining how we measure community change. It would be helpful if someone from Committee would participate.



Midwest Region - We have a person on the Committee. How come you do not go to each Region?

Zach Scribner – Success for capturing unmet needs based on specific measures is still an organic process.

Justin Parker (Northwest Fisheries) How do we know that the Feds would be receptive to the data we collect?

Zach Scribner – Data is necessary and we cannot accept a top down model that serves the Feds. If the right people are at the table it could be beneficial.

## ***2. US Commission on Civil Rights***

NCAI – The US Commission on Civil Rights was invited to the meeting but they had to cancel. They have significant budget issues and will have to cut back on some reports. We asked Congress and the US Commission to do an expanded report on the “Quiet Crisis”. The last report helped to highlight resource gaps. It is an important tool for us to share the budget needs of Tribes. The goal is to have a draft completed by April and finalized before June. The Commission has done a lot of work already with trust being the core principal. They toured the National Museum of the American Indian and examined the Treaty Exhibit. NCAI will send a letter to the Appropriators requesting funding for this Report. Hopefully, the Commission can attend a future meeting in March to provide an update. This is a tremendous opportunity for us. The US Civil Rights Commission has to remain a neutral body and do their own research and gather their own information. They are willing as a starting point to look at our materials and collaborate but they will remain an independent body.

Justin Parker (Northwest Fisheries) – Congressman Derek Kilmer (D-Washington) sent a letter to the US Commission to get a pulse on where things went.

NCAI – We need to reach back to Kilmer and request that he champion to give the Commission the funds necessary to complete this task.

Eastern Region – Why don't we reference the language in the UN Declaration?

NCAI – Once you trigger the international arena it triggers a lot of other reviews.

Eastern Region – A more robust summary would give more credence to the Budget. We should reference the language in the US endorsement of UNDRIP.

NCAI – Send us the language and we can go through and send quotes to them to use as reference material. They are an independent body so we can't donate to it. The Republican majority doesn't support this as much. The Civil Rights Commission is funded in the Commerce, Justice and Science Appropriations Bill.

### **3. *Legislative/Budget Update***

NCAI – Interior Appropriations Bills – there are two versions one in the House and one in the Senate. The House version includes a larger increase than the Senate version but most of the money would go to the BIE education/construction. The Senate increases are social services, natural resources TPA. Our goal is to advocate for all increases. Even though the Budget Act raised the caps for FY2016 and FY2017, we are concerned about some of the policy riders. Policy Riders may pose obstacles to an Omnibus Bill. We hope we do not get a Continuing Resolution even though the funding levels are slightly higher than last year. The House has a rider to prohibit the National Labor Relations Board to exercise authority on Tribal lands. So, there are also some positive policy riders.

Midwest Region – The Boehner/Obama Budget deal for FY2016 provides an additional \$25 Billion for discretionary programs, similar to the Murray/Ryan deal. (FY2014 \$22 Billion increase) and in 2014 there was a \$142 million increase for BIA and we speculate under Boehner/Obama there will be a similar increase. Congress will tell the BIA to provide a Spending Plan. If this happens, it will be before the next TIBC. Back in 2014, we asked that the increase be used to restore sequestered cuts to base programs (5% cut in 2013) but the Administration did not do that and used the money to fund Administrative Budget Initiatives.

NCAI – NCAI will take a look at the letter that was developed at the August meeting. Tribes can make the case to Assistant Secretary Washburn that Tribes prefer sequestration restoration to base programs. Tribal youth is an Administrative priority. We need to weigh in where we think it is relevant and take a balanced approach. The Indian Health Service would like additional money for resilience (youth suicide). Rather than using terms like “restore” we need to be more specific – What are we asking for? What do we need? And why do we need it? We need to be more deliberate with the messaging. We think that there will be an Omnibus Bill. All of the meetings that are happening at the White House are legacy meetings. Make sure the legacy items get the support they want and be clear with what we want.

Midwest Region – A balanced approach is important. Since 2000, there has been an 8% across the board cuts plus an additional 5% sequestration for a total of 13% in cuts to Indian programs. These are permanent cuts and a real problem. We need to find another way to replace cuts and reduce harm and not through grants.

NCAI – We could propose that additional money that comes to Interior should be used in this manner – explain what we are doing it for and the resulting benefit to Tribes. Such as, commit to make sure that Tribes function in areas that have experienced severe cuts.

Northeast Representative – I question the process for identifying Tribal priorities if the only thing that is being funded is the President's priorities. Our region is opposed to

grants. Ramah class action had contracts in place but grants are not eligible for contract support costs. We are adamantly opposed to funding trust obligations through grants. Our concern is that it will diminish liability and risk exposure. If dollars come in, the Bureau needs to fund what Tribal leaders identified as a priority.

NCAI – It would be good for the Assistant Secretary to hear multiple voices reiterating a similar message.

Justin Parker (Northwest Fisheries) – What do the 302(b) allocations look like?

NCAI – The 302(b) allocations were not going to be made public. We can reach out to the House Appropriators informally to see what we can glean from that. Darren is optimistic that there could be increases from both the House and Senate versions.

NCAI – The Briefing Book from the White House Tribal Nations Conference link is on our website. We tried to target the issues we felt the Administration could accomplish this year. Specific recommendations include an Interagency working group. We need to put pressure on them to get the critical pieces done. We need to institutionalize nation to nation in as many ways as we can. We need to continue the Tribal Nations Conference. Make sure the President makes a statement to Congress about the relationship between Tribes and the US. We can follow-up on a couple recommendations, dual taxation may be something this Administration can do something about. Trust Modernization meeting is being held in conjunction with the State of Indian Nations Address. Tribal Labor Sovereignty Act won House vote 247 to 177 we got 24 democrats to support us and we need to thank them. In the Senate, our strategy needs to change. We need to address the misstatements from unions and hope for an Omnibus piece. The White House issued a statement that said they could not support the bill as drafted and recommended some changes:

1. Urge Tribes to develop NLRB-like laws;
2. Request Congress to appropriate funds for Tribes to develop those laws.

While they respect Tribal sovereignty they have to balance it against employees' rights. Interior Improvement Act – We need to move forward before we lose traction. We have been working on amendments. We expect by early summer to see movement. There is ongoing tension on the House side between Bishop and the Administration. The Challenge to Secretarial authority is problematic and we worry about the precedent that it will set. For example, the Indian Child Welfare Act Regulations are of concern. We have been pushing the Administration to get these out and expect this may be another trigger for external opposition to Secretarial authority. We need to try and stay in front of the issue. We have a strong plan developed with the National Indian Child Welfare Association and have been engaged in ongoing dialogue to coordinate an education and media strategy. We need to reinforce the education piece with members of Congress on the Natural Resource Committee (Torres is a good spokesperson). Community Policing Bill – we are trying to see what we can include there including access to victims recovery act money. Working on Energy Bills – NEPA streamlining is

a big objective of the Administration. On the Senate side, we are trying to move forward the Tribal energy packages.

Eastern Region – Bishop is a tremendous threat. Every bad federal policy started somewhere. We granted Bishop Leniency early on because he didn't understand Indian country but he has no interest in Indian country. It is important that we communicate to Tribes and Regions that Bishop is a real threat here. He is very cold to Tribes and he questions and challenges Native peoples and Tribes. USET has been aggressive in their response to the Committee and the Chairman. ICWA, land, IRA, we don't know what is going to be the next target. Bishop has said that only Congress holds plenary authority and there should be no role for the Administration. I encourage everyone to stay alert.

NCAI – Appreciate USET calling it out. Federal Recognition/Land into Trust there was a recent editorial with Bishop's language being used. NCAI and President Cladoosby have been deferred to staff and Bishops unwillingness to engage is an ongoing issue. We are able to use our champions Tom Cole and others. We need to use our champions and keep them ahead of the curve. When Tribes go to Congress to resolve differences between each other it opens the door on plenary authority. Employer Mandate – we have had several meetings to try and find a solution to this issue with the Administration because a legislative solution may not happen in the near future.

Alaska Region – The Office of Management and Budget (OMB) needs to be here.

NCAI – We invited OMB to be here and they were planning to be here. Karen Diver (replaced Jodi Gillette at the White House) started Monday and it will be good to have her here to begin a conversation and get her up to speed on our issues. OMB Circular – if you need training let us know don't get into trouble for being out of compliance.

Midwest Region – There was a previous Tribal letter that the \$40-50 million that is allocated to the Department of Justice (DOJ) be transferred to the Office of Justice Services (OJS) in the Bureau of Indian Affairs. It is not likely that the Committee of Jurisdiction will allow the transfer. Self-Governance has been talking to the Environmental Protection Agency about setting up a block grant instead of Tribes having to apply for 8-10 different grants. Is there a way to make the DOJ money a block grant?

NCAI – There was a recent consultation in the Northwest area and we are having those conversations. They asked us what level of funding is needed for formula driven funding that would make sense. Keep pressure on DOJ. There may be a need for statutory guidance on that.

Eastern Region – Our grant writer was highly alarmed about the changes. There is a grace period of two fiscal years for Tribes to implement the changes.

Alaska Region – We want to hear from the US Fish and Wildlife Service and the Park Service and how they can be a better partner with Tribes.

Alaska Region – I agree. This is the Tribal Interior Budget Council and they need to hear what our needs are and not dictate to us.

Tribe – There have been funds set aside for Native Americans and Tribes yet Tribes have trouble accessing the funds. Non-gaming Tribes need access to funds. Grant funds instead of loans.

Midwest Region – All agencies and offices have budget implications. We want to know how the dollars are being spent and the number of programs that have been lost over the years. A lot of Tribes have fish hatcheries and Fish and Wildlife cut back on funding for it and instead hire private contractors to do the work we were doing.

NCAI – contract support costs – the agencies are still having internal conversations. The BIA and HHS have slightly different philosophies.

Alaska Region – There have been numerous forest fires and it costs a lot of money to keep the sediment out of the water. Storm water discharge regulations are getting stricter.

NCAI – The Environmental Protection Agency has a lot of challenges in Congress. Update on the Tribal Labor Sovereignty Act H.R.511 has been sent to the Senate and is being held at the desk. Asked for it to be passed by unanimous consent.

### **Invocation**

### **Roll Call**

#### **Tribal Representatives**

Great Plains  
Southern Plains  
Pacific  
Rocky Mountain  
Alaska  
Navajo  
Midwest  
Eastern Oklahoma  
Northwest  
Eastern

\*\*Western and Southwest not present for rollcall

#### **Department of Interior**

Assistant Secretary - Washburn  
Principle Deputy Assistant Secretary - Roberts

Deputy Assistant Secretary Management - Thompson  
Director Office of Budget Management Indian Affairs - Bearpaw  
Assistant Director Information Resources Indian Affairs – Brinkley  
Director Bureau of Indian Affairs – Black  
Deputy Bureau Director Field Operations – Smith  
Director Office of Self-Governance – Freeman  
Acting Director Office of Indian Energy and Economic Development – (Manydeeds for Stevens)  
Principal Deputy Special Trustee – DuMontier

### **Regional Directors**

Great Plains – LaPointe  
Southern Plains – Deerinwater  
Rocky Mountain – LaCounte  
Alaska – Loudermilk  
Midwest – Rosen  
Eastern Oklahoma – Streater  
Western – Bowker  
Pacific – Dutschke  
Southwest – Walker  
Northwest – Speaks  
Eastern – Poitra  
\*\*Navajo Regional Representative not present at roll call

Quorum is present.

**Approval of Minutes** (August Meeting in Albuquerque New Mexico) – Motion and Second. Motion passes.

### **Opening Remarks**

Assistant Secretary Washburn honored and announced the retirement of Deputy Assistant Secretary for Management Thomas Thompson for his years of service.

Northwest Region – We share your appreciation for Thompson’s institutional knowledge.

ASIA –

- Right of Way Regulations have been published in the Federal Register. They had not been amended for many years. Some of the issues that the Bureau wanted to address included “piggybacking” (when companies don’t pay and use the right of way that another utility company is authorized to use) new regulations state that the only right of way granted is for the authorized purpose. Fix “Straight v. A-1 contractors” BIA will only approve a right of way if the Tribe. BIA will defer to the Tribal negotiated compensation amount. (There was a lot of push back from utility companies, states, etc.)

- Indian Child Welfare Act Regulations – the Bureau has a team of committed individuals who are working hard on these regulations.
- Contract Support Costs – President Obama asked for mandatory funding for CSC. Tribes have full funding and the Bureau is working to address past under funding of CSC. \$940 million is the tentative settlement.
- Secretarial Election Regulations – Bureau is taking a pro Tribal Self-Determination stance and has invited Tribes to take out the requirement for Secretarial approval of Tribal elections in Tribal constitutions. Streamlined Secretarial elections.

Northwest Region – You have been our champion on a lot of issues. Update the Indian Trader Law as the basis for authority of Tribal jurisdiction in the area of taxation. CSC settlement for past claims and looking forward amending the CSC policy. OMB is supportive of full funding but in order that it not intrude on other Tribal priorities we are seeking mandatory funding. We are hopeful we can continue to work together on these issues.

Navajo Region – Navajo read a letter into the record of their priorities identified at the 23<sup>rd</sup> Navajo Nation Conference. The request was for the creation of a line item to complete their resource management plan. In 2012 there was a line item with \$1.2 million dollars identified for this purpose. In 1966, the Federal Government issued an Administrative Order for a construction freeze (Bennet Freeze) prohibiting all construction and any development of the land. In 1974, Congress passed the Navajo/Hopi Settlement Act relocating Navajos and Hopis that were living on the land. The freeze remained in place until December 2006 and it impacted 1.5 million acres in the western portion of Arizona. More than 12,000 Navajos were subjected to the freeze and it has impacted their quality of life.

\*Discussion on the letter will resume on Thursday under New Business.

Alaska Region – The last meeting we delayed discussion on an item until later in the meeting and then we didn't have a quorum present to address the issue. How about we do it tomorrow after Opening Remarks?

Motion to approve the agenda as amended; second on the motion. Motion passed.

Alaska Region – We discussed several topics during Tribal caucus. Tribal Co-chairs presented items discussed during caucus.

Navajo Region – We support the Tribal Energy Bill.

Midwest Region – If BIA gets an increase in FY2016 it should go to core Tribal programs.

Northwest Region – The Northwest and Great Lakes are concerned about Treaty Rights at Risk. Federal Government needs to provide funding to protect and restore these resources. Northwest and California experienced wildfires that caused extensive

damage. Spokane and the Colville Tribes were hit hard by wild fires. We need to make sure resources are available for Tribes to protect their communities from wildfires. We also need resources to assist the Columbia River Treaty Tribes renegotiate the terms of their Treaty.

Alaska Region – Could you (ASIA) provide an update on the status of land into trust in Alaska? The state continues to maintain their lawsuit and a motion was filed to vacate on the grounds of mootness. Tribal leaders have been talking to the Governor.

ASIA – We think we will win in court so we will push forward on the legal front but we have to wait until a decision is rendered before we can take action.

Northwest Region – If a Budget deal for FY2016/FY2017 is struck with the increases that are proposed, how will Interior come out? What is the process? If Interior receives “x” amount who determines where it will go?

ASIA – We try to follow the Green book process. In February, the Green book for FY2017 will be released. Congress is in control and they can direct the Bureau on how to spend the money. We are trying to keep some of the policy riders out of the bill and we have been negotiating with Congress on the riders.

Northwest Region – So we won't know the final deal until December 11<sup>th</sup>?

ASIA – We take our marching orders from the Green book and we have to compromise between Presidential and Tribal priorities.

Northwest Region – We are gearing up for FY2018, the FY2016 budget is in limbo and FY2017 budget is embargoed. The 302(b) allocations are a big piece of this package. The BIA received approximately \$2.6 Billion we need to work Congress hard to get the 302(b) allocation up.

Eastern Region – We go through this process every year. Every year Tribes identify their priorities but you receive marching orders of where the money should go and you also fund the President's priorities.

Alaska Region – Are the Right of Way Regulations retroactive?

ASIA – The Regulations are mostly forward looking. People can assign their rights of way but right now there are no records on it. We now require that rights of way be recorded and put into the TRAMS system (Record System for Property Interests).

Eastern Region – Dollars need to go to Direct Service Tribes and through Contracts and Compacts and not through grants.

Tribe – What if someone claims a right of way and the Tribe objects?



Mike Black – We will not record anything that the Tribe does not approve.

Northwest Region – The Administration has set an ambitious goal of taking 500,000 acres of land into trust before the end of the President's term of office. A lot of areas are running into snags with the Interior Board of Indian Appeals (IBIA) process and the IBIA needs additional resources to handle the appeals. What resources have been made available to improve the process?

ASIA – The Bureau implemented the Patchak Patch so if a party wants to object to a land-into-trust application, they must file an appeal within thirty (30) days before the IBIA. If they don't, they lose their ability to appeal. There was a modest increase provided to IBIA for a staff attorney. The process timeframe is down to nine (9) months from twenty-two (22) months. The Assistant Secretary's Office handles appeals for any acquisitions over 200 acres because it is paper intensive and we are trying to take some of the pressure off of the IBIA.

### **Land Buy Back Program**

*John McClanahan, Program Director*

The Land Buy-Back Program has produced major results in a short amount of time. Significant resources have been funneled into Tribal communities and a sizable amount of land has been consolidated.

- \$715 million dollars has been paid to Indian landowners who decide to consolidate fractionated interests in land.
- 1.5 million acres of land has been consolidated and placed into trust in nineteen (19) locations (Crow, Pine Ridge, Standing Rock, Cheyenne River, Fort Peck, Fort Belknap, Gila River, Lake Traverse, Rosebud, Salt River, Flathead, Northern Cheyenne, Umatilla, Coeur d'Alene, Prairie Band Potawatomi, Makah, Squaxin Island, Quapaw, and Swinomish).
- Implementation of the program has begun in twenty three (23) additional locations (Agua Caliente, Bad River, Blackfeet, Cabazon, Colville, Crow Creek, Fond du Lac, Fort Berthold, Fort Hall, Fort Yuma, Lower Brule, Lummi, Navajo, Nez Perce, Ponca, Quinault, Round Valley, Osage, Turtle Mountain, Wind River, Winnebago, Yakama, Yankton).
- Approximately \$30 million in sales proceeds have been placed into the Cobell Education Scholarship Fund. Initial recipients represent more than 80 Tribal nations.
- So far, the Department has identified 42 locations where land consolidation has occurred or is expected to take place in FY2017. Tribes must express an interest in participating by meeting two requirements: 1. An official Tribal authorization; and 2. A narrative description of readiness. For specific instructions Tribes should visit the programs website. Responses from Tribes are due by March 11, 2016.
- Fort Belknap Reservation (success story) a mass appraisal was conducted and it worked well resulting in a doubling of the Tribal land base.
- Program has had a positive impact on Tribal communities:

- Oglala Sioux is planning to construct several new buildings for local food distribution, office space, a conference room, community board room, multipurpose space, civic center, and a day care. The Tribe is also embarking on a major housing program.
- Gila River will pursue an electrical transmission utility corridor on the reservation. It includes development of a transmission line that would supply power for an ambulatory care facility and various tribal development projects.
- Squaxin Island is now better able to protect its oyster beds.
- Crow Tribe will use the land acquired to build a new community water plant.
- There have been twenty-five Agreements created with Tribes
- 27.2% total landowners with interests that received offers

ASIA – The program has demonstrated tremendous success 1.5 million acres have been returned to Tribes. In two years, the Department has spent over \$700 million and has a remaining \$1.55 million to spend. The program has gotten off to a great start and proven successful and they should be able to complete the work in less than ten (10) years. The program will need to be reauthorized in order to expand. Tribes lost ninety (90) million acres to allotment the Department has restored 1.5 million acres of land lost.

Northwest Region – What is the timeline?

John McClanahan – We are going into our 4<sup>th</sup> year and we have until November 2022 to implement the program. We want to make sure that no money is returned to the Treasury Department.

Northwest Region – We think you will achieve it sooner than your deadline.

John McClanahan – We will continue to work with Tribal leaders to tell the stories about the success of the program.

### **A Message from Policy Management and Budget**

*Olivia Ferriter, Deputy Assistant Secretary Policy Management and Budget*

- Congressional Appropriators are working on the FY2016 Budget using FY2015 numbers.
- In FY2015, Congress enacted \$2.6 Billion (3% increase) for the Department of Interior
- Contract Support Costs (CSC) is fully funded.
- TIWAHE Initiative received an increase
- Climate Resilience received \$9 million
- Construction funds for schools and contract funds increased.
- The President's FY2016 Budget Request set a high bar by proposing major increases for Interior. Interior \$2.9 Billion (12% increase)
- President charged the Cabinet Secretaries to work together to make a difference for Indian country.

- Goals: to support Tribal management, improve services, address social issues and address climate change, full funding for CSC (with a proposal for mandatory).
- One Stop Support Effort – intended to improve services to Tribes
- Indian Energy Center was funded on the House side but not on the Senate side (there needs to be a meeting of the minds).
- \$1 billion request for Indian Education and School Revitalization
- Additional money for TIWAHE
- \$50 million increase to ramp up Climate Change due to number of storms impacting Indian country and goal is to help communities build resilience.
- Across Interior Native programs total \$3.6 billion
- What is going on on the hill? The House and Senate did not give the Department everything that they asked for. House mark is \$165 million above FY2015 enacted below the President's request but strong increase. They did not fund the request for fixed costs, TIWAHE, or Education but did fund Tribal Grant Support and Construction. Senate mark \$92 million over FY2015. They included fixed costs but not TIWAHE and Education.
- We are currently in a Continuing Resolution (CR) until December 11<sup>th</sup>.
- The discretionary caps were raised and increases are evenly split between defense and non-defense programs.
- There is an additional \$25 Billion for FY2016 but it is being divided among all Appropriations Bills.
- The 302(b) allocations have not been publically released and it is too early to predict the outcome for FY2016.
- We need to fight back on the proposed riders.
- FY2017 Budget will be released in February. The Department submitted the proposal to the Office of Management and Budget (OMB) in mid-September. OMB is working hard.
- It is unclear how the Budget deal will change the numbers.
- We will try to do our best for BIA similar to the FY2016 Budget. Be assured that Indian programs are a priority.

Alaska Region – Who decides where the increases get distributed?

Olivia – We follow the direction in the Green book and also any direction from Congress.

Midwest Region – Do you consider the priorities of Tribes and the beneficiaries of the funding?

Olivia – ASIA and staff do listen to the Tribes but I am not sure they can undue a directive from the President and Congress. Use this time to talk to the agencies about the FY2018 budget.

**Office of Wildland and Fire**

*Jim Douglas, Director*

- The Office of Wildland and Fire is located within the Office of the Secretary within Interior.
- Responsible for coordination, policy development and oversight of offices.
- Allocate the budget for fire
- FY2016 Budget highlights include money for:
  - Preparedness;
  - Suppression Operations – money that flows to the areas in need during fire season; and,
  - Fuels Management - to mitigate risk and provide post fire support.
- In FY2015/2016 Budget Proposal – emphasized the budget cap adjustment is needed to pay for fire and for other natural disasters.
- FY2015 there was \$963 million allocated
- Last year, \$420 million was spent on suppression (an increase of almost \$100 million)
- Emergency Stabilization – Focus is what can be done immediately to deal with soil erosion, wind, etc.
- Burned Area Rehabilitation – efforts to bring back landscapes that will not recover on their own.
- Quadrennial Fire Review was released in May 2015 and identified four focus areas for the future
  - Hot Dry and Out of Control
  - Suppression Centric
  - Resilient Landscapes
  - Radical Change
- How do we avoid getting into a box we do not want to be into?
- What percentage of funding is utilized in Indian country?
- Emergency Stabilization – need money flows to stabilize slopes and erosion issues. We do not do emergency stabilization in Alaska because there are no slope and erosion issues.

Alaska Region – I don't think that is accurate.

Northwest Region – In the Northwest, we had quite a few acres burned to the tune of about 300,000 acres. Will money go to our region to address these issues?

Jim – Money is being spent on stabilization efforts. The Tribes are working with the BIA.

Northwest Region – The Spokane and Colville Tribes are trying to address the devastation. Emergency Stabilization is a quick fix but it is not a forestry program.

**Cyber Security**

*Sylvia Burns, Chief Information Officer*

- In April, we learned Interior was involved in a cyber breach
- Department of Homeland Security observed suspicious activity and it spurred an investigation
- Department of Interior (DOI) hosts the Office of Personnel Management (OPM) in the data center and has various systems that manage personnel. They use the data center.
- OPM side contractor had their user name and password compromised and there was a breach of the system and an extraction of data.
- Two incidents occurred. An intruder infiltrated the data base (it was limited to a subset of the database) but we notified everyone on the Hill and the rest of the Federal community.
- These incidents were a wake-up call that we need to do a lot more in terms of IT Security.
- Indian Affairs is better off than other counterparts within the Department.
- Remediation – developed a strategic plan and formed a Cyber Security Advisory Group
- Secretary drafted a memo on June 23<sup>rd</sup> regarding Cyber Security which was a directive to the heads of the agencies. The Government will issue cards with a chip and pin to make it more difficult for people to infiltrate the system.
- If they detect suspicious activity the system will be shut down immediately.
- Federal Information Technology Acquisition Reform Act – December 2014 – enhances CIO authorities and create more standardized ways of how agencies handle IT
- Issued a Department-wide Guidance on Implementation and establish future associate CIO(s) for Bureaus and Offices who will report to the Deputy Bureau Director (1<sup>st</sup> Supervisor)
- Updated policies, processes and procedures
- BIA/BIE – run the Albuquerque Data Center (core data center)

**Adjourn Day One**

**Agenda Thursday, November 19**

Opening Remarks

Kevin Washburn/Ron Allen

FY2018 Budget Formulation Process

George Bearpaw, Director, Office of Budget and Performance Management

One Stop Shop/Crosscut

Tommy Thompson, Deputy Assistant Secretary Management

Strategic Plan Update/Need for Tribal Input	Jeanine Brooks, Deputy Budget Officer Melvin Gilchrist, Performance Mgmt.
OST Update	Deb DuMontier, Deputy Special Trustee for Field Operations
Public Safety and Justice Funding	Darren Cruzan, Deputy Director Justice Services
Education Reform	Monty Roessel, Director Bureau of Indian Education
Small & Needy/TIWAHE/Domestic Violence Update	Hankie Ortiz, Deputy Director Indian Services
Old Business New Business Review Dates of Future TIBC Meetings	Amber Ebarb Kevin Washburn/Ron Allen
Adjourn	

### **Tribal Data Exchange**

Alaska Region – The Tribal Data Exchange needs more extensive outreach. We invited you to bring people up to the Alaska Providers Conference

Mike Black – The Pilot is 4-5 years down the road and there is still only a handful of Tribes using the system. We can give it another year to see where it goes.

Northwest Region – Coordinate with the Regional Representatives and give it another year.

Mike Black – We need to see goals with number of Tribes participating and metrics.

Eastern Region – We can support the TDE for another year. Our concern is not about the idea our concern is about the execution.

Midwest Region – We support it and we need to see training for each region.

Northwest Region – We need to refine the system and training and make it more user friendly.

Motion to approve funding for TDE; Second.

Northwest Region – We need to identify the measures and where the training will go and move ahead with aggressive outreach to the regions

**White House**

Allison Grigonis, Senior Director of Cabinet Affairs

Allison – TIBC work is important to the budget process. We are working on internal inter-agency collaboration. The trust responsibility is with every agency and the directive was to think Indian country in everyday work.

Northwest Region – Do you have a role with the White House Advisory Council?

Allison – My role is to informally encourage cabinet members to participate.

Northwest Region – The key question is the Council is broken down into five (5) subcommittees. Natural Resources are important to us. It is embedded in our Treaties, culture and way of life and there needs to be a Natural Resource Subcommittee. We were told that someone needs to step up who can take on the role of leading the subcommittee. Who could take on that role? Could the Deputy Secretary take on that role?

Allison – Morgan Rodman has been hired as the Executive Director of the Council. He will be a great resource and is a career employee.

**FY2018 Budget Formulation Process**

*George Bearpaw*

- There was a directive to work with the TIBC Budget Subcommittee and come up with a new process for FY2018.
- In 2017, we collected information from the Regions. Instructions were posted on the website and materials were sent out to the Regions. We collected the information and shared narratives. We had asked each Region to rank priorities and we aggregated the results.
- In 2018, we are getting away from the priority ranking and there is more budget formulation being developed at the local level. Regional Tables - We have asked each Region to decide on initiatives, include an 8% increase narrative and provide supporting documentation to justify unmet need requests. Agency Tables – we have asked the agency to reach out to the Tribes.

Northwest Region – How do we make sure that we are all using the same criteria?

Peter – You will use the line item standard calculation and if there are some without a calculation then you would provide an explanation of the calculation process you used.

NCAI – The next step will be to identify areas where there are not standards.

Northwest Region – This is something that we haven't done before and it will be a matter of getting our arms wrapped around it.

Peter – The Regional submissions will be due the 2<sup>nd</sup> or 3<sup>rd</sup> week of January.

George – We have a document that is an analysis of priorities back to 2009 that we are going to use as a historical analysis.

Eastern Region – Last year, we attempted to broaden the priorities rather than limiting ourselves to just five because we didn't feel it was reflective of the priorities given the number of areas. We ended up breaking it into eight categories. The three main areas we used were: Regional Oversight/BIA/BIE and we want assurance that if we do it this way that our information will be captured.

George – This is a work in progress. We will incorporate anything that Tribes present that may be a doable change. The Budget will always be a work in progress.

Navajo – The Bennett Freeze Area remained until 2006. One of our priorities includes housing for this area. Navajo made a presentation regarding their request for the reinstatement of a line item to support development of the Bennet Freeze Area.

Northwest Region – Was the line item taken out by congressional action?

Navajo – No, it was taken out by the Administration in FY2012.

Northwest Region – You can include the request for reinstatement of the line item in your regional budget formulation request.

### **One Stop Shop/Crosscut**

*Thomas Thompson*

- In 2014, the Office of Management and Budget (OMB) made a presentation to TIBC regarding the funding that is available for Indian country and Tribes.
- TIBC had a lot of questions about the Crosscut and how Tribes can access the funds.
- Proposed Solution is to create a Tribal Support Center. The Native One Stop was created in response to input from TIBC.
- A request was included in the President's FY2016 Budget Proposal for \$4 million increase to create a Tribal One Stop Shop/Tribal Support Center.
- The Center would include an online portal and services to support Tribes in accessing Federal programs and resources at the regional and local levels.
- There will be technical support staff in both the DC and Regional Offices.
- In coordination with the White House Council, OMB and the Department of Labor, they developed the website and content for the Native One Stop which was unveiled this month.



- Indian Affairs coordinated efforts across the Federal Government to gather information on resources by working with the White House Council on Native American Affairs.
- At its launch, the site included over 80 different resources with categories such as Education, Employment, Environment, Food, Loans and youth.
- American Indians and Alaska Natives may answer a series of questions on the site to determine if they are eligible to apply for any of those resources.
- Information on additional resources is being added on an ongoing basis.
- In the Green book, the request was for \$4 million and at the same time Generation Indigenous was proposed to be part of it and it was introduced as an idea portal for young people.
- Phase One – Create website
- Phase Two – Tribal portal to go in and get details on all of the programs Tribes may access
- Phase Three – Buy Indian Act
- Tribal Portal will do a drill down of the Crosscut and will include a broader portfolio of services. We are working with other agencies to streamline the process.

Eastern Region – Is the Tribal Portal available?

Tommy – It was in the President's Budget Request and it is subject to us receiving additional money from Congress in FY2016. We may need to approach digital and technical staff.

Eastern Region – Why isn't there a health category? If Tribes have to search for things it is too hard and of no value to them.

Tommy – SAMHSA is more institutional. This was based off of resources available. Education is a high priority. I can go back to the team and look at it. Other than grants, what resources are out there?

Eastern Region – Give Tribes access to the \$21 Billion that OMB claims is available. I hope it will provide transparency on how to access other resources.

Midwest Region – Needs to be a legislative fix for construction for Native Americans 23 USC 140(e)

Tommy – Want to ensure it is a registry of qualified Native owned businesses. It will house marketing and procurement plans.

Eastern Region – Does it apply to Tribal organizations?

Tommy – It does not apply to non-profits. Tribal citizens and Tribal enterprises qualify but a non-profit under the Tribe does not receive the same benefits.

Eastern Region – What is the rationale?

Tommy – It is for profit enterprises. If it has a profit arm it is eligible.

### **Strategic Plan Update/Need for Tribal Input**

*Jeanine Brooks, Deputy Budget Officer*

*Melvin Gilchrist, Performance Management*

- In January 2016, the Bureau will begin to update its Strategic Plan
- The Current Plan covers the period 2014 – 2018.
- The process for Updating the Plan begins two years in advance
- The new Administration can modify the Strategic Plan one year after taking office. Which means it could be revised earlier than the 2018 projected date.
- Indian Affairs is included within three (3) Mission Areas in the Plan
  - Celebrating and Enhancing Americas Great Outdoors
  - Strengthening Tribal Nations and Insular Communities
  - Ensuring Healthy Watersheds and Sustainable, Secure Water Supplies
- Indian Affairs has four (4) Goal Areas within these Mission Areas
  - Protect Americas Cultural and Heritage Resources
  - Meet Our Trust, Treaty, and Other Responsibilities to American Indians and Alaska Natives
  - Improve the Quality of Life in Tribal and Native Communities
  - Availability of Water to Tribal Communities
- Indian Affairs has eight (8) Strategies Outlined
  - Protect Cultural and Historical assets and related resources
  - Fulfill Fiduciary Trust Responsibilities
  - Support Self-Governance and Self-Determination
  - Create Economic Opportunities (Tribal Communities)
  - Make Communities Safer
  - Strengthen Indian Education
  - Protection of Tribal Water Rights
  - Improve Infrastructure and Operational Efficiency of Tribal Water Facilities
- There are twenty-two (22) Strategic “key” goal measures we report on.
- There are currently 43 Bureau specific measures we report on
- How Should We Proceed?
  - Reinstate the Strategic Planning Subcommittee to include Tribal members and Indian Affairs Performance/Budget/Program Staff
  - Have the Subcommittee do regional planning sessions to develop/modify strategic measures with input from Tribes and regional staff; consolidate and modify proposed strategic measures and do consultation sessions

### **Office of Special Trustee**

*Deb DuMontier, Deputy Special Trustee for Field Operations*

- FY2015 milestones – unqualified opinion (clean audit) on IIM Trust Fund Financial Statements for third year in a row. Clean audit generates confidence by IIM account holders that their accounts are properly handled.

- Trust Services
  - \$1.7 billion received and disbursed
  - 892,000 periodic performance statements provided
  - \$4.5 billion investment
  - 10.7 million transactions processed with 99.99% accuracy
- Status of FY2016 Budget
  - Operating under a Continuing Resolution (CR) through December 11, 2015
  - Funding during the CR is at the FY2015 level of \$139 million
  - Both House and Senate Bills would fund OST in the amount of \$139 million (level with FY2015 funding)
- Shared Commitment to Beneficiaries
  - BIA and OST have a beneficiary focused mission
- Segregation of Duties (Advantages to Beneficiaries)
  - Segregation of facilities specialization – improve efficiency benefitting Native Americans
  - Avoids perception of conflict of interest
  - Improved accountability and services
  - Deters dilution of resources dedicated to Trust functions from competing needs
  - Independence provides validity to reviews
- Complimentary Activities
  - OST Field Office Staff Respond to Beneficiary Inquiries
  - OST's Trust Beneficiary Call Center – first line of resolution for 98% of call requests. To date, staff has responded to 1.7 million calls. Received a DOI award for promoting exceptional customer service.
- Information Technology
  - OST's Office of Information Resources (OIR) is a leader within the Department.
  - In 2010, OST was the first to implement an automated patch management solution "Big Fix"
  - OST's success led DOI to adopt Big Fix product
- Investment 101 Training will be held at the University of Arizona School of Law

### **Public Safety and Justice Funding**

*Kevin Martin*

- Office of Justice Service supports the establishment of a Tribal Advisory Group for Public Safety and Justice
- When there are additional appropriations that may impact the distribution pattern with interested results the group may weigh in on additional funds.
- Funding increase methodology has been used for a number of years
- 2009-2014 total \$100 million increase and the methodology was applied and distributed

Northwest Region – We discussed this in Albuquerque. Tribes want to know how much funding is available and crosswalk it with Department of Justice. We would like to get into the details of how the methodology works. What is it? When is it used? Why is it used? What are the weighted factors?

Kevin – The President's Budget Request described in the FY2016 Budget directed to distribute the additional law enforcement dollars to areas with the greatest need. There are multiple factors that we use: violent crime rate, land base to population, staffing needs, annual inmate intakes, etc.

Navajo – Navajo is the largest tribe with the largest land base and we are in need of facilities.

Northwest Region – We have requested that the Office of Justice Services and the Department of Justice collaborate on an Annual Report. When the workgroup is established, we can determine the kind of report that we need.

Workgroup Volunteers: Ron Allen (Jamestown S'Klallam), Charles Dolson (Redlake), President Begaye and Kee Allen Begay, Jr. (Navajo), Rick Harrison (Chickaloon), Greg Abrahamson (Spokane), Great Plains (Matt Vogel will identify a volunteer), Matt Azure (Fort Belknap)

### **Small & Needy/TIWAHE/Domestic Violence Updates**

*Hankie Ortiz, Deputy Director Indian Services*

- Small and Needy Tribes – How is it defined and funded?
  - FY2014 funded \$1,845,000 and in FY2015 it was the same. For FY2016, the request has been made for \$3,095,000.
  - Two criteria to qualify as small and needy – 1. Federally Recognized Tribe with 1500 or fewer enrolled Tribal members; and 2. Less than \$160,000 in Annual Funding in the lower 48 and \$200,000 in Alaska
- New money is distributed based on TPA base funds. \$1,845,000 will go to the same Tribes FY2014/2015
- A needs analysis will be done to sunset small and needy. We will calculate what we need to bring Tribes up to the threshold using a bottoms up approach. We have never been able to reach the threshold.
- Issues that need to be considered – should the population numbers change? Should gaming revenue be considered a factor?
- An increase is due after twenty (20) years.
- TIWAHE
  - FY2015 \$10 million total divided as follows - \$5 million for social services and \$5 million for Indian Child Welfare Act
  - 80% will be distributed across the board – 21.5% increase for ICWA and 7.9% social services
  - 20% will be allocated to the four (4) Tribal Pilot Sites -\$550,000 job training will be allocated to the four (4) pilot Tribes. All four have communicated their

- plan for implementation. The focus is an integration of human services into a one stop shop workshop. We provided money for a family advocate at the Tribal level who can help Tribes. TIWAHE coordinator will be advertised.
- Domestic Violence – we are committing to addressing domestic violence. We are using a gap analysis and best practices model. We hired a family advocacy specialist and will transfer funding within the next week.

Midwest Region – We received \$500,000. Will we receive any additional funds?

Hankie – FY2016 President's Request was \$6 million and if received it will allow sites to focus on prevention, intervention and outreach. 19.6% of funds will be dispersed under the CR next week and once the plans have been approved for the pilot Tribes, they will receive the funds.

Alaska Region – Within TIWAHE has there been any coordination with the OJS side of the initiative? So far, the focus has been on the court system.

Midwest Region – Under what line item will the increase appear?

Hankie – It will appear under social services and Tribal courts.

### **Bureau of Indian Education Update**

*Monty Roessel, Director, Bureau of Indian Education*

- NCAI passed a resolution in support of Bureau of Indian Education Reform
- Sovereignty in Indian Education – Focus is on building capacity at the Tribal level
- Tribes can develop their own Workbooks and set standards and assessments for education on the reservation.
- \$2 million dollars is available in Tribal education grants
- Second Annual Native Language Summit – the challenge is to define what you mean by Native language. Hundreds of millions of dollars have been spent but we are not creating fluency. How do you develop efficiency and fluency in Native language?
- Establish Office of Sovereign Indian Education – improve instruction and realign functions by moving employees into the field. Create a Chief Academic Officer and Chief Performance Officer
- Tribal Leaders Indian Education Summit – Lead education reform at the Tribal level; best practices; legal questions; target resources; accountability workbooks; align vision with action; what is possible and what steps are needed?

Great Plains Region – Passed Resolution opposing the restructuring of the BIE.

Navajo – How will the BIE address the need for housing for teachers?

ASIA – President's Budget requested \$20 million for education related housing. OMB and the President also brought HUD to the table to get them to focus more on education.

NCAI – Tribes need to share more models on how you leverage NAHASDA or loan guarantee dollars to provide housing for teachers.

Monty – The BIE has no control over construction of housing. Under the restructure of the BIE, we would have more control.

Midwest Region – It would be helpful if in the future you reference housing for teachers v. law enforcement (break it into categories).

### **Tribal Colleges**

- \$20 million is needed to fully fund education programs
- All Interior school budgets should be based on forward funding (\$20 million to forward fund) \$40 million additional money is needed
- For every dollar that is invested in a student there is a \$4.10 return on the investment
- Why fund Tribal Colleges? Because there has been a failure on the part of the US Government to meet the needs of Native students
- Build own system based on traditional knowledge
- There are 37 Tribal colleges

Midwest Region – Handout Proposal for FY2016 Tribal Jobs Recovery and Relief Initiative Proposal – BIA take \$34 million of the FY2016 increase and distribute it to Tribes as a TPA General Increase under the BIA Budget Line Item T9901 and/or similar lines. The purpose of the increase shall be for Tribal Jobs Recovery and Relief. As a general increase, Tribes would have the flexibility to determine how to use the funds, consistent with the title of the initiative. Allocation of the funds would be based on a pro rata basis, similar to general TPA increase.

### **Old Business/New Business/Review Dates of Future TIBC Meetings**

- Items on Agenda for Next Meeting
  - Protocols
  - DMC Workgroup – Strategy/Workplan/Training TDE and Review of Interior Strategic Plan
  - Budget Subcommittee will discuss Regional priorities and the next steps
  - Law Enforcement Public Safety Workgroup
  - Budget – number work set time aside on the agenda to measures evaluation of resources and tie in numbers and outcomes include in presentations
- **TIBC Meetings 2016**
  - **March 21-23 Omni Shoreham Hotel, Washington DC**
  - **May 10-12 Washington Plaza Hotel, Washington DC**
  - **July 26-28 Best Western Ramkota Hotel and Conference Center, Rapid City South Dakota**
  - **November 7-9 Washington Plaza Hotel, Washington DC**



Tab 4: Tribal Caucus



## OVERVIEW OF THE FY 2014-2018 STRATEGIC PLAN

The DOI's FY 2014-2018 Strategic Plan provides the framework for the programs and activities that are performed by 10 bureaus and multiple offices, and take place at approximately 2,400 locations throughout the Nation.

The Strategic Plan facilitates the integration of programs, the allocation and alignment of resources, and collaboration and coordination with stakeholders to achieve key goals. A set of 6 mission areas, 24 goals, 38 strategies, and 117 performance measures will guide the DOI's activities for the next 4 years. These mission areas reflect the Secretary of the Interior's priorities, while the goals and strategies describe the means by which those priorities will be achieved.

The mission areas, goals, and strategies that compose the Strategic Plan are displayed in the Strategic Plan Framework, followed by a description of the mission areas, goals, and strategic objectives, and performance measures. An FY 2018 goal is provided for each performance measure that reflects a desirable annual level of achievement that DOI aspires to by FY 2018 assuming the availability of a reasonable level of resources. The anticipated level of performance for these measures on an annual basis beginning in FY 2014 in consideration of actual resource levels will be reported in the DOI's Annual Performance Plan and Report, that is released with the FY 2015 President's budget and available at [www.doi.gov/bpp](http://www.doi.gov/bpp).

The Strategic Plan was developed based on collaboration among personnel of the DOI, in collaboration with tribes and other stakeholders. There is a high degree of continuity of performance measures from the FY2011-2016 Strategic Plan, in order to ensure an ongoing ability to gauge trends in performance and assist decision makers to assess the likely impact of program changes. Trends in performance related to funding and programmatic plans are available in the DOI's FY 2014 Annual Performance Plan and Report available at [www.doi.gov/bpp](http://www.doi.gov/bpp).

### **Mission Area 1 Celebrating and Enhancing America's Great Outdoors**

#### **Goal 1: Protect America's Landscapes**

- Improve land and water health by managing wetlands, uplands, and riparian areas
- Sustain fish, wildlife, and plant species
- Manage wildland fire for landscape resiliency, strengthen the ability of communities to protect against fire, and provide for public and firefighter safety in wildfire response

#### **Goal 2: Protect America's Cultural and Heritage Resources**

- Protect cultural and historical assets and related resources

#### **Goal 3: Enhance Recreation and Visitor Experience**

- Enhance the enjoyment and appreciation of our natural and cultural heritage

### **Mission Area 2 Strengthening Tribal Nations and Insular Communities**

#### **Goal 1: Meet Our Trust, Treaty, and Other Responsibilities to American Indians and Alaska Natives**

- Protect reserved Indian treaty and subsistence rights
- Fulfill fiduciary trust

#### **Goal 2: Improve the Quality of Life in Tribal and Native Communities**

- Support self-governance and self-determination
- Create economic opportunity
- Strengthen Indian education
- Make communities safer

#### **Goal 3: Empower Insular Communities**

- Improve quality of life
- Create economic opportunity
- Promote efficient and effective governance

### **Mission Area 3 Powering Our Future and Responsible Use of the Nation's Resources**

#### **Goal 1: Secure America's Energy Resources**

- Ensure environmental compliance and safety of energy development activities
- Develop renewable energy potential
- Manage conventional energy development
- Account for energy revenue

#### **Goal 2: Sustainably Manage Timber, Forage, and Non-Energy Minerals**

- Manage timber and forest product resources
- Provide for sustainable forage and grazing
- Manage non-energy mineral development

### **Mission Area 4 Engaging the Next Generation**

#### **Goal 1: Create new, systemic opportunities for outdoor play**

- Develop or enhance outdoor recreation partnerships that provide outdoor play

#### **Goal 2: Provide educational opportunities**

- Reach the Nation's K-12 population

#### **Goal 3: Provide volunteers on public lands**

- Enable the ability to engage more young volunteers

#### **Goal 4: Develop the next generation of lifelong conservation stewards and ensure our own skilled and diverse workforce pipeline**

- Provide conservation work and training opportunities for young people

## **Mission Area 5 Ensuring Healthy Watersheds and Sustainable, Secure Water Supplies**

### **Goal 1: Manage Water and Watersheds for the 21<sup>st</sup> Century**

- Improve reliability of water delivery
- Better ensure the future of watersheds against the impacts of climate change

### **Goal 2: Extend Water Supplies Through Conservation**

- Expand water conservation capabilities

### **Goal 3: Availability of Water to Tribal Communities**

- Protect tribal water rights
- Improve infrastructure and operational efficiency of tribal water facilities

## **Mission Area 6 Building a Landscape-level Understanding of Our Resources**

### **Goal 1: Provide Shared Landscape-Level Management and Planning Tools**

- Ensure the use of landscape-level capabilities and mitigation actions

### **Goal 2: Provide Science to Understand, Model and Predict Ecosystem, Climate and Land Use Change**

- Identify and predict ecosystem changes at targeted and landscape-levels (biota, land cover, and Earth and ocean systems)
- Assess and forecast climate change and its effects

### **Goal 3: Provide Scientific Data to Protect, Instruct, and Inform Communities**

- Monitor and assess natural hazard risk and resilience
- Provide environmental health to guide decisionmaking

### **Goal 4: Provide Water and Land Data to Customers**

- Monitor and assess water availability and quality
- Generate geologic maps
- Assess national and international energy and mineral resources



tab 5: CSC Policy

## **Indian Affairs Manual (IAM) Chapter**

**Number: XX IAM XX**

**Title: Contract Support Costs**

### **1. Purpose**

When a tribe enters into an agreement under the ISDEAA, the tribe is entitled to receive contract support costs as provided by law pursuant to 25 U.S.C. § 450j-1. Congress has determined that the single greatest impediment to the success of tribal self-determination was the failure to pay contract support costs (CSC). In 2006, the BIA and tribes collaboratively developed National Policy Memorandum NPM-SELFD-1, Contract Support Costs. This chapter updates that policy.

The purpose of this policy is to provide guidance for the full payment of CSC and to ensure that the payment of CSC is accurate, timely, and meets 100 percent of the tribe's CSC need as calculated under this policy. Further, this policy simplifies and streamlines CSC calculation to expedite payment.

This policy explains how BIA calculates and pays contract support costs, as required by the ISDEAA. This policy is not a regulation establishing program requirements.

### **2. Scope**

This policy applies to all Indian Affairs (IA) employees and to agreements made under Title I and Title IV of the ISDEAA.

### **3. Policy**

Section 106 of the ISDEAA (25 U.S.C. § 450j-1) authorizes funding for four types of CSC: pre-award, startup, direct, and indirect. Pre-award CSC are costs incurred before the start of an agreement (25 U.S.C. § 450j-1(a)(6)). Startup CSC are costs incurred on a one-time basis during the initial year that the agreement is in effect (25 U.S.C. § 450j-1(a)(5)). Direct CSC are costs incurred in connection with direct administration of the program. (25 U.S.C. § 450j-1(a)(3)(A)(i)). Indirect CSC are “any additional administrative or other expense[s] related to the overhead incurred by the tribal contractor in connection with the operation of” the program. (25 U.S.C. § 450j-1(a)(3)(A)(ii)). All costs associated with a program, including CSC, shall be reviewed for reasonableness, allowability, and allocability based on the terms of the agreement and applicable cost principles. Further, all costs associated with a program, including CSC, shall be reviewed for duplication among cost categories. (25 U.S.C. § 450j-1(a)(3)(A)).

#### **4. BIA CSC Workgroup**

The BIA CSC Workgroup is comprised of Federal and Tribal individuals who possess knowledge of CSC issues. The BIA shall convene the Workgroup at least annually. The Workgroup provides advice and guidance to the BIA in the development of ~~agency~~ BIA CSC policy, ~~developing and~~ proposed common language (if any) for funding agreements, and in the ongoing management of CSC issues. The Workgroup is not a substitute for Tribal consultation and ~~will~~ provides technical advice for the benefit of both Tribes and the BIA.

#### **5. Definitions**

Definitions can be found at 25 U.S.C. § 450b; 25 C.F.R. §§ 900.6 and 1000.2; and in the *DOI/HHS Internal Agency Procedures Handbook for Non-Construction Contracting Under Title I of the Indian Self-Determination and Education Assistance Act* (1999) available at <http://www.bia.gov/cs/groups/xois/documents/collection/idc013271.pdf>.

#### **6. Pre-Award CSC (25 U.S.C. § 450j-1(a)(~~56~~)**

*Pre-award CSC* are incurred to plan, prepare for, and assume the operation of a program that is the subject of a new or expanded agreement. *See attachment for examples.* To recover pre-award CSC, a tribe must notify the Awarding Official (for self-determination contracts) or the Office of Self-Governance (OSG) (for self-governance funding agreements) in writing, detailing the nature and extent of the costs, before incurring the costs and before the initial year of the agreement. Pre-award costs shall be reimbursed only if the tribe gives the Awarding Official or OSG, as applicable, prior written notice of the nature and extent of the costs before they are incurred.

The Awarding Official or OSG, as applicable, shall (1) review a funding request for pre-award costs for cost reasonableness, allowability, and allocability; (2) ~~explain in writing which costs, if any, should be funded and recommend a funding amount; and~~ (3) forward the request within 30 days of receipt, along with ~~a~~ written recommendation, to the Office of Indian Services (OIS). OIS shall review the request and recommendation, determine whether the costs are eligible pre-award costs and allocate funds for any award within 30 days of receipt of the recommendation. If a request for pre-award CSC funding is declined in whole or in part, OIS shall issue a declination letter to the requester within 90 days of the Secretary's receipt of the request. If a request for pre-award CSC funding is approved in whole or in part, the Awarding Official (for self-determination contracts) or OSG (for self-governance funding agreements) shall ensure that there is no duplication of funding among cost categories.

Pre-award CSC shall be funded, by reimbursement, as a one-time, non-recurring payment and shall be calculated based on actual expended costs.

## **7. Startup CSC (25 U.S.C. § 450j-1(a)(65))**

*Startup CSC* are incurred on a one-time basis during the initial year that an agreement is in effect. *See attachment for examples.* To recover startup CSC, a tribe must provide the Awarding Official (for self-determination contracts) or OSG (for self-governance funding agreements) a written budget identifying such costs.

The Awarding Official or OSG, as applicable, shall (1) review a funding request for startup costs for cost reasonableness, allowability, and allocability; (2) explain in writing which costs, if any, should be funded and recommend a funding amount; and (3) forward the request, within 30 days of receipt, along with a ~~and~~ written recommendation, to OIS. OIS shall review the request and recommendation, determine whether the costs are eligible startup costs and allocate funds for any award within 30 days of receipt of the recommendation. If a request for startup CSC funding is declined in whole or in part, OIS shall issue a declination letter to the requester within 90 days of the Secretary's receipt of the request. If a request for startup CSC funding is approved in whole or in part, the Awarding Official (for self-determination contracts) or OSG (for self-governance funding agreements) shall ensure that there is no duplication of funding among cost categories.

Startup CSC shall be funded, by reimbursement, as a one-time, non-recurring payment and shall be calculated based on actual expended costs.

## **8. Direct CSC (25 U.S.C. § 450j-1(a)(3)(A)(i))**

*Direct CSC* (DCSC) shall be calculated annually by the Awarding Official (for self-determination contracts) or OSG (for self-governance funding agreements) as follows:

DCSC = (current budgeted salary cost of BIA 106(a)(1) programs, excluding fringe) x 15%. DCSC is part of the direct cost base from which IDC is calculated.

## **9. Indirect CSC (25 U.S.C. § 450j-1(a)(3)(ii))**

*Indirect CSC* shall be calculated annually by the Awarding Official (for self-determination contracts) or OSG (for self-governance funding agreements) based on the tribe's current approved indirect cost (IDC) rate(s), as follows:

Indirect CSC = Current approved indirect cost rate(s) x (the section 106(a)(1) amount ("Secretarial Amount") awarded to the tribe, minus exclusions and pass-through).

If the tribe has no approved IDC rate or has an approved IDC rate that is over four years old (e.g., in 2015, the latest approved rate issued for the years 2012, 2013, 2014, or 2015 is acceptable), BIA or OSG will negotiate with the tribe a ~~lump-sum~~ lump-sum amount for indirect-type costs or the tribe can recover its total CSC need using the Simplified Method, if applicable. If the tribe does not initiate any of these options, IA will not pay ~~them the tribe~~ any ~~IDC~~ indirect CSC.

- **Negotiated Lump Sum Amount**

Tribes that met the single-audit threshold in the prior fiscal year- and do not have an approved IDC rate that is four or less years old ~~or less~~ may negotiate with the Awarding Official or OSG, as applicable, a lump-sum amount for indirect-type costs. The amount negotiated will be effective for the entire



contract year and the tribe will be required to have a new approved IDC rate or a new negotiated lump-sum amount for each succeeding contract year.

- **Simplified Method**

Tribes that did not meet the single-audit threshold in the prior fiscal year and do not have an approved IDC rate ~~or have an approved IDC rate that is over~~ four ~~or less~~ years old, may have their indirect CSC calculated at 30% of the section 106(a)(1) amount (“Secretarial Amount”) that the tribe receives, minus exclusions and pass-throughs. The calculated amount will be independently assessed each year.

## **10. Overpayment of CSC**

A CSC overpayment is any amount paid over the amount calculated under this policy. A CSC overpayment is determined at the end of the tribe’s fiscal year, without regard to the later issuance of a different IDC rate for that period. The ~~awarding-official~~Awarding Official or OSG will follow a process which allows tribes to respond to overpayment determinations or identify errors or corrections in CSC payment calculations. No overpayment determination shall result in a bill of collection until the procedure set out in the Financial Management Collection Procedures Handbook is completed.

## **11. Underpayment of CSC or Other Adjustments**

Tribes may notify ~~awarding-officials~~Awarding Officials or OSG of possible CSC underpayments or other adjustments, errors or corrections, as they are identified.

The IDC rate that will be applied is the applicable rate at the end of the tribe’s fiscal year. No adjustments to that IDC rate will be made after the end of the tribe’s fiscal year, without regard to the later issuance of a different IDC rate for that period.

Section 106(a)(1) funds will generate CSC in the year in which they are awarded, regardless of the year for which they were appropriated.

## **12. CSC Annual Report to Congress**

25 U.S.C. § 450j-1(c) requires that the BIA provide Congress with a detailed report on the implementation of the ISDEAA no later than May 15 of each year.

For this report, by January 15 of each year:

- Regions and OSG shall provide each tribe within their jurisdiction a copy of the tribe’s

data that appears in the report and at least 30 days to identify any errors or omissions in the tribe's data.

- The Regional Director and OSG shall submit to OIS a certified report for the previous fiscal year ended September 30. OIS shall prepare the template for the report.

By March 15 of each year, the Regional Director and OSG shall submit to OIS certified corrections or changes to the data which result from tribal review.

The BIA shall forward the report to the Assistant Secretary – Indian Affairs for approval by April 15, so that the report can be submitted to Congress by May 15. After the report is submitted to Congress, OIS shall provide copies of the report to OSG and each Region. Each Region and OSG shall provide a copy of the report to all tribes within their jurisdiction.

### **13. Disputes**

Any unresolved disputes will be handled according to the regulations at 25 CFR parts 900 and 1000.

### **14. Effective Date**

### **15. Approvals**

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Kevin Washburn  
Assistant Secretary-Indian Affairs

[Date]

**ATTACHMENT: Examples of Pre-award, Startup, and Direct CSC**

This list is for illustrative purposes only. Each item of cost shall be reviewed for allowability, reasonableness, and allocability based on the terms of the agreement and applicable cost principles.

Pre-award CSC

- Costs of developing or redesigning program management standards
- Costs of planning program delivery
- Costs of developing specialized financial, procurement, and property management systems to handle program requirements
- Costs of administrative and/or program management systems

Startup CSC

- Cost of computer hardware and software purchased to plan, prepare for, and assume operation of the program
- Cost of providing discipline-specific training for staff to assume operation of the program

Direct CSC

- Unemployment taxes on direct program salaries
- Workers compensation insurance on direct program salaries
- Cost of retirement for converted Civil Service salaries
- Insurance to the extent not already made available in the Secretarial amount
- Facilities support costs (rent, leases, security, maintenance and utilities) to the extent not already made available by the Secretary
- Training required to maintain certification of direct program personnel to the extent not already made available by the Secretary
- Any other item of cost that meets the definition of CSC at Section 106(a)(2) but that is not included in the awardee's IDC pool or Section 106(a)(1) amount, such as communications (long distance calls, telefax costs, internet, maintenance agreements) and postage (including express mail)

Handbook

1. History of contract support cost policy – Vickie Hanvey by June 26, 2015
2. Definitions – Sabrina McCarthy by June 26, 2015
3. Examples of CSC (startup costs, preaward, DCSC, IDC) and other items in Appendix A – Sunshine Jordan by June 26, 2015
4. Template letter and Excel form requesting startup and pre-award funds – Sunshine Jordan by June 26, 2015
5. Template pre-award notice letter – Rebecca Patterson by June 26, 2015
6. Template letter from awarding official or OSG to tribe giving notice of alleged overpayments – Sabrina McCarthy by June 26, 2015 (will get draft from OSG)
7. Flowchart for method of determining IDC – Amy Fredeen by June 26, 2015
8. Examples of how overpayment can occur or what causes overpayment – Vickie Hanvey by June 26, 2015

9. Template for calculation
  - a. annual CSC report – Sunshine Jordan by June 26, 2015
  - b. Choctaw decision schools' CSC calculation, with instructions. The Choctaw decision template instructions should say that the funding in the report should reflect the grant award period ending June 30 of the year (e.g., the report for 2015 will cover July 1, 2014 to June 30, 2015). – Sunshine Jordan can provide Kirk Meyer's sheet for Choctaw calculations.
  - c. CSC calculation sheet for Title I – Jim Mackay already e-mailed to the group.
  - d. CSC calculation sheet for Title IV – Vickie Hanvey by June 26, 2015
  - e. 477 CSC calculation – Yvonne LaRocque by June 26, 2015
10. Timeline in chart form for annual CSC report – Sunshine Jordan by June 26, 2015
11. Certification – Single Audit Report not required – Sunshine Jordan by June 26, 2015
12. Template F & D concerning overpayment - Sabrina McCarthy by June 26, 2015
13. Letter from awarding official or OSG to IBC to issue bill of collection – Sabrina McCarthy by June 26, 2015

tab 6: Youth

# Youth in the Great Outdoors

## **The goals of Interior's youth initiative for the next four years include:**

**Play:** Interior will develop or enhance outdoor recreation partnerships in a total of 50 cities over four years to create new, systemic opportunities for outdoor play for more than 10 million young people.

**Learn:** Provide educational opportunities to at least 10 million of the nation's K-12 student population annually. In addition to welcoming students into nature's classroom, Interior is developing and strengthening new online education resources, to reach more students.

**Serve:** Engage 1 million volunteers annually on public lands, effectively tripling the current volunteer numbers. Many more people are interested in volunteering at national parks, wildlife refuges and public lands, but there are often insufficient staff resources to coordinate them. In order to achieve the volunteer goal, a renewed emphasis will be placed on volunteer coordination and management.

**Work:** To develop the next generation of lifelong conservation stewards and ensure our own skilled and diverse workforce pipeline, Interior will provide 100,000 work & training opportunities to young people and veterans within our bureaus and through public-private partnerships. As part of this effort, the Department aims to raise an additional \$20 million from private and corporate donors to support youth work and training opportunities.

## **About the 21st Century Conservation Service Corps (21CSC)**

Inspired by President Franklin Delano Roosevelt's Civilian Conservation Corps of the 1930's, the 21st Century Conservation Service Corps (21CSC) is a national collaborative effort to put America's youth and returning veterans to work protecting, restoring and enhancing America's public lands. The 21CSC builds on existing partnerships with youth conservation corps across the country to help young people – including diverse low-income, underserved and at-risk youth, as well as returning veterans – gain valuable training and work experience while accomplishing needed conservation and restoration work on public lands, waterways and cultural heritage sites. The 21CSC is a central component of the Department of the Interior's ambitious youth initiative to inspire millions of young people to play, learn, serve and work in the great outdoors.

## Tab 7: Public Safety



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #SD-15-080

### **TITLE: Urging the Administration to Consult on Funding for Tribal Assistance at DOJ**

#### **EXECUTIVE COMMITTEE**

**PRESIDENT**  
**Brian Cladoosby**  
*Swinomish Tribe*

**FIRST VICE-PRESIDENT**  
**Randy Noka**  
*Narragansett Tribe*

**RECORDING SECRETARY**  
**Aaron Payment**  
*Sault Ste. Marie Tribe of Chippewa  
Indians of Michigan*

**TREASURER**  
**W. Ron Allen**  
*Jamestown S'Klallam Tribe*

#### **REGIONAL VICE- PRESIDENTS**

**ALASKA**  
**Jerry Isaac**  
*Native Village of Tanacross*

**EASTERN OKLAHOMA**  
**Joe Byrd**  
*Cherokee Nation*

**GREAT PLAINS**  
**Leander McDonald**  
*Spirit Lake Nation*

**MIDWEST**  
**Roger Rader**  
*Pokagon Band of Potawatomi*

**NORTHEAST**  
**Lance Gumbs**  
*Shinnecock Indian Nation*

**NORTHWEST**  
**Fawn Sharp**  
*Quinault Indian Nation*

**PACIFIC**  
**Jack Potter, Jr.**  
*Redding Rancheria*

**ROCKY MOUNTAIN**  
**Darrin Old Coyote**  
*Crow Nation*

**SOUTHEAST**  
**Larry Townsend**  
*Lumbee Tribe*

**SOUTHERN PLAINS**  
**Liana Onnen**  
*Prairie Band of Potawatomi Nation*

**SOUTHWEST**  
**Joe Garcia**  
*Ohkay Owingeh Pueblo*

**WESTERN**  
**Bruce Ignacio**  
*Ute Indian Tribe*

**EXECUTIVE DIRECTOR**  
**Jacqueline Pata**  
*Tlingit*

**NCAI HEADQUARTERS**  
1516 P Street, N.W.  
Washington, DC 20005  
202.466.7767  
202.466.7797 fax  
www.ncai.org

**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, American Indian and Alaska Native women continue to experience epidemic levels of domestic violence and sexual assault in the United States; and

**WHEREAS**, the Violence Against Women Act of 2005 recognized that the United States has a "Federal trust responsibility to assist tribal governments in safeguarding the lives of Indian women;" and

**WHEREAS**, the Violence Against Women Act of 2013 reaffirmed the authority of Indian tribal governments to hold non-Indian domestic violence offenders accountable in tribal court, known as Special Domestic Violence Criminal Jurisdiction (SDVCJ); and

**WHEREAS**, in recognition of its Federal trust responsibility to assist tribal governments in safeguarding the lives of Indian women, Congress authorized \$25 million to assist tribes with the implementation of the SDVCJ provision; and

**WHEREAS**, where tribes have expended significant resources to implement SDVCJ, perpetrators have been brought to justice and safety has increased for victims who had too often slipped through the cracks; and

**WHEREAS**, Congress has failed to appropriate any money for tribal implementation of SDVCJ; and



**WHEREAS**, for the past several years, Congress has recognized that in order to operate successful justice systems, tribal governments need more flexibility than the current system of grant funding at DOJ allows and has allocated flexible resources for “tribal assistance” and directed DOJ to consult with Indian tribes about how to best spend that money; and

**WHEREAS**, DOJ has never held the consultation required by Congress and has distributed the money allocated for tribal assistance based on its own assessment of priorities without sufficient tribal input; and

**WHEREAS**, the Department of Justice recently initiated consultation with tribal governments to gather input on whether, in the absence of congressional appropriations, the Department should redirect a portion of existing tribal grant funds to a new program to support implementation of SDVCJ.

**NOW THEREFORE BE IT RESOLVED**, that the National Congress of American Indians (NCAI) calls on the Department of Justice, as required by Congress, to hold a government-to-government consultation about how grant funds appropriated for tribal assistance should be distributed; and

**BE IT FURTHER RESOLVED**, that NCAI calls on the Department of Justice to identify funding for implementation of SDVCJ without diminishing the overall funding available for other critical tribal priorities; and

**BE IT FURTHER RESOLVED**, that NCAI calls on the Department of Justice to remove eligibility restrictions from OVW’s Grants to Tribal Governments Program that prevent tribes from developing comprehensive approaches to addressing violence against women by precluding tribal governments from applying for grants for different purposes until they have expended all existing grant funds; and

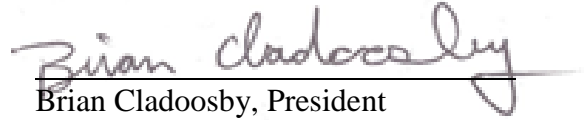
**BE IT FURTHER RESOLVED**, that the NCAI calls on Congress to uphold its trust responsibility and immediately appropriate sufficient funds to support tribal implementation of SDVCJ and tribal justice systems by:

- Appropriating the \$25 million authorized in VAWA 2013 for implementation of SDVCJ;
- Directing a portion of disbursements from the Crime Victims Fund to tribal governments so that tribes can provide critical victim services and compensation to crime victims on tribal lands; and
- Directing 7% of OJP discretionary programs to a flexible program for tribal assistance, as requested in the President’s budget and as included in both House and Senate CJS appropriations bills in recent years; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

**CERTIFICATION**

The foregoing resolution was adopted by the General Assembly at the 2015 Annual Session of the National Congress of American Indians, held at the Town and Country Resort, San Diego, CA, October 18-23, 2015, with a quorum present.

  
Brian Cladoosby, President**ATTEST:**  
Aaron Payment, Recording Secretary



## **Tribal Interior Budget Committee Public Safety and Justice Workgroup**

**Volunteers:** Ron Allen (Jamestown S'Klallam), Charles Dolson (Red Lake), President Begaye and Kee Allen Begay Jr. (Navajo Nation), Rick Harrison (Chickaloon), Greg Abrahamson (Spokane), Great Plains (Matt Vogel will find volunteer), Mark Azure (Fort Belknap).

### **Purpose of the Public Safety and Justice Workgroup**

- Analyze resources in BIA and DOJ that support public safety and justice, including courts, law enforcement, prosecution, legal services, victim services (this might also involve HHS), detention, probation, and reentry services
- Review funding methodologies used by BIA/OJS and DOJ
- Review linkages and existing mechanisms for collaboration between BIA OJS and DOJ programs
- Consistent with TIBC's recommendation to consolidate public safety funding at a single agency, analyze which agency is best suited to administer a consolidated program and which funding streams should be included
- Assess whether statutory changes are required to address problems in either DOJ or BIA
- Identify administrative changes that would address problems in either DOJ or BIA



# Tribal Action Plan (TAP)

Programs and resources are available to help tribes create a TAP for addressing substance use disorders in their communities.

## What is a TAP?

The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986, as amended by the Tribal Law and Order Act of 2010, requires the Office of Indian Alcohol and Substance Abuse (OIASA) to work with other federal agencies and offices that oversee federally recognized tribes in developing a TAP. The TAP coordinates resources and programs to help tribes achieve their goals for preventing and treating substance use disorders.

## TAP Guidelines

The TAP workgroup of the Indian Alcohol and Substance Abuse Interdepartmental Coordinating Committee in 2011 published the [Tribal Action Plan Guidelines \(PDF | 411 KB\)](#). The guidelines offer four model frameworks to help tribes customize TAPs to meet their community's needs:

- Community Readiness Model
- Comprehensive Assessment Process for Planning Strategies
- Spectrum of Prevention
- [Strategic Prevention Framework](#)

The guidelines also include a [sample tribal resolution template \(PDF | 161 KB\)](#) and examples of technical assistance that SAMHSA offers to tribes to help with TAP development, which include the:

The TAP workgroup responds to tribal requests for technical assistance in TAP development, providing support where feasible. A [sample tribal leader letter \(PDF | 1.7 MB\)](#) and [frequently asked questions \(PDF | 58 KB\)](#) about TAP are also available from the OIASA.

For more assistance from the OIASA, visit the [TAP Technical Assistance](#) page.

The office also helps tribes access similar resources offered by its federal partners:

Tribes should send their tribal resolutions to the [OIASA](#). The office will, in turn, coordinate with the appropriate interdepartmental coordinating committee workgroups on your TAP.

# TAP Regional Contacts

## SAMHSA Regional Administrators

### Region I

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

A. Kathryn Power M.Ed., [kathryn.power@samhsa.hhs.gov](mailto:kathryn.power@samhsa.hhs.gov) (link sends e-mail), 617-565-1482

### Region II

New Jersey, New York, Puerto Rico, Virgin Islands

Dennis O. Romero, M.A., [dennis.romero@samhsa.hhs.gov](mailto:dennis.romero@samhsa.hhs.gov) (link sends e-mail), 212-264-8097

### Region III

Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

Jean Bennett Ph.D., [jean.bennett@samhsa.hhs.gov](mailto:jean.bennett@samhsa.hhs.gov) (link sends e-mail), 215-861-4377

### Region IV

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Stephanie McCladdie, [stephanie.mccladdie@samhsa.hhs.gov](mailto:stephanie.mccladdie@samhsa.hhs.gov) (link sends e-mail), 404-562-4125

### Region V

Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

CDR Jeffrey A. Coady, Psy.D., [jeffrey.coady@samhsa.hhs.gov](mailto:jeffrey.coady@samhsa.hhs.gov) (link sends e-mail), 312-353-1250

### Region VI

Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Michael Duffy RN, BSN, [michael.duffy@samhsa.hhs.gov](mailto:michael.duffy@samhsa.hhs.gov) (link sends e-mail), 214-767-0522

### Region VII

Iowa, Kansas, Missouri, Nebraska

Laura Howard, J.D., [laura.howard@samhsa.hhs.gov](mailto:laura.howard@samhsa.hhs.gov) (link sends e-mail), 816-426-5291

### Region VIII

Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Charles Smith, Ph.D., [charles.smith@samhsa.hhs.gov](mailto:charles.smith@samhsa.hhs.gov) (link sends e-mail), 303-844-7873

### Region IX

Arizona, California, Hawaii, Guam, Nevada, American Samoa, CNMI, FSM, Marshall Islands, Palau

CAPT Jon Perez, Ph.D., [jon.perez@samhsa.hhs.gov](mailto:jon.perez@samhsa.hhs.gov) (link sends e-mail), 415-437-7600

## Region X

Alaska, Idaho, Oregon, Washington

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## Bureau of Indian Education (BIE) TAP Regional Points of Contact

**AZ Navajo Central:** Gloria Hale-Showalter, [gloria.haleshowalter@bie.edu](mailto:gloria.haleshowalter@bie.edu) (link sends e-mail), 928-674-5131

**AZ Navajo North:** Lemual Adson, [lemuel.adson@bie.edu](mailto:lemuel.adson@bie.edu) (link sends e-mail), 928-283-2218

**AZ Navajo South:** Jackie Wade, [jacqueline.wade@bie.edu](mailto:jacqueline.wade@bie.edu) (link sends e-mail), 928-871-5936

**Arizona North (Hopi):** Eric North (acting), [eric.north@bie.edu](mailto:eric.north@bie.edu) (link sends e-mail), 928-738-2262 or 505-563-5118

**Arizona South (Phoenix):** Jim Hastings, [jimmy.hastings@bie.edu](mailto:jimmy.hastings@bie.edu) (link sends e-mail), 602-265-1592

**Billings:** Barbara Parisian, [barbara.parisian@bie.edu](mailto:barbara.parisian@bie.edu) (link sends e-mail), 406-247-7953

**Cheyenne River:** Dr. Cherie Farlee, [cherie.farlee@bie.edu](mailto:cherie.farlee@bie.edu) (link sends e-mail), 605-964-8722

**Crow Creek/Lower Brule:** Dr. Kathie Bowker, [kathie.bowker@bie.edu](mailto:kathie.bowker@bie.edu) (link sends e-mail), 605-473-5531

**Minneapolis:** Everett BadWound, [everett.badwound@bie.edu](mailto:everett.badwound@bie.edu) (link sends e-mail), 952-851-5421

**NM Navajo Central:** Charlotte Garcia, [charlotte.garcia@bie.edu](mailto:charlotte.garcia@bie.edu) (link sends e-mail), 505-786-6150/51

**NM Navajo North:** Dr. Rena Yazzie, [rena.yazzie@bie.edu](mailto:rena.yazzie@bie.edu) (link sends e-mail), 505-368-3403

**NM Navajo South:** John McIntosh, [john.mcintosh@bie.edu](mailto:john.mcintosh@bie.edu) (link sends e-mail) (acting), 505-863-8332

**NM North (NPA):** Dr. Ben Atencio, [benjamin.atencio@bie.edu](mailto:benjamin.atencio@bie.edu) (link sends e-mail), 505-753-1465

**NM South (SPA):** Casey Sovo, [casey.sovo@bie.edu](mailto:casey.sovo@bie.edu) (link sends e-mail), 505-563-3690

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**Pine Ridge:** RoseMarie Davis, [rosemarie.eavis@bie.edu](mailto:rosemarie.eavis@bie.edu) (link sends e-mail), 605-867-1306

**Rosebud:** Neva Sherwood, [Neva.Sherwood@bie.edu](mailto:Neva.Sherwood@bie.edu) (link sends e-mail), 605-856-4478

**Sacramento:** Jim Hastings, [jimmy.hastings@bie.edu](mailto:jimmy.hastings@bie.edu) (link sends e-mail) (acting), 916-978-6057

**Seattle:** Jon Claymore, [jonathan.claymore@bie.edu](mailto:jonathan.claymore@bie.edu) (link sends e-mail), 206-220-7975

**Southern & Eastern States:** Walt Swan, [walter.swan@bie.edu](mailto:walter.swan@bie.edu) (link sends e-mail), 615-564-6639

**Standing Rock:** Robert Parisien, [robert.parisien@bie.edu](mailto:robert.parisien@bie.edu) (link sends e-mail), 701-854-3497

**Turtle Mountain:** Norma Tibbitts, [norma.tibbitts@bie.edu](mailto:norma.tibbitts@bie.edu) (link sends e-mail), 701-477-3463

**Associate Deputy Director East:** Roxanne Brown, [roxanne.brown@bie.edu](mailto:roxanne.brown@bie.edu) (link sends e-mail), 952-851-5430

**Associate Deputy Director Navajo:** Dr. Monty Roessel, [charles.roessel@bie.edu](mailto:charles.roessel@bie.edu) (link sends e-mail), 928-871-5961

**Associate Deputy Director West:** Bart Stevens, [bart.wtevens@bie.edu](mailto:bart.wtevens@bie.edu) (link sends e-mail), 505-563-5235



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## Indian Health Services (IHS) Area Offices Points of Contact

**Aberdeen:** Vickie Claymore, Ph.D., [vickie.claymore@ihs.gov](mailto:vickie.claymore@ihs.gov) (link sends e-mail), Deputy Area Director, 605-226-7341

**Alaska:** Kenneth Glifort, MD, MPH, [kenneth.glifort@ihs.gov](mailto:kenneth.glifort@ihs.gov) (link sends e-mail), Deputy Director/Chief Medical Officer, 907-729-3686

**Albuquerque:** Chris Fore, Ph.D., [chris.fore@ihs.gov](mailto:chris.fore@ihs.gov) (link sends e-mail), Behavioral Health Consultant, 505-248-4444

**Bemidji:** Cleo Monette, LICSW, [cleo.monette@ihs.gov](mailto:cleo.monette@ihs.gov) (link sends e-mail), Behavioral Health Consultant, 218-444-0485

**Billings:** Hillary Corson, MSN, APRN-BC, [hillary.corson@ihs.gov](mailto:hillary.corson@ihs.gov) (link sends e-mail), Area Behavioral Health Officer, 406-247-7118

**California:** Dawn M. Phillips, RN, MPA, [dawn.phillips@ihs.gov](mailto:dawn.phillips@ihs.gov) (link sends e-mail), Behavioral Health Consultant, 916-930-3981, Ext. 331

**Nashville:** Palmeda D. Taylor, Ph.D., [palmeda.taylor@ihs.gov](mailto:palmeda.taylor@ihs.gov) (link sends e-mail), Area Psychologist/Behavioral Health Consultant, 615-467-1534

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**Oklahoma:** Don Carter, LCSW, [don.carter@ihs.gov](mailto:don.carter@ihs.gov) (link sends e-mail), Consultant, Behavioral Health, Elder Care & Tobacco Cessation, 405-951-3817

**Phoenix:** David Atkins, LISW, ACSW, [david.atkins@ihs.gov](mailto:david.atkins@ihs.gov) (link sends e-mail), Alcohol/Substance Abuse Program, 602-364-5159

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**Tucson:** Patricia Nye, MD, LISAC, [patricia.nye@ihs.gov](mailto:patricia.nye@ihs.gov) (link sends e-mail), Area Behavioral Health Consultant, 520-295-2469

**INTERDEPARTMENTAL COORDINATING COMMITTEE**

**ON**

**INDIAN ALCOHOL AND SUBSTANCE ABUSE**

**CHARTER**

In Partnership With

Department of Education

Department of Health and Human Services

Department of the Interior

Department of Justice

**July 31, 2013**

**INTERDEPARTMENTAL COORDINATING COMMITTEE  
ON  
INDIAN ALCOHOL AND SUBSTANCE ABUSE**

**CHARTER**

**I. NAME**

The name of the Committee shall be the Indian Alcohol and Substance Abuse Interdepartmental Coordinating Committee (IASA Committee).

**II. PURPOSE**

The IASA Committee is organized for the following purposes:

In keeping with the Tribal Law and Order Act of 2010 (TLOA), Title II: Tribal Law and Order, section 241: Indian Alcohol and Substance Abuse and the Administration's priorities, goals, and objectives as they relate to American Indians/Alaska Natives (AI/ANs), the Indian Alcohol and Substance Abuse Interdepartmental Coordinating Committee, hereinafter referred to as IASA Committee, is established at a senior level that results in the coordination of resources and programs of the Department of Health and Human Services' (DHHS) Substance Abuse and Mental Health Services Administration (SAMHSA) and the Indian Health Service (IHS), the Department of the Interior's (DOI) Bureau of Indian Affairs (BIA) and Bureau of Indian Education (BIE), and the Department of Justice's (DOJ) Office of Justice Programs (OJP) and the Office of Tribal Justice (OTJ), the Department of Education (ED), and other agencies that desire to participate on the committee to assist AI/AN communities in achieving their goals in the prevention, intervention, and treatment of alcohol and substance abuse. A wide variety of federal programs and activities currently exist that can support and supplement the efforts of these communities to address alcohol and substance abuse issues affecting their people; relevant programs and activities are currently underway across the various components of the MOA partner Departments and elsewhere in the federal government, such as in the Department of Education (DOE) and the Department of Housing and Urban Development (HUD).

As a core effort of this collaboration, the federal partners will develop and maintain a sustainable infrastructure that enables these various resources to be more fully engaged and coordinated to offer a truly holistic approach in support of tribal alcohol and substance abuse efforts to AI/ANs.

The IASA Committee will (a) help to identify opportunities and programs relevant to tribes and Native communities, (b) address issues of concern to tribes and Native

communities related to alcohol and substance abuse, (c) serve as a focal point within the federal government for coordination, collaboration, and outreach on alcohol and substance abuse issues affecting the AI/AN population nationwide, and (d) serve as a liaison advisory body to the federal partners responsible for providing programs and services in AI/AN communities relative to alcohol and substance abuse.

To effectuate these goals, the IASA Committee will perform the following activities;

- A. formalize a structure for interdepartmental coordination and collaborations in responding to the obligations imposed by the TLOA as it relates to Indian alcohol and substance abuse;
- B. educate committee members and increase awareness of what federal agencies are currently doing to address all AI/AN alcohol and substance abuse issues;
- C. reaffirm the federal government's recognition of the sovereign status of federally recognized tribes as domestic dependent nations and adherence to the principles of government-to-government relations;
- D. promote the federal government's policy to provide greater access and quality services for AI/ANs throughout the federal government and in AI/AN communities and
- E. promote the tribal—federal government-to-government relationships on a federal-wide basis that builds on the principals of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 as amended by TLOA.

### **III. FUNCTIONS**

The functions of the IASA Committee may include but are not limited to the following:

- A. promote the highest quality of services in the prevention, intervention, and treatment of alcohol and substance abuse in AI/AN communities by enhancing the coordination and collaboration processes among the federal agencies responsible for addressing these issues in AI/AN communities.
- B. promote the federal government's strategy to provide a comprehensive service delivery system for all AI/ANs, which identifies and targets priority needs related to Indian alcohol and substance abuse in AI/AN communities and focuses on coordination among departments and non-federal organizations to meet these needs, in accordance with the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986, as amended, by TLOA.

- C. provide recommendations informed by data collected by workgroups for developing short, intermediate, and long-range solutions to improve the federal government's substance abuse prevention, intervention, and treatment policy and programs that target AI/AN communities.
- D. distribute information via the IASA quarterly newsletter, *Prevention and Recovery*, and the Annual Progress Report and Summary of Meetings and Activities that accurately describes the challenges faced by AI/AN communities as a result of alcohol and substance abuse, and the federal government's resources expended to meet these needs. This reporting, on a quarterly and annual basis, will include Indian alcohol and substance abuse projects and programs determined to be exemplary and provide sufficient information to enable interested persons to obtain further information about such programs.
- E. advise and provide input to the respective federal partner agencies and departments on policy in furtherance of TLOA Title II: Tribal Law and Order, Section 241: Indian Alcohol and Substance abuse, which reiterates the government-to-government relationship and the requirement that each department develop a mechanism to coordinate and consult with tribal governments. It is the policy of the federal government to consult with all AI/AN people to the greatest practicable extent and to the extent permitted by law before taking actions that affect these governments and people.

#### IV. AUTHORITY

The IASA Committee, which will be responsible for achieving the purposes set forth in this Charter, is coordinated by the Office of Indian Alcohol and Substance Abuse (OIASA) within SAMHSA, as required in TLOA, and is chaired by SAMHSA. The IASA Committee will be co-chaired by senior level representatives from BIA, BIE, ED, IHS, OJP, and OTJ. This Charter is established for the IASA Committee to reflect the responsibilities conferred on the IASA Committee by the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986, as amended, by TLOA.

#### V. ORGANIZATION

- A. The Indian Alcohol and Substance Abuse Interdepartmental Coordinating Committee
  - 1. Committee: The IASA Committee will serve as an interagency body representing federal agencies whose responsibility is to address issues of alcohol and substance abuse in AI/AN communities. The authority exercised by the IASA Committee to implement its various actions is the authority of the IASA Committee and not the individual authority of its respective members. This authority shall always rest within the IASA Committee, but may be delegated with the approval of the MOA federal partners to committees,

workgroups, officers, or representatives as determined by the IASA Committee.

2. Chair: The Director of the OIASA, SAMHSA, will serve as the Committee Chair and Executive Steering Committee members will serve as alternates.
3. Co-chairs: Senior level representative from BIA, BIE, ED, IHS, OJP, and OTJ will serve as the Committee Co-chairs.
4. Executive Steering Committee: The IASA Interdepartmental Coordinating Committee is responsible for coordinating the federal response to substance abuse in cooperation with the tribes. A primary focus is to assist with the development of comprehensive tribal action planning, which provides final guidance, direction, coordination, and improved access to the appropriate federal resources to assist tribes to implement their Tribal Action Plan (TAP) as it relates to alcohol and substance abuse prevention and treatment.

In addition, the IASA Executive Steering Committee guides the workgroups in carrying out the MOA goals and responsibilities. The goals are to: 1) determine the scope of the alcohol and substance abuse problems faced by American Indians and Alaska Natives; 2) identify the resources and programs of each agency that would be relevant to a coordinated effort to address alcohol and substance abuse among American Indians and Alaska Natives; 3) coordinate existing agency programs that have been established under the Act; and 4) ensure continued respect for tribal sovereignty embedded in all TLOA activities. The responsibilities as outlined in the MOA are to address the following: Scope of problem; Identification of programs; Minimum program standards; Assessment of resources; TAP development; Newsletter; Law enforcement and judicial training; Emergency medical assessment; Emergency shelters; Child abuse and neglect data; Juvenile detention centers; and Model juvenile code.

5. Members: The IASA Committee membership shall be recommended by departments and appointed by the Chair. The Chair may also appoint other federal agency, bureau, or office heads or their designees who wish to participate.

Each IASA Committee member shall also serve as a liaison to his or her respective agency, bureau, or office's programs. The Committee Liaisons must be knowledgeable about their respective agency, bureau, or office's programs and budgets, and have ready access to senior program leadership and be empowered to speak on behalf of their respective agency, bureau, or office. Members may identify additional agency, bureau, or office staff members they believe are necessary to perform the IASA Committee Liaison functions.

6. Workgroups and Advisory Groups: The IASA Committee shall create workgroups and advisory groups as necessary to carry out the work of the IASA Committee. Each workgroup shall have a chair and co-chair to coordinate efforts of the group in overseeing progress to meet goals and objectives set forth by the group. Workgroup Chairs/Co-chairs shall coordinate meetings, prepare agendas, distribute minutes including action items, and make assignments as deemed appropriate. Workgroup Chairs/Co-chairs or their designees will regularly report on progress to the IASA full committee. As new resources become available, Workgroup Chairs/Co-chairs will submit copies of products produced by the workgroup to OIASA to place on the TLOA website to disseminate broadly to the public. Each of the three partner departments (DOJ, DOI, HHS) will be represented on every workgroup. Members may identify staff experts they believe are necessary to perform the IASA Committee workgroup or advisory group activities. The Chair of the IASA Committee will recommend which agency will serve as Workgroup Chair and will seek concurrence from the applicable agency, bureau, or office head who also will identify the individual.
- a) The *Tribal Coordinating Committee* is a locally determined body, under the chairmanship of a tribal representative and has primary responsibility for the implementation of a tribe's TAP. The IASA Committee will, at the request of any Tribal Coordinating Committee, coordinate the federal response in cooperating with the tribe in the development of a TAP and coordinating resources and programs relevant to alcohol and substance abuse prevention and treatment. Upon the completion of a TAP, the IASA Committee in coordination with the TAP workgroup, will also respond to the request of a tribe to enter into an agreement to assist with the implementation of the TAP.
  - b) The *MOA Workgroup*, comprised of IASA Coordinating Committee members, will oversee the annual review of the IASA Memorandum of Agreement, and coordinate any consideration of proposed changes. The MOA Workgroup will consult with their respective legal counsel as appropriate regarding the review of the MOA. The MOA Workgroup, with OIASA's logistical support and coordination, will establish and manage the overall coordination of comments from the various federal departments and other entities; shepherd the MOA through the MOA partner department clearance processes; secure final signatures; and coordinate the submission of the revised MOA, its dissemination to Indian tribes, and its publication in the *Federal Register*.
  - c) The *TAP Workgroup* coordinates the IASA Committee's guidance and support for tribes that choose to adopt a resolution for the development of a TAP to prevent substance abuse among their members. The TAP Workgroup established a protocol to field and coordinate tribal

requests for assistance in the development of a TAP, will coordinate assistance and support to tribes as deemed feasible, and work with IASA partner agency staff in the regions to coordinate assistance and resources for tribes in their areas that are developing and implementing TAPs.

- d) The *Inventory/Resource Workgroup* coordinates federal, state, local and tribal resources including, but not limited to, technical assistance contracts and services, grants, , and cooperative agreements that address alcohol and substance abuse (prevention, intervention and treatment) specific to AI/ANs. The Inventory Resources Workgroup will prepare and make available to tribes a list of national, state, tribal, and local alcohol and substance abuse programs and resources for consideration and use in the development of a Tribal Action Plan.
- e) The *Communications Workgroup* takes the lead for all phases of planning, developing, and publishing the IASA newsletter *Prevention & Recovery: A Quarterly Newsletter*, the purpose of which is to highlight successful practices and stories, tools, resources, information, and current research addressing substance abuse in Indian country. The Communications Workgroup will feature weekly blogs, upcoming events, new funding opportunities, and the *Prevention and Recovery* newsletter on various social media sites such as Facebook, Twitter, and the SAMHSA Blog. The IASA Workgroups are responsible for providing OIASA with relevant messages to be posted on the social media sites.
- f) The *Native Youth Educational Services Workgroup* coordinates efforts to gather, maintain, and update the current federal effort and capacity with respect to federal programs providing education services or benefits to AI/AN youth and families, and tribal, state, local, and private educational resources and programs. The Native Youth Educational Services Workgroup will serve as a resource for tribes and Indian country regarding educational programs and resources and provide information to tribes and Indian country regarding substance abuse education, prevention, and treatment available to Native youth.
- g) The *Minimum Program Standards Workgroup* will take the lead in developing and establishing minimum program standards for substance abuse prevention, intervention, and treatment, and collaborating with federal partners to identify common standards for similar programs and activities. This will lay the foundation for identifying policy guidance appropriate for the full range of tribal entities and establishing a system for systematically monitoring developments in program standards and regularly updating the IASA minimum program standards resources. The Workgroup shall identify



and review existing standards at the tribal and state level for consideration, develop minimum program standards resources for the Committee's review, and develop an executive summary of the resources to disseminate to tribal leaders and post on the TLOA website for broader access and feedback.

**B. Responsibilities of the IASA Committee Chair**

The Chair of the IASA Committee is charged with the overall direction of the IASA Committee. The Chair shall preside over all IASA Committee meetings or activities. The IASA Committee Chair will be responsible for the flow of information between and among participating IASA Committee members, federal agencies, and other interested parties. The Chair may make all other appointments of officers, representatives, and staff, as may be considered necessary and appropriate to accomplish the functions of the IASA Committee.

**VI. COMMITTEE ADMINISTRATION**

**A. Management and Administrative Staff**

The Chair of the IASA Committee is responsible for the management and administration of the IASA Committee activities; preparation of agendas for meetings, and maintaining the records of all IASA Committee business, including the preparation and dissemination of minutes from IASA Committee meetings. The IASA Committee shall be directly responsible to the Executive Steering Committee. Staff support for the IASA Committee may come through personnel details. Staff identified as potential details to the IASA Committee should be highly qualified with knowledge and/or experience in AI/AN issues. Employees detailed to the IASA Committee will be selected by the Chair in consultation with the Executive Steering Committee. When necessary, the Committee Liaisons will be assigned to assist the Committee Chair on special projects, with the concurrence of the applicable agency, bureau, or office head.

**B. Meetings**

The IASA Committee meetings shall be chaired by the Committee Chair, or a member of the Executive Steering Committee. The chair and co-chair of each workgroup shall report out on progress of set goals and objectives for their respective groups. The IASA Committee shall meet at such places (to include the option of participating via conference call) it considers appropriate. To ensure that these cooperative efforts are pursued in a continuing and timely fashion, the IASA Committee representatives will meet on a regular basis, not less than quarterly, to review the activities supported by the IASA MOA and will share information, report on progress, and explore new areas for cooperation. In addition, other meetings may be arranged to discuss specific

projects. The Chair shall make every effort to provide IASA Committee members as much advance notice of IASA Committee meetings as feasible. The OIASA office shall coordinate meetings, prepare agendas, distribute minutes including action items, and make assignments as deemed appropriate.

#### **C. Quorum**

A representative from a majority of the workgroups and federal representation from each of DOI, HHS, and DOJ shall constitute a quorum for the transaction of official business.

#### **D. Issue Resolution**

The IASA Committee will make every effort to resolve issues by developing a consensus among the members. In the event a consensus cannot be reached, the IASA Committee will resolve issues based on a vote of the members present at the meeting by a simple majority.

### **VII. REPORTS**

An annual progress report and a summary of meetings and activities conducted by the IASA Committee will be prepared and submitted by the Committee to designated HHS, DOI, and DOJ officials at the completion of each fiscal year, beginning with fiscal year 2012. Each annual progress report will cover the preceding year August 1 – July 31.

The IASA Committee will share the annual progress report and a summary of meetings and activities conducted under the IASA Committee regarding activities with AI/ANs, or other appropriate public information venues.

### **VIII. SPECIAL PROJECTS**

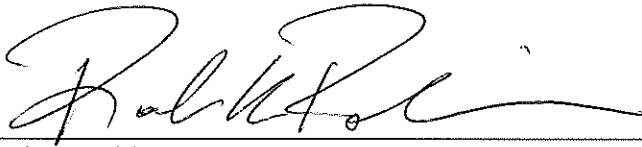
The IASA Committee may make recommendations to the Chair regarding special studies, research and development activities, or demonstration projects to improve the delivery of IASA services and benefits to all AI/AN people, consistent with the purposes of the IASA Committee.

### **IX. REVIEW OF THE CHARTER**

The Chair of the IASA Committee, in consultation with SAMHSA's Center for Substance Abuse Prevention (CSAP) and the full IASA Committee, will review this Charter as needed or at a minimum, annually within the month of the anniversary of the signing of this Charter.

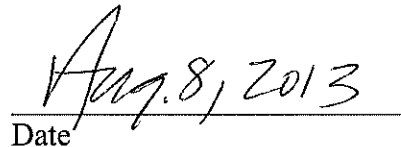
**X. CHARTER ADOPTION**

This Charter will become operational upon the review and recommendation of the IASA Committee, concurrence from CSAP, SAMHSA, and the signatures of the IASA Committee Chair and Director of the Center for Substance Abuse Prevention.

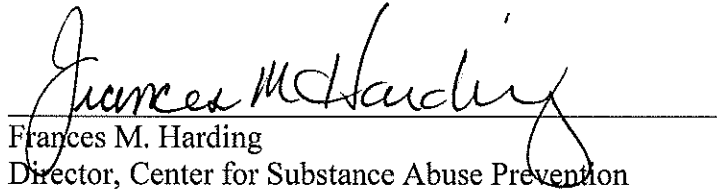


Rod K. Robinson

Director, Office of Indian Alcohol and Substance Abuse  
Substance Abuse and Mental Health Services Administration

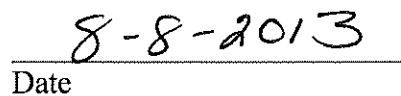


Date



Frances M. Harding

Director, Center for Substance Abuse Prevention  
Substance Abuse and Mental Health Services Administration



Date

# **INDIAN ALCOHOL AND SUBSTANCE ABUSE**

## **MEMORANDUM OF AGREEMENT**

### **BETWEEN**

**U. S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,**

**U.S. DEPARTMENT OF THE INTERIOR,**

### **AND**

**U. S. DEPARTMENT OF JUSTICE**

#### **I. Purpose and Parties**

Alcoholism, addiction, and alcohol and substance abuse are among the most severe public health and safety problems facing American Indian and Alaska Native individuals, families, and communities, resulting in devastating social, economic, physical, mental and spiritual consequences. American Indians and Alaska Natives suffer disproportionately from substance abuse disorder compared with other racial groups in the United States. In a 2010 report from the National Survey on Drug Use and Health (NSDUH), the rates of past month binge alcohol use and illicit drug use were higher among American Indian or Alaska Native adults compared to national averages (30.6 vs. 24.5 percent and 11.2 vs. 7.9 percent, respectively) and the percentage of American Indian or Alaska Native adults who needed treatment for an alcohol or illicit drug use problem in the past year was higher than the national average for adults (18.0 vs. 9.6 percent).<sup>1</sup>

The Department of Health and Human Services (DHHS), Department of the Interior (DOI), and the Department of Justice (DOJ) have multiple programs, including prevention and treatment programs, that respond to the consequences of alcoholism, addiction, and alcohol and substance abuse, and its impact on public health and safety (e.g., education, social services, justice services, law enforcement, mental health, acute and chronic medical care services). However, there is a need to align, leverage and coordinate federal efforts and resources at multiple levels within each department to effectuate comprehensive alcohol and substance abuse services and programs for American Indian and Alaska Native individuals, families, and communities.

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<sup>1</sup> Substance Abuse and Mental Health Services Administration, Office of Applied Studies (June 24, 2010). *The NSDUH Report: Substance Use among American Indian or Alaska Native Adults*, Rockville, MD.

Pursuant to the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (Title IV, Subtitle C of Public Law 99-570) (the Act), DHHS and DOI entered into a Memorandum of Agreement (MOA) to develop and implement a coordinated program for the prevention and treatment of alcohol and substance abuse at the local level.

Through the Tribal Law and Order Act of 2010 (Title II of Public Law 111-211) (TLOA) amendments to the Act, Congress sought to engage new federal partners to build upon those efforts. Pursuant to the TLOA amendments to the Act, the Secretary of Health and Human Services, the Secretary of the Interior, and the Attorney General, are to develop and enter into a MOA to, among other things:

1. Determine the scope of the alcohol and substance abuse problems faced by Indian tribes, as defined at 25 U.S.C. § 2403(3);
2. Identify the resources and programs of each department that would be relevant to a coordinated effort to combat alcohol and substance abuse among American Indians and Alaska Natives; and
3. Coordinate certain existing department programs with those established under the Act.

The purpose of this MOA is to establish a framework for collaboration in the implementation of the Act, that results in the coordination of resources and programs of DHHS' Substance Abuse and Mental Health Services Administration (SAMHSA) and the Indian Health Service (IHS), DOI's Bureau of Indian Affairs (BIA) and Bureau of Indian Education (BIE), and DOJ, to assist American Indian and Alaska Native communities in achieving their goals in the prevention, intervention, and treatment of alcohol and substance abuse. A wide variety of federal programs and activities exist that can support and supplement the efforts of these communities to address alcohol and substance abuse issues affecting their peoples; relevant programs and activities are currently underway across the various components of the MOA partner departments—and elsewhere in the federal government, such as in the Department of Education and the Department of Housing and Urban Development. As a core effort of this collaboration, the federal partners will develop and maintain a sustainable partnership infrastructure that enables these various resources to be more fully engaged and coordinated to offer a truly holistic approach in support of tribal alcohol and substance abuse efforts to address alcohol and substance abuse by American Indians and Alaska Natives.

## II. Authorities

Authorities for this MOA include, the Snyder Act (25 U.S.C. § 13), the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450, *et seq.*), and the Act, as amended by TLOA (25 U.S.C. § 2401, *et seq.*).

## III. Policy

As required by the Act, it is the policy of DHHS, DOI, and DOJ that all activities undertaken pursuant to the Act will be done in a manner that is least disruptive to tribal control, in accordance with the Indian Self-Determination and Education Assistance Act. DHHS, DOI, and DOJ, through each department's respective components, shall

coordinate existing alcohol and substance abuse programs and resources. All new activities undertaken pursuant to the Act, as amended by TLOA, shall supplement, not supplant, ongoing activities and programs. The Secretary of Health and Human Services, the Secretary of the Interior, and the Attorney General, acting through these respective department's components, as appropriate, shall bear equal responsibility for the implementation of the Act in cooperation with Indian tribes, who have the primary responsibility for protecting and ensuring the wellbeing of their members and for the coordination of resources made available under this MOA through implementation of Tribal Action Plans (TAPs).

#### IV. Organization Responsibilities

DHHS, DOI, and DOJ, through these department's respective components, are responsible for ensuring compliance, monitoring of performance, subsequent evaluation and follow-up activities for this MOA. Each department will determine which officials and offices within that department will be responsible for implementing the provisions of this MOA, including which officials and offices will be charged with coordinating resources and programs and providing technical assistance at the regional and local levels, as appropriate.

The Office of Indian Alcohol and Substance Abuse (OIASA), established within SAMHSA pursuant to the Act, is charged with, among other things, improving coordination among the federal agencies and departments in carrying out the responsibilities delineated in the Act. (25 U.S.C. § 2413(b)). SAMHSA, acting through its OIASA, will initiate the development, in coordination and consultation with tribal governments, of a framework for inter-agency and tribal coordination, in accordance with 25 U.S.C. § 2413. This framework, which will be developed by July 29, 2011, will be designed to provide for ongoing process and performance review and improvement of the coordination among federal partners, and between federal partners and tribes, with regard to Indian alcohol and substance abuse programming. In addition, the framework will provide—among other beneficial tools—resource and information-sharing guidelines, technical assistance to facilitate federal partner communication and coordination of program initiatives, and assessments of the feasibility and cost-effectiveness of department collaborative efforts.

OIASA will use its expertise in the prevention and treatment of alcohol and substance abuse to inform MOA partner departments, Indian tribes, and other interested parties and stakeholders about coordination of activities undertaken pursuant to 25 U.S.C. § 2413. OIASA will coordinate with the MOA partner departments to provide the most effective, accessible, culturally-adaptive, medically-sound, and evidence-based services to address the causes, correlates, and effects of alcohol and substance abuse affecting American Indian and Alaska Native communities.

OIASA will coordinate with the departments participating under this MOA to monitor the performance and compliance of the relevant federal programs in achieving the goals and

purposes of the Act, and this MOA, and will serve as a point of contact for Indian tribes and Tribal Coordinating Committees as described at 25 U.S.C. § 2413.

With regard to Area-/Regional-level coordination and implementation, a joint Area/Regional-level work plan will be developed and updated, as appropriate, by IHS/BIA and appropriate components, to identify specific organizational challenges, resources, and programs within that jurisdiction.

If any Indian tribe does not adopt a resolution for the establishment of a TAP as provided in 25 U.S.C. § 2412(a) within 90 days after the publication of this MOA in the *Federal Register*, appropriate officials from BIA, where appropriate, and IHS who serve such tribe, shall enter into an agreement to identify and coordinate available alcohol and substance abuse prevention and treatment programs and resources for such tribe.

Responsibilities include:

1. Scope of problem: DHHS, DOI, and DOJ, as facilitated by the Interdepartmental Coordinating Committee (see Section VII below), will coordinate with tribes and other non-federal partners to determine the scope of the ongoing problem of alcohol and substance abuse for Indian tribes, their members, and those eligible for the programs and services of IHS who are directly or indirectly affected by alcohol and substance abuse.
2. Identification of programs: SAMHSA, through OIASA, will take the lead role, in collaboration with IHS, BIA, and DOJ, in compiling a listing of national, state, tribal, and local alcohol and substance abuse programs and resources.
3. Minimum program standards: DHHS, DOI, and DOJ, in consultation with Indian tribes, will develop and establish minimum program standards, as appropriate, for alcohol and substance abuse prevention, intervention, and treatment. These standards may be based upon existing federal, state, or tribal standards currently in effect. OIASA will, where appropriate, facilitate the provision of any necessary technical assistance to develop such standards. The Interdepartmental Coordinating Committee will provide a forum for the overall coordination of efforts to assist each MOA partner in the identification of common standards for similar programs and activities to facilitate incorporation of those standards into departmental programs.
4. Assessment of resources: DHHS, DOI, and DOJ, via the Interdepartmental Coordinating Committee, will coordinate with tribes and other non-federal partners to develop a methodology to estimate the funding necessary for prevention, intervention, treatment, and recovery of Indians affected by alcohol and substance abuse.
5. TAP development: BIA Agency Superintendents, BIE Education Line Officers, IHS Chief Executive Officers (CEOs), and Office of Justice Programs (OJP) and SAMHSA agency representatives are directed to cooperate fully with tribal requests pursuant to 25 U.S.C. § 2412 to assist in the development of a TAP. Once that plan has been developed, the BIA Agency Superintendents, BIE Education Line Officers, and IHS



CEOs shall proceed to enter into an agreement with the tribe for the implementation of that TAP within funding constraints and program regulations.

6. Newsletter: DOI will continue to publish the newsletter, as described in 25 U.S.C. § 2416. The newsletter shall be published quarterly and include reviews of exemplary alcohol and substance abuse programs. All federal MOA partners agree to provide relevant content for distribution.

7. Law enforcement and judicial training: BIA, in coordination with DOJ, will take the lead role in development and implementation of the law enforcement and judicial personnel training, as described in 25 U.S.C. § 2451.

8. Emergency medical assessment: IHS and BIA will jointly, in collaboration with tribal communities, develop, implement, and maintain procedures, policies and protocols for emergency medical assessments for Indian youth arrested or detained for an offense relating to, or involving, alcohol or substance abuse, as provided in 25 U.S.C. § 2452. To the extent that other DHHS, DOI, and DOJ partners may have resources for use related to these assessments, those resources will be coordinated.

9. Emergency shelters: As described in 25 U.S.C. § 2433(d) and subject to the availability of appropriations, BIA will update, maintain, and, where necessary, promulgate standards for the establishment and operation of emergency shelters or halfway houses under programs pursuant to 25 U.S.C. § 2433(a). Under 25 U.S.C. § 2433(a), IHS, BIA, and tribes are authorized to use available resources to establish and operate emergency shelters or halfway houses for Indian youth with alcohol or substance abuse problems.

10. Child abuse and neglect data: As provided in 25 U.S.C. § 2434, and in accordance with applicable confidentiality laws, BIA, in cooperation with DOJ, will compile data relating to the number and types of child abuse and neglect cases and the type of assistance provided, reflecting those cases that involve, or appear to involve, alcohol and substance abuse, those cases which are recurring and those cases that involve other minor siblings. To the extent that the sharing of such data is not prohibited by law, BIA will provide child abuse and neglect data compiled by BIA and DOJ to the affected Indian tribe and Tribal Coordinating Committee, as described in 25 U.S.C. § 2412, to assist them in developing or modifying a TAP. In the compilation and reporting of the data, all necessary measures will be taken and safeguards put in place to preserve the confidentiality of families and individuals and to protect personally-identifiable information from unauthorized or inappropriate use and disclosure.

11. Juvenile detention centers: DHHS, DOI, and DOJ, in consultation with tribal leaders and tribal justice officials, will coordinate in developing a long-term plan for the construction, renovation, and operation of Indian juvenile detention and treatment centers and alternatives to detention for juvenile offenders, as described in 25 U.S.C. § 2453.



12. Model juvenile code: DOI and DOJ, in cooperation with Indian organizations having law enforcement and judicial procedure expertise and in consultation with Indian tribes, will coordinate in the development of a model juvenile code, as described in 25 U.S.C. § 2454.

#### V. Period of Agreement

This MOA shall be effective from the last date of all signatures below in this MOA (date of effectuation of this MOA) and shall remain in effect until terminated or amended by DHHS, DOI, and DOJ acting jointly, or until there is a change in law authorizing and requiring this MOA.

#### VI. Modification/Provisions for Amendment

This MOA, or any of its specific provisions, may be modified with the written approval of each signatory to the MOA. Such approval must be provided in writing and must be signed by an authorized representative of the signatory. OIASA will then publish a copy of the amended MOA in the *Federal Register* and DOI will disseminate it to each federally recognized Indian tribe.

#### VII. Interdepartmental Coordinating Committee

The mechanism by which this federal collaboration will occur is through an Interdepartmental Coordinating Committee (the Committee) including DHHS, DOI, and DOJ representatives, as well as representatives from other agencies or departments, such as the Department of Education. The MOA formally establishes this Committee. (The attached Exhibit A titled, "Tribal Law and Order Act Indian Alcohol and Substance Abuse (IASA) Interdepartmental Coordinating Committee," describes the initial composition and functions of the Committee.)

In order to assure that these cooperative efforts are pursued in a continuing and timely fashion, DHHS, DOI, and DOJ representatives and Committee representatives from other federal collaborative partners will meet on a regular basis, not less than quarterly, to review the activities supported by this MOA and will share information, report on progress, and explore new areas for cooperation. In addition, other meetings may be arranged to discuss specific projects.

As needed, in order to accomplish the purposes of this MOA, the federal collaborative partners may realign or otherwise restructure any workgroups working under the auspices of the Committee. Individual participating federal partners reserve the right to change department or agency representatives at will.

An annual progress report and a summary of meetings and activities conducted under this MOA will be prepared and submitted by the Committee to designated DHHS, DOI, and DOJ officials at the completion of each fiscal year, beginning with fiscal year 2012.

OIASA, in coordination with the MOA partners, will share information regarding activities under this MOA with American Indians and Alaska Natives, such as through periodic news features and updates in the newsletter (described at 25 U.S.C. § 2416), or other appropriate public information venues.

#### VIII. Public Information Coordination

The Freedom of Information Act as amended (5 U.S.C. § 552), the Privacy Act of 1974 as amended (5 U.S.C. § 552a), and any additional applicable federal department implementing regulations govern any disclosure of information under this MOA. The departments will provide notice to the other partners, through the Committee, prior to the disclosure of requested information.

This MOA does not contemplate the use or disclosure of alcohol or drug abuse patient records, except as expressly provided under applicable statutes and regulations.

#### IX. Discontinuance of Participation

A participating department may, subject to applicable federal law, by written notice (with at least 60 calendar days notification to each of the other participating departments), end its participation in this MOA, in whole or in part, when that department determines that it is unable to continue participation in the activities of this MOA.

#### X. Review of the MOA

DHHS, DOI, and DOJ, via the Committee, will review this MOA annually within a month of the anniversary of the signing of this MOA.

#### XI. Tribal Consultation

Consistent with Executive Order 13175 of November 6, 2000, and the Presidential Memorandum on Tribal Consultation of November 5, 2009, and applicable federal law, the federal parties to this MOA will establish a framework for the coordination of consultation activities, as necessary, relating to the federal efforts to be developed and implemented in accordance with this MOA. Participating departments, consistent with each of the departments' individual consultation policies, as required, will engage in such coordination of consultation activities in order to help ensure that regular and meaningful consultation and collaboration with tribal officials, as appropriate, occurs during the course of the development and implementation of multi-department activities under this MOA.

#### XII. Limitations

Nothing in this MOA constitutes an obligation of funds by any of the parties or an authorization to engage in activities that are inconsistent with applicable law or policy.

Similarly, nothing in this MOA restricts or otherwise limits departments from engaging in activities that are otherwise consistent with applicable law or policy.

In addition, nothing in this MOA creates or conveys any rights or potential causes of action to any person, federally recognized Indian tribe, or other entity that may be affected by this MOA.

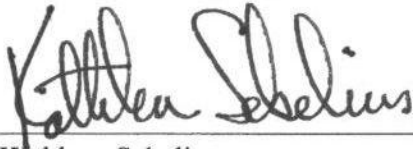
All activities and projects initiated or implemented as a result of this MOA are subject to the availability of appropriated funds.

Nothing in this MOA precludes the signatories from entering into inter-departmental agreements for services to be provided in furtherance of the Act.

### XIII. Full-Time Equivalency (FTE) Responsibility

Under this MOA, no transfer of FTEs is required between federal partner departments.

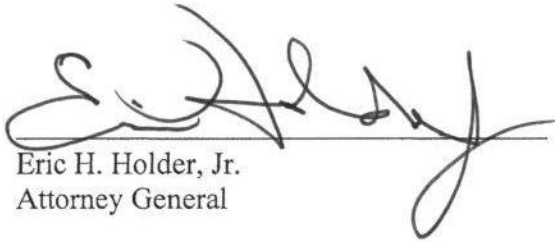
XIV. Approval by Signatories

A handwritten signature in dark ink, appearing to read "Kathleen Sebelius", written over a horizontal line.

Kathleen Sebelius  
Secretary of Health and Human Services

A handwritten signature in dark ink, appearing to read "Ken Salazar", written over a horizontal line.

Ken Salazar  
Secretary of the Interior

A handwritten signature in dark ink, appearing to read "Eric H. Holder, Jr.", written over a horizontal line.

Eric H. Holder, Jr.  
Attorney General

Date: July 29, 2011

**EXHIBIT A:** See the document titled, “Tribal Law and Order Act Indian Alcohol and Substance Abuse (IASA) Interdepartmental Coordinating Committee” on the pages that follow.

**TRIBAL LAW AND ORDER ACT**  
**IASA INTERDEPARTMENTAL COORDINATING COMMITTEE**

**1. Tribal Coordinating Committee:**

The Tribal Coordinating Committee—under the chairmanship of a tribal representative—has primary responsibility for the implementation of a tribe's TAP. With respect to federal involvement in support of tribal TAP implementation, the Executive Steering Committee of the IASA Interdepartmental Coordinating Committee will serve in the federal roles in support of Tribal Coordinating Committees, providing final guidance, direction, and coordination of the appropriate federal efforts in assisting tribes to implement TAPs as they relate to alcohol and substance abuse prevention and treatment.

**2. MOA:**

An interdepartmental workgroup convened as a precursor to the MOA Workgroup oversaw the development of and the policy and legal review of the MOA; established and managed the overall coordination of comments from the various federal departments and other entities; shepherded the MOA through MOA partner department clearance processes; secured final signatures; and coordinated the submission of the MOA to Congress, its dissemination to Indian tribes, and its publication in the *Federal Register*, as required by law. The MOA Workgroup will provide leadership in the annual review of the MOA, as required by the MOA.

- 25 U.S.C. § 2411: The Secretary of the Interior, the Attorney General, and the Secretary of Health and Human Services shall develop and enter into an MOA by no later than July 29, 2011, which shall, among other things:
  1. Determine and define the scope of the problem of alcohol and substance abuse for Indian tribes and their members and its financial and human costs, and specifically identify such problems affecting Indian youth;
  2. Identify BIA, OJP, SAMHSA, and IHS resources and programs, and other federal, tribal, state and local, and private resources and programs that would be relevant to a coordinated effort to combat alcohol and substance abuse among Indian people;
  3. Develop and establish appropriate minimum standards for each agency's program responsibilities under the MOA;
  4. Coordinate certain existing BIA, DOJ, SAMHSA, and IHS alcohol and substance abuse programs with current and newly established efforts under the Act;
  5. Delineate BIA, DOJ, SAMHSA, and IHS responsibilities to coordinate alcohol and substance abuse-related services at the central, area, agency, and service unit levels;
  6. Direct BIA agency superintendents and education line officers, where appropriate, and the IHS CEOs to cooperate fully with tribal requests for TAP assistance; and
  7. Provide for annual review of TAP implementation agreements by the DOI Secretary, the AG, and the HHS Secretary.

**3. Tribal Action Plan:**

The TAP Workgroup will establish the operating framework of the TAP, develop an inventory of current proven strategies to recommend to tribes utilizing practice based evidence models, manage the overall coordination of tribal requests for assistance in the

development of a TAP, coordinate assistance and support to tribes as deemed feasible, and collaborate with the Inventory Workgroup in developing an appropriate response back to tribal entities seeking assistance.

- 25 U.S.C. § 2412(e): If the governing body of any Indian tribe does not adopt a resolution, as provided in the Act, within 90 days after the publication of this MOA in the *Federal Register*, appropriate officials from BIA, where appropriate, and IHS who serve such tribe, shall enter into an agreement to identify and coordinate available alcohol and substance abuse prevention and treatment programs and resources for such tribe. After such an agreement has been entered into for a tribe for the identification and coordination of these resources, such tribe may adopt a resolution for the establishment of the tribe's TAP.
- 25 U.S.C. § 2412(c)(3): TAPs are to be **updated every 2 years**.
- 25 U.S.C. § 2412(c)(1)(A): TAPs will establish a Tribal Coordinating Committee which shall—
  1. Consist, at minimum, of a tribal representative who shall serve as Chairman and the BIA agency superintendents and education line officers, where appropriate, OJP, SAMHSA, and the IHS CEO, or their representatives;
  2. Have primary responsibility for TAP implementation;
  3. Provide for ongoing review and evaluation of the TAP;
  4. Make recommendations to the tribe relating to the TAP; and
  5. Schedule federal, tribal or other personnel for training in the prevention and treatment of alcohol and substance abuse among American Indians and Alaska Natives, as appropriate.

#### 4. Program Review:

The Inventory/Resource Workgroup will establish an operating model, by which it gathers, maintains and updates the current federal effort /capacity, not limited to technical assistance contracts and services, grants, contracts, and cooperative agreements; manage the overall coordination of these efforts; and collaborate with the TAP Workgroup in developing an appropriate response back to tribal entities seeking assistance.

- 25 U.S.C. § 2414a(a): In the development of the MOA, the Secretary of the Interior, the Attorney General, and the Secretary of Health and Human Services shall review and consider:
  1. The various programs established by federal law providing health services and benefits to Indian tribes, including those relating to mental health and alcohol and substance abuse prevention and treatment;
  2. Tribal, state and local, and private health resources and programs;
  3. Where facilities to provide such treatment are or should be located; and
  4. The effectiveness of certain existing public and private alcohol and substance abuse treatment programs.
- 25 U.S.C. § 2414a(b): The results of these program reviews shall be provided to every Indian tribe as soon as possible for their consideration and use in the development or modification of a TAP.

**5. Newsletter:**

The Newsletter Workgroup will establish the operating protocol and procedures in order to publish a newsletter to report on Indian alcohol and substance abuse projects and programs.

- 25 U.S.C. § 2416: The newsletter will—
  1. Be published once in each calendar quarter;
  2. Include reviews of exemplary alcohol and substance abuse programs;
  3. Provide sufficient information to enable interested persons to obtain further information about such programs; and
  4. Be circulated without charge to--
    - Schools;
    - Tribal offices;
    - BIA agency and area offices;
    - IHS area and service unit offices;
    - IHS alcohol programs; and
    - Other entities providing alcohol and substance abuse-related services or resources to American Indians and Alaska Natives.

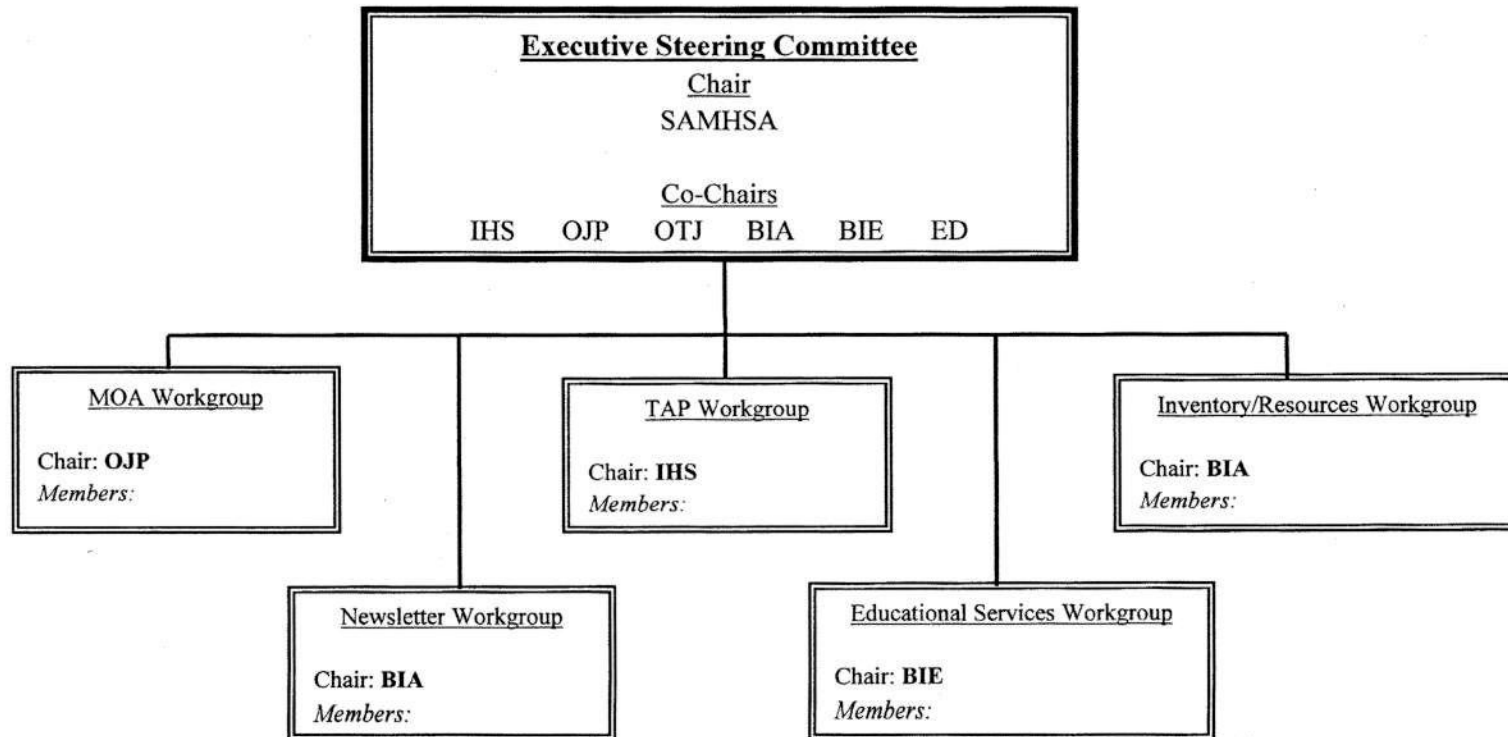
**6. Review of Programs:**

The Educational Services Workgroup will establish an operating model, by which it gathers, maintains and updates the current federal effort /capacity with respect to federal programs providing education services or benefits to American Indian and Alaska Native children.

- 25 U.S.C. § 2431(a): In the development of the MOA, the Secretary of the Interior, the Attorney General, and the Secretary of Health and Human Services, in cooperation with the Secretary of Education shall review and consider:
  1. Federal programs providing education services or benefits to Indian children;
  2. Tribal, state, local, and private educational resources and programs;
  3. Federal programs providing family and social services and benefits for Indian families and children;
  4. Federal programs relating to youth employment, recreation, cultural, and community activities; and
  5. Tribal, state, local, and private resources for programs similar to those cited in paragraphs (3) and (4).
- 25 U.S.C. § 2431(b): The results of this review shall be provided to each Indian tribe as soon as possible for their consideration and use in the development or modification of a TAP.



**TRIBAL LAW AND ORDER ACT**  
**IASA INTERDEPARTMENTAL COORDINATING COMMITTEE**



Tab 9: Budget Update



## FY 2016 Consolidated Appropriations Act Text Released December 16, 2015

The House and Senate Appropriations committees filed a \$1.15 trillion FY2016 omnibus spending bill early Wednesday morning. The bill ([HR 2029, Consolidated Appropriations Act, 2016](#)) rolls all twelve of the regular spending bills into one, providing updated funding and guidance to federal agencies through Sept. 30, 2016. The Interior-Environment bill funds the Bureau of Indian Affairs (BIA) and Indian Health Service (IHS), among other tribal programs. The Labor-Health and Human Services bill funds SAMHSA, Administration for Children and Families, and Department of Education. The links to explanatory statements for relevant divisions of the bill are below. At this late date, the massive federal spending bill appears likely to become law, and a federal government shutdown would be avoided.

[DIVISION G](#)—Department of the Interior, Environment, and Related Agencies Appropriations Act, 2016

[DIVISION H](#)—Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2016

[DIVISION A](#)—Agriculture, Rural Development, and Related Agencies Appropriations Act, 2016

[DIVISION B](#)—Commerce, Justice, Science, and Related Agencies Appropriations Act, 2016

[DIVISION D](#)—Energy and Water Development and Related Agencies Appropriations Act, 2016

[DIVISION E](#)—Financial Services and General Government Appropriations Act, 2016

[DIVISION F](#)—Department of Homeland Security Appropriations Act, 2016

[DIVISION L](#)—Transportation, HUD, and Related Agencies Appropriations Act, 2016

### Key Points for Indian Country

- The rider prohibiting the use of funds to implement the proposed rule on “Federal Acknowledgement of American Indian Tribes” was not included.
- The Tribal Labor Sovereignty Act was not included.
- BIA’s overall budget would increase by 7.5% over FY 2015 enacted, with a \$194 million increase for a total of \$2.796 billion.
- The Indian Health Service budget would increase by 3.6% above FY 2015 enacted amounts, for a total of \$4.8 billion.
- Tribal Behavioral Health Grants would be funded at \$30 million (\$15 million in the Mental Health appropriation and \$15 million in the Substance Abuse Prevention appropriation).

### Interior-Environment Appropriations

#### **Bureau of Indian Affairs**

The bill would provide \$2.796 billion for BIA and BIE, an increase of \$194.6 million over the FY 2015 enacted amount, representing a 7.5% increase. Funding would increase for education programs, public safety programs, Tiwahe, some natural resources programs, and social services. (The Tiwahe initiative is a comprehensive and integrated approach to address the interrelated problems of poverty, violence, and substance abuse in American Indian communities.)

Education: Significant increases include a \$63.7 for education construction which should complete the 2004 replacement school construction list and provide \$8 million for planning and design of schools on the next list and a \$41.8 million increase to education programs. The education increases include: \$10.8 million to fully fund Tribal Grant Support Costs; \$16.5 million for forward funded elementary and secondary programs; \$5.1 million increase for forward funded postsecondary programs; fully fund Tribal Education Departments; \$2 million for information technology.

Social Services: The omnibus would provide a \$4 million increase for social services to implement the Tiwahe initiative.

Public Safety: Program increases include \$3 million for criminal investigations and police services; \$3 million for law enforcement special initiatives, \$5 million for tribal courts for Tiwahe; \$11 million for the Office of Tribal Justice Support to help implement VAWA (to work with tribes to pilot tribal court systems, including those tribes subject to full or partial state jurisdiction under PL 83-280).

Indian Energy Service Center: The bill includes \$4.5 million for the Indian Energy Service Center.

Contract Support Costs: The omnibus includes new language establishing an indefinite appropriation for contract support costs estimated to be \$277,000,000. Under the new budget structure, the full CSC that tribes are entitled to will be paid and other programs will not be reduced if payments are underestimated in the President's budget.

BIA	FY 2015 Enacted	FY 2016 Budget	Final Bill	Final Bill vs FY 2015	Bill vs. Request
<b>Tribal Government:</b>					
Aid to tribal government	24,614	24,833	24,833	219	---
Consolidated tribal government program	76,348	77,088	77,088	740	---
Self-governance compacts	158,767	162,321	162,321	3,554	---
Contract support	246,000	272,000	---	-246,000	-272,000
Indian self-determination fund	5,000	5,000	---	-5,000	-5,000
New tribes	463	464	464	1	
Small and needy tribes	1,845	3,095	1,845	---	-1,250
Road maintenance	26,461	26,693	26,693	232	
Tribal government program oversight	8,181	12,273	8,273	92	-4,000
<b>subtotal</b>	<b>547,679</b>	<b>583,767</b>	<b>301,517</b>	<b>-246,162</b>	<b>-282,250</b>
<b>Human Services:</b>					
Social services	40,871	47,179	45,179	4,308	-2,000
Welfare assistance	74,809	74,791	74,791	-18	---
Indian child welfare act	15,433	15,641	15,641	208	---
Housing improvement program	8,009	8,021	8,021	12	---
Human services tribal design	407	246	246	-161	---
Human services program oversight	3,105	3,126	3,126	21	---
<b>subtotal</b>	<b>142,634</b>	<b>149,004</b>	<b>147,004</b>	<b>4,370</b>	<b>-2,000</b>
<b>Trust -Natural Resources Management:</b>					
Naturel resources, general	5,089	8,168	5,168	79	-3,000
Irrigation operations and maintenance	11,359	12,898	11,398	39	-1,500
Rights protection implementation	35,420	40,138	37,638	2,218	-2,500
Tribal management/development program	9,244	14,263	9,263	19	-5,000
Endangered species	2,675	3,684	2,684	9	-1,000
Cooperative landscape conservation	9,948	30,355	9,955	7	-20,400
Integrated resource information program	2,996	3,996	2,996	---	-1,000
Agriculture and range	30,494	30,751	30,751	257	---
Forestry	47,735	51,914	51,914	4,179	---
Water resources	10,297	14,917	10,367	70	-4,550
Fish, wildlife and parks	13,577	15,646	13,646	69	-2,000

Resource management program oversight	6,018	6,066	6,066	48	
subtotal	184,852	232,796	191,846	---	-40,950
Trust Real Estate Services	127,002	143,686	127,486	484	-16200
<b>subtotal</b>	<b>184,852</b>	<b>232,796</b>	<b>191,846</b>	<b>6994</b>	<b>-40950</b>
Elementary and secondary pgms (fw funded)	536,897	565,517	553,458	16,561	-12,059
(Tribal grant support costs)	(62,395)	(75,335)	(73,276)	(+10,881)	(-2,059)
Post-secondary programs (forward funded)	69,793	69,793	74,893	5,100	5100
Subtotal, forward funded education	606,690	635,310	628,351		-6959
Elementary and secondary programs	119,195	142,361	134,263	15,068	-8,098
Post-secondary programs	64,182	69,412	64,602	420	-4,810
Education management	20,464	57,381	25,151	4,687	-32,230
<b>Subtotal, Education</b>	<b>810,531</b>	<b>904,464</b>	<b>852,367</b>	<b>41,836</b>	<b>-52,097</b>
<b>Public Safety and Justice</b>					
Law enforcement	328,296	334,976	347,976	19,680	13,000
tribal courts	23,280	28,173	28,173	4,893	---
fire protection	1,274	1,274	1,274	---	---
<b>subtotal</b>	<b>352,850</b>	<b>364,423</b>	<b>377,423</b>	<b>24,573</b>	<b>13,000</b>
Community and economic development	35,996	40,619	40,619	4,623	---
Executive direction/administrative services	227,692	241,832	229,662	1,970	-12170
(No-year funds in bill language)	(48,553)	(46,663)	(43,813)	(-4,740)	
<b>Total Operation of Indian Programs</b>	<b>2429236</b>	<b>2,660,591</b>	<b>2,267,924</b>	<b>-161,312</b>	<b>-392,667</b>
<b>Contract Support Cost</b>			<b>272,000</b>	<b>272,000</b>	<b>272,000</b>
<b>Indian self-determination fund</b>			<b>5,000</b>	<b>5,000</b>	<b>5,000</b>
<b>Construction</b>					
Education	74,501	133,245	138,245	63,744	5,000
Public Safety and Justice	11,306	11306	11,306	---	---
Resources management	34,427	34,488	34,488	61	---
General Administration	8,642	9,934	9,934	1,292	---
<b>Subtotal</b>	<b>128,876</b>	<b>188,973</b>	<b>193,973</b>	<b>65,097</b>	<b>5,000</b>
Indian Guaranteed Loan	7,731	7,748	7,748	17	---
<b>Total BIA and BIE</b>	<b>2,601,498</b>	<b>2,924,968</b>	<b>2,796,120</b>	<b>194,622</b>	<b>-128,848</b>
Percent Difference				<b>7.5%</b>	<b>-4.4%</b>

### Indian Health Service

The bill would provide a total of \$4.807 billion for IHS, a 3.6% increase over the FY 2015 enacted amount. Increases include: \$10 million for the alcohol and substance abuse program to focus on tribal youth, \$1.4 million for Dental Health, and \$2 million for operating shortfalls at community health clinics.

An increase of \$12.9 million is for staffing of newly opened health facilities.

The omnibus also includes \$2 million in “new, flexible funding so that the Director may take actions necessary to ensure that CMS accreditation status is reinstated and retained, and, once accreditation has been reinstated, to restore third-party insurance reimbursement shortfalls.”

Contract Support costs: The omnibus provides an indefinite appropriation for contract support costs estimated to be \$717,970,000.

IHS	FY 2015 Enacted	FY 2016 President's Budget	Final Bill	Bill vs FY 2015	Bill vs. Request
Hospital and health clinics	1,836,789	1,936,323	1,857,225	20,436	-79,098
Dental Health	173,982	181,459	178,286	4,304	-3173
Mental Health	81145	84,485	82100	955	-2,385
Alcohol and substance abuse	190,981	227,062	205,305	14,324	-21,757
Purchased/Referred Care	914,139	984,475	914,139	---	-70,336
<b>Subtotal</b>	<b>3,197,036</b>	<b>3,413,804</b>	<b>3,237,055</b>	<b>40,019</b>	<b>-176,749</b>
Public Health Nursing	75,640	79,576	76,623	983	-2,953
Health Education	18,026	19136	18,255	229	-881
Community Health Representatives	58,469	62,363	58,906	437	-3,457
Immunization AK	1826	1950	1950	124	---
<b>Subtotal</b>	<b>153,961</b>	<b>163,025</b>	<b>155,734</b>	<b>1,773</b>	<b>-7,291</b>
Urban Health	43,604	43,604	44,741	1137	1137
Indian Health Professions	48,342	48,342	48,342		
Tribal Management Grants	2,442	2,442	2,442		
Direct Operations	68,065	68,338	72,338	4,273	4,000
Self-Governance	5,727	5,735	5,735	8	
Contract Support Costs	662,970	717,970	---	-662,970	-717,970
<b>Subtotal</b>	<b>831,150</b>	<b>886,431</b>	<b>173,598</b>	<b>-657,552</b>	<b>-712833</b>
<b>Total Indian Health Service</b>	<b>4,182,147</b>	<b>4,463,260</b>	<b>3,566,387</b>	<b>-615,760</b>	<b>-896,873</b>
<b>Contract Support</b>			<b>717,970</b>	<b>717,970</b>	<b>717,970</b>
<b>Facilities</b>					
Maintenance & Improvement	53,614	89,097	73,614	20,000	-15,483
Sanitation Facilities Construction	79,423	115138	99,423	20,000	-15,715
Health Care Facilities Construction	85,048	185,048	105,048	20,000	-80,000
Facilities & Envir Health Support	219,612	226,870	222,610	2,998	-4,260
Equipment	22,537	23,572	22,537	---	-1,035
<b>subtotal</b>	<b>460,234</b>	<b>639,725</b>	<b>523,232</b>	<b>62,998</b>	<b>-116,493</b>
<b>Total IHS</b>	<b>4,642,381</b>	<b>5,102,985</b>	<b>4,807,589</b>	<b>165,208</b>	<b>-295,396</b>
<b>% Difference</b>				<b>3.6%</b>	<b>-5.8%</b>

### Labor-HHS-Education

Substance Abuse and Mental Health Administration (SAMHSA): Tribal Behavioral Health Grants would be funded at \$30 million (\$15 million in the Mental Health appropriation and \$15 million in the Substance Abuse Prevention appropriation). The American Indian and Alaskan Native Suicide Prevention program would receive \$2.9 million.

SAMHSA (Dollars in millions)	FY2015 Enacted	FY2016 Request	FY 2016 Omnibus	Change from 2015
<b>Mental Health Appropriation</b>				
AI/AN Suicide Prevention Initiative	2.9	2.9	2.9	0
Tribal Behavioral Health Grants	4.9	15	15	10
<b>Substance Abuse Prevention Appropriation</b>				
Tribal Behavioral Health Grants	--	15	15	15

## Administration for Children and Families (ACF)

Within HHS, ACF provides the largest amount of funding to American Indians/Alaska Natives outside of the funds provided by the Indian Health Service. Out of a budget of \$50 billion, ACF awards on the average \$647 million to Native Americans from the following programs: Head Start, Child Care, TANF, LIHEAP, Child Support and the Administration for Native Americans, to name a few.

(Dollars in millions)	FY2015	FY2016 Request	FY 2016 Omnibus	'16-'15
Head Start, Total Resources	8,098.0	9,467.7	9,166.1	+570
Child Care & Development Block Grant, Formula Grants	2,435.0	2,805.1	2,761	+326
Child Welfare Services, Formula Grants	268.7	268.7	268.7	0
Community Services Block Grant, Formula Grants	674.0	674.0	715.0	+41
Family Violence Prevention & Services, Formula Grants	135.0	150.0	150.0	+15.0
LIHEAP, Formula Grants	3,390	3,190	3,390	-
Administration for Native Americans	46.5	50.0	50.0	+3.5

*Domestic Violence Hotline.*-The agreement includes an increase of \$3.75 million for the Hotline, with some funds used to develop a tribal hotline.

*Native American Programs.*-The agreement includes \$3 million for the Generation Indigenous initiative focused on improving Native American language instruction across the education continuum.

## Department of Education

Department of Education Indian programs would see some moderate increases.

Department Education (Dollars in millions)	FY 2015	FY 2016 Request	FY 2016 Omnibus	Change
Impact Aid	1288.6	1288.6	1305.6	+17
Indian Student Education (Title VII)	123.9	173.9	143.9	+20.0
<i>Grants to Local Education Agencies</i>	<i>100.4</i>	<i>100.4</i>	<i>100.4</i>	-
<i>Special Programs for Indian Children</i>	<i>17.9</i>	<i>67.9</i>	<i>37.9</i>	<i>+20.0</i>
<i>National Activities</i>	<i>5.6</i>	<i>5.6</i>	<i>5.6</i>	-
Native Hawaiian Student Education	32.4	33.4	33.4	+1
Alaska Native Education Equity Assistance Program	31.4	32.4	32.4	+1
Strengthening AN/NH-Serving Inst (discretionary)	12.8	12.8	13.802	+.96
Strengthening TCUs (discretionary)	25.6	25.6	27.589	+1.9
Tribally Controlled Posts and Technical Institutions	7.7	7.7	8.286	+.58
Strengthening NA-Serving Nontribal Inst (Disc.)	3.1	3.1	3.3	+1.9

Native Youth Community Projects: Within Special Programs for Indian Children, the omnibus includes \$22.89 million for Native Youth Community Projects, which makes competitive awards to support culturally-relevant coordinated strategies to improve the college- and career-readiness of Native American youth.

## **Commerce-Justice-Science**

### **Department of Justice**

- The Victims of Crime Act (VOCA) cap was set at over \$3 billion, but still includes nothing for tribes.
- The omnibus includes \$2.5 million for Special Domestic Violence Criminal Jurisdiction implementation, which is the first time that has been funded.
- The bill did not adopt the 7% across the board set-aside at the Office of Justice Programs. The omnibus would appropriate \$30 million for “tribal assistance” instead.
- VAWA appropriations overall would increase, which will mean more in the core tribal VAWA programs.
- The bill includes \$10 million for the Tribal Youth Program.
- \$30 million for the COPS tribal hiring program.

## **Transportation and Housing**

### **Housing and Urban Development:**

- NAHASDA funding would be \$650 million.
  - Language is included for reducing the formula allocation to tribes who have unspent funds that are three times the amount of funding.
- Technical Assistance and Training would receive \$3.5 million.
- Section 184 would receive \$7.8 million.
- Indian Community Development Block Grant would receive \$60 million.

### **Department of Transportation:**

- Tribal Transportation Program \$465 million
- Tribal Transit Grant Program (Section 5311 Section (c)) \$30 million

For more information, contact Amber Ebarb, NCAI Budget and Policy Analyst ([aebarb@ncai.org](mailto:aebarb@ncai.org)).



## Tab 10: Trust Modernization

## **MODERNIZING THE TRUST: REDEFINING THE UNITED STATES-TRIBAL GOVERNMENT-TO-GOVERNMENT RELATIONSHIP AND ADVANCING TRUST ASSET REFORM**

### **KEY PRINCIPLES OF INDIAN TRUST MODERNIZATION**

**Defining the Federal Trust Responsibility for the 21<sup>st</sup> Century** – The current trust model is broken and based on faulty and antiquated assumptions from the 19th Century that Indian people were incompetent to handle their own affairs and that Indian Tribes were anachronistic and would gradually disappear. As a result, the current trust model requires a comprehensive overhaul to modernize federal Indian policy in a manner that is consistent with self-determination and rooted in retained inherent sovereign authority as opposed to an approach that presumes that Tribes have been granted their sovereign rights. A new model must be based on fulfillment by the United States of treaty obligations and the recognition and support of tribally-driven solutions. No branch of the Federal Government should be permitted to unilaterally decide whether to comply with treaties and other legally-binding agreements.

This new paradigm should follow the spirit of the Indian Reorganization Act and President Johnson's and President Nixon's Special Messages to Congress on Indian Affairs. It is time to establish a trust model that reflects a true nation-to-nation partnership **built** upon diplomacy that will strengthen federal trust administration, enhance federal-tribal relations, and promote and protect tribal sovereignty, all with the goal of building and sustaining prosperous tribal communities. These key elements of Indian trust modernization should guide legislative reform and simultaneous administrative improvements.

In return for Indian Tribes ceding millions of acres of land that make the United States what it is today, the United States has recognized and must protect the tribal right to self-government, the right to exist as distinct peoples on their own lands, as well as remaining Indian trust assets. The Constitution, treaties, statutes, Executive Orders, and judicial decisions all recognize the United States' fundamental trust relationship with tribal nations. Under this relationship, the United States has certain legal trust obligations to Tribes, which govern the federal government's administration of Indian trust property and shape its nation-to-nation relations with Tribes.

The United States' legal obligations for the administration, management, and accounting of Indian trust property have been the subject of significant litigation and many executive branch policy statements. The United States administers on behalf of Indians a wide array of trust property, including land, natural resources, and funds. The Department of the Interior's Secretarial Commission on Indian Trust Administration and Reform in 2013 urged a renewed emphasis on fiduciary obligations for this trust administration.

The United States' trust obligations also shape its special nation-to-nation relations with Indian Tribes. The United States carries out many functions on behalf of Tribes, including involvement in water rights disputes, appraisals and probate, congressional funding, and government contracting and compacting. Trust obligations should affect the outcome when there is a dispute between tribal interests and other interests. The trust obligation includes supporting inherent tribal

sovereignty. As governments, Tribes must deliver a wide range of critical services, such as education, workforce development, public safety, infrastructure, and healthcare to their citizens. Tribes have the capability as governments to oversee their own affairs and serve their citizens. As such, they should be in parity with states and local governments.

This paper lays out basic principles for trust modernization.

**I. Strengthen Trust Standards – Adopt Implementing Laws and Regulations.** As President Nixon recognized 45 years ago, the United States government acts as a legal trustee for the land and water rights of Indian Tribes and their members, and these rights are of critical economic importance to Indian Tribes. Moreover, the second recommendation of Congress's own American Indian Policy Review Commission in 1977 was that Congress should reaffirm and direct all executive agencies to administer the trust responsibility consistent with a set of specific legal principles. More recently, Secretary of the Interior Bruce Babbitt issued a Secretarial Order that outlined principles for the proper discharge of these trust responsibilities, and those principles were later codified in the Department of the Interior Manual. Also, in 2013, after a two-year review, the Department of the Interior's Secretarial Commission on Indian Trust Administration and Reform as its first recommendation urged that the United States government clarify that: (1) all federal agencies have a trust responsibility to Indians; (2) this trust responsibility demands a high standard of conduct; and (3) each agency is to place Indian interests before those of the agency and outside parties.

Since then, Secretary of the Interior Sally Jewell has issued a Secretarial Order that outlines additional guiding principles for honoring the trust responsibility. The Secretary should finalize these regulations after full consultation with Indian country, even as the Obama Administration and Congress develop and enact legislation to codify these trust standards in statute. The next logical step is to comply with federal consultation requirements to develop and promulgate regulations to ensure that all future administrations (including all departments, offices, bureaus, and agencies) fulfill their trust responsibilities.

**II. Strengthen Tribal Sovereignty – Empower Each Tribe to Define its Path.** Since 1968, every Congress and President has recognized that tribal governments are the entities best suited to meet the needs of their communities. This is because they are more directly accountable to the people they represent, more aware of the problems their communities face, and more agile in responding to changing circumstances. Empirical research also has confirmed that empowering tribal governments through a meaningful recognition of tribal sovereignty is the best way to increase economic development in Indian country. This does not just mean authorizing Tribes to administer federal programs under 638 contracts or self-governance compacts, even though that remains valuable. We must move beyond helpful but piecemeal approaches directed at specific functions or programs and start providing Indian Tribes with real decision-making in the management of their own affairs and assets. This should include, but not be limited to, allowing each tribe to decide for itself the specific role that it wants to play in the management of its own trust assets. One tribe may want to manage some or all of its assets itself with no federal interference. Another may wish to continue to have those assets managed by a federal system. Tribes have different capabilities, goals, and concerns and all of those should be respected by the federal government and its federal policies and systems.

**III. Strengthen Federal Management – For Trust Assets and Programs Still Subject to Federal Control.** Today, a number of federal agencies continue to institute policies that affect all Indian Tribes and allottees. This “one size fits all” approach ignores the unique differences between the individual Tribes and the unique government-to-government relationship each Tribe has with the United States under its own treaties and other agreements. Too often federal agencies apply federal regulations and environmental laws of general application to tribal assets or to public lands, with potential effects upon tribal assets, according to the best interests of the federal government, when the determination should defer to the best interests of the tribe and its tribal citizens. Such determinations should be made and implemented in collaboration with tribes.

Unfortunately, many solutions imposed by federal agencies or Congress never get changed or abolished, even when the Tribes and a federal Commission point out their shortcomings and recommend improvements. For example, Congress established the Office of Special Trustee to provide *temporary* oversight to improve federal trust management. Now, more than twenty years later, OST has become a separate bureaucracy which remains despite its apparent completion of its purpose and repeated calls to reintegrate Indian trust asset management to be more efficient, effective, and accountable. This is a significant drag on critical tribal and allottee resource use and development. Also, while the United States has settled *Cobell* and most tribal trust cases, and actively sought to reduce its trust fund management through those settlements, OST still employs hundreds of people and as of fiscal year 2015 has a budget of approximately \$139 million.

**IV. Strengthen Federal-Tribal Relations – One Table with Two Chairs.** Like the National Council on Indian Opportunity that President Johnson established and President Nixon expanded, the new White House Council on Native American Affairs provides an invaluable opportunity for candid and frank discussions of ways to improve the lives of Native people in America. However, as was recognized by two Presidents and Congress decades ago, Indian Tribes must have a seat at the table if this entity and its efforts are to be successful. Indian Tribes’ own leaders understand their communities, their needs, and their obstacles. They are therefore in the best position to make recommendations on how to address their problems, and to help develop federal approaches which will achieve the best results, in the shortest time possible, without wasting federal resources. Regardless of the role Tribes choose to play in the management of their own assets, their opinions should be sought, respected, and listened to. For all these reasons, regular, coordinated, and meaningful high-level engagement is essential if the federal government is going to properly develop, coordinate, and improve federal policies affecting tribal nations.

**V. Strengthen Federal Funding and Improve Its Efficiency – A Pillar of the Trust Responsibility.** None of the above proposals can succeed without sufficient and effective federal funding, which for far too long has been lacking in Indian programs and services. Federal funding is disturbingly deficient for trust administration, services, infrastructure, and contract support costs, all of which are required by treaties, statutes, and federal trust duties. Continuing these funding policies will exacerbate Indian needs, stifle tribal economies, increase federal costs, and set the stage for the next generation of *Cobell* and tribal trust mismanagement claims. Moreover, as the Department of the Interior’s Secretarial Commission on Indian Trust Administration and Reform and the Department of Justice’s Advisory Committee on American Indian and Alaska Native Children Exposed to Violence have both recently recognized, treaties and the trust responsibility are not discretionary. Accordingly, Congress and the Administration should

increase funding for federal Indian programs and services to the level necessary to fulfill the federal government's fiduciary responsibilities to Indian Tribes and their members and reclassify trust administration, services, and programs as non-discretionary. Finally, because federal Indian affairs funding is provided in fulfillment of clear legal and historic obligations, those federal dollars should not be subject to "means testing" or other inapplicable standards developed unilaterally by Congress or federal officials.

**Intent of this Document.** This document is largely comprehensive in the sense of identifying many, if not most, of the challenges and principles relative to the nature and evolution of the federal-tribal trust relationship. As a practical matter and given the rhythms and vagaries of the legislative process, it is also true that at any given time, legislation may be pending in Congress or initiatives pursued in federal agencies that address one or more—but not all—of the challenges and principles outlined above. In these cases, this document should be not understood to mean that all of the principles must be included in such legislation or administrative initiatives. Instead, this document assumes that, depending on the circumstances, any one, some, or all of the principles outlined above may be pursued as appropriate opportunities present themselves, whether administrative or legislative.

## **INDIAN TRUST MODERNIZATION PRINCIPLES AND SHORT-TERM ADMINISTRATIVE PROPOSALS**

### **I. Strengthen Trust Standards**

- Essential trust responsibilities for all federal agencies must be reaffirmed based on foundational history and clear and specific legal principles.
- After proper consultation with Indians, the DOI Solicitor should issue a new M-Opinion to update the 1978 letter by DOI Solicitor Krulitz on the nature and scope of federal trust responsibilities, and the Secretary of the Interior should promulgate regulations to implement recommendations of the AIPRC and the SCITAR and to codify 303 DM 2 and Secretarial Orders 3175, 3215, and 3335.
- President Obama should issue a corresponding Executive Order that affirms federal trust responsibility obligations for all federal agencies and that affirms the best interests determination in favor of tribes in all environmental and administrative determinations.

### **II. Strengthen Tribal Sovereignty**

- Indian tribes should be empowered to comprehensively manage their own trust assets and affairs in order to remove bureaucratic hurdles and better develop their economies, jobs, and resources based on the needs and priorities of their citizens and communities.
- The BIA should expedite trust-land acquisitions, leases, rights-of-way, and timber sales, encourage more tribal self-governance compacts with bureaus of DOI and other Departments such as HHS, expand the 477 program to HHS and improve its implementation, continue to facilitate tribal HEARTH Act regulations, and encourage collaboration with tribes in negotiating co-management for public lands and environmental laws impacting tribes.
- DOI should promulgate regulations based on Secretarial Orders 3206 and 3225 beyond ESA to recognize that Indian tribes are the appropriate governments to manage their lands and resources, which are not subject to federal public lands laws.
- Federal agencies should improve program flexibility and technical assistance for Tribes.
- The DOI Solicitor should rescind or reverse the decades-old opinion holding that Indians are taxpayers because of the Citizens Act.

### **III. Strengthen Federal Management**

- Ongoing federal management of Indian trust assets should be more efficient and effective and should respect and defer to tribes' jurisdiction and authority over tribal lands and resources, as well as tribes' and individual Indians' decisions regarding use of their lands and resources.
- DOI should expedite probates and appraisals, including allowing independent certified appraisals.
- The Office of the Special Trustee for American Indians should report to Congress on the projected completion of required reforms and then be reintegrated into a single Indian Affairs organization in fulfillment of the 1994 Trust Reform Act and in accordance with the recommendation of the Secretarial Commission on Indian Trust Administration and Reform.
- Federal agencies should better address and avoid potential conflicts of interest regarding implementation of federal trust responsibilities, including the duties to act solely in the interest of the beneficiary and to protect Indian trust resources and make them productive.

### **IV. Strengthen Federal-Tribal Relations**

- Regular, high-level federal-tribal consultation is needed to properly develop, coordinate, and improve Indian policies across all federal agencies, as previously recognized by Presidents Johnson and Nixon and Congress.
- President Obama should issue an Executive Order to reestablish and improve the National Council on Indian Opportunity by including regionally representative, tribally nominated, and presidentially appointed tribal leaders as full members of the White House Council on Native American Affairs.
- President Obama should issue a Presidential special message on federal trust responsibilities similar to President Lyndon Johnson's Special Message to the Congress on the Problems of the American Indian dated March 6, 1968 and President Nixon's Special Message to the Congress on Indian Affairs dated July 8, 1970.
- President Obama should fully adopt and endorse the U.N. Declaration on the Rights of Indigenous Peoples and call on Congress for oversight for its implementation, and support the full participation of Indigenous governments at the United Nations through regular and permanent status.

- Federal agencies should assess and revise the metrics used to evaluate federal programs for Tribes and tribal enterprises.

**V. Strengthen Federal Funding**

- Federal agencies should review and improve existing studies, data, and analyses regarding tribal programs and circumstances to augment federal budget justifications.
- Federal funding for trust administration, services, infrastructure, and contract support costs all should be reclassified as non-discretionary, increased to levels necessary to fulfill the federal trust duties, and not be subject to means testing.
- President Obama and all federal agencies should propose budgets that fully fund all aspects of the federal trust responsibility, and to classify those functions as mandatory components of the federal budget.
- The U.S. Commission on Civil Rights should issue a follow up report on its 2003 Quiet Crisis Report on Federal Funding and Unmet Needs in Indian Country, and President Obama should develop an action plan to address and respond to that report.
- The Office of Management and Budget should provide additional information to tribal leaders on all proposed federal expenditures that affect Indians.



Tab 11: Expansion of SG



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## MEMORANDUM

December 2, 2015

TO: Tribal Transportation Clients

FROM: HOBBS STRAUS DEAN & WALKER

RE: *Final Highway Bill Conference Report Includes Tribal Transportation Self-Governance Program*

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On December 1, 2015, the House and Senate Conference Committee for the transportation reauthorization bill released the attached conference report on a highway reauthorization bill, which is called the Fixing America's Surface Transportation (FAST) Act. The conference report represents the efforts of the Conference Committee to reconcile the differences between the House passed reauthorization bill (H.R. 3819) and the Senate passed version (S. 1647). The bill runs some 1300 pages, and we are just beginning to analyze it, but in this memorandum we report on some provisions of significance to tribal transportation programs.

Of most long-term significance is the FAST Act's authorization of a version of the Department of Transportation (DOT) Tribal Self-Governance Program that tribes have been advocating for several years. Essentially this provision, which appears in section 1121 (beginning at page 119) of the attached report, would extend many of the self-governance provisions of Title V of the Indian Self-Determination and Education Assistance Act (ISDEAA) to DOT. Except for a couple helpful clarifications, this version of the Tribal Self-Governance provisions mirrors the one we reported on in our last report on the House reauthorization bill H.R. 3819.<sup>1</sup> That bill, in turn, largely tracked the stand-alone DOT Tribal Transportation Self-Governance Act, H.R. 1068, introduced by Representatives Peter DeFazio (D-OR) and Don Young (R-AK). The DOT Tribal Self-Governance Program is discussed in more detail below.

The conference report language contains several other provisions of general significance to Indian country:

- The bill would authorize funding for five years instead of six (as both the Senate and House bills would have done).

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<sup>1</sup> See our memorandum of October 26, 2015.

Tribal Transportation Program funding is increased to \$465 million in FY 2016 above the current funding level of \$450 million, with \$10 million increases each year to \$505 million in FY 2020. These funding levels track the funding levels in the Senate passed bill and provides slightly more than the House passed bill in FY 2019 and 2020.<sup>2</sup>

- The funding for the Tribal Transit program established under section 5311(c)(1) of title 49, is increased from \$30 million to \$35 million per year. The formula program of the Tribal Transit program would be increased from its current level of \$25 million to \$30 million, and the discretionary program would remain at \$5 million.
- A new \$100 million per year grant program is established for “nationally significant” Federal Lands and tribal transportation projects.<sup>3</sup> To be eligible for this project, however, a project must have an estimated cost of no less than \$25 million with extra priority given to projects with an estimated cost of \$50 million or more.
- The Project Management and Oversight (PM&O) takedown for administrative expenses of BIA and the Federal Highway Administration has been reduced from 6 percent to 5 percent.<sup>4</sup>
- The funding set aside for the Tribal Transportation Facility Bridges program has been increased from 2 percent to 3 percent.<sup>5</sup>
- The Tribal High Priority Project program, which was established in MAP-21 as a stand-alone program, has apparently not been reauthorized to provide funds for tribes with insufficient formula funding to construct their priority transportation project. Although the program, while authorized under MAP-21, was not funded during the years covered by that statute, the expiration of the program is a further setback to tribes that relied on that program.
- Tribes would be subject to new data collection reporting on expenditures of Tribal Transportation Program funds.<sup>6</sup>

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<sup>2</sup> The FAST Act provides \$5 million more in FY 2019 and \$10 million more in FY 2020 above the House passed bill See section 1101(a)(3) at pages 16-17.

<sup>3</sup> See section 1123 at pages 148-152.

<sup>4</sup> See section 1118 at page 115.

<sup>5</sup> See section 1118 at page 115.

<sup>6</sup> See section 1117(a) at page 110.

- There is no new funding for tribal safety programs, but the Secretary of DOT would be required to provide the following two reports to Congress related to tribal safety.
  - After consulting with the Secretary of the Interior, the Secretary of Health and Human Services, the Attorney General, and Indian tribes, the Secretary of DOT would be required to submit a report describing the quality of transportation safety data collected by states, counties, and tribes for transportation safety systems to improve the collection and sharing of data regarding crashes on Indian reservations.<sup>7</sup>
  - Similarly, the Secretary of DOT, after consultation with the Secretary of the Interior, Tribes, states and their respective attorneys general, would provide a report to Congress within two years of enactment of the FAST Act that identifies and evaluates options to improve safety on public roads on Indian reservations.<sup>8</sup>

### ***Tribal Self-Governance Program***

The Tribal Self-Governance Program, if enacted, would require DOT to establish a tribal self-governance program modeled largely on Title V of the ISDEAA, and it would extend to all programs available to tribes within the Department (e.g., it would allow tribes to include transit funding, discretionary grant funds, and federal-aid funds transferred by a state agency in their funding agreements (FAs). Additionally, because this draft amendment is modeled on Title V, it would provide tribes with a tested and successful model to implement the principles of tribal self-determination with protections provided under the ISDEAA.

The Tribal Self-Governance Program, as incorporated in the House-passed transportation reauthorization bill (H.R. 3819) and the FAST Act, however, introduces some new provisions revising some aspects of H.R. 1068:<sup>9</sup>

- Eligibility: H.R. 3819 introduced a new eligibility criterion that would require a tribe to demonstrate “transportation program management capability” in addition to financial stability and financial management capability, which is required in H.R. 1068 and Titles IV and V of the ISDEAA. The FAST Act also includes this new requirement, and also does not define how it can be demonstrated. We presume this requirement would be fleshed out in the negotiated rulemaking session that the FAST Act would require.<sup>10</sup>

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<sup>7</sup> See section 1117(b) at page 111-114.

<sup>8</sup> See section 1117(c) at page 114-115.

<sup>9</sup> These provisions are also discussed in our Memorandum of October 26, 2015.

<sup>10</sup> See pages 143-144.

- Grant Eligibility: A provision in H.R. 1068 would have made Tribes directly eligible for all—not just some—competitive grant programs currently open to states or political subdivisions of states. That provision was left out of H.R. 3819, and it does not appear in the FAST Act either.
- Administrative Appeal Process: The FAST Act, like H.R. 3819, is not entirely clear on what constitutes a “final agency action” that could be appealed through the Administrative Procedures Act. This issue could also be clarified through rulemaking.
- Waiver of Regulations: Like the House reauthorization bill, the FAST Act does not include language that Tribes advocated preventing the Department from denying a request for a regulatory waiver unless it conflicted with federal law. It merely requires the Secretary to consider any waiver application “bearing in mind increasing opportunities for using flexible policy approaches at the Indian tribal level.”

If enacted into law, the Tribal Transportation Self-Governance Program would be landmark legislation extending the Self-Governance Program of the ISDEAA to DOT. While not perfect, the Program as set forth in the conference report applies the core self-governance principles of the ISDEAA to a federal agency other than Interior and the Indian Health Service. In addition to vastly improving tribal transportation programs, the legislation could also provide a model for expanding tribal self-governance into other federal agencies that serve Indian tribes and their members only as part of their mission to a broader constituency.

The current extension of MAP-21 expires this Friday, December 4. Both the House and Senate will likely take up the FAST Act this week to get the bill to the President by Friday. Alternatively, the House and Senate would have to pass another short-term extension.

If you have any questions regarding the issues discussed in this memorandum, please feel free to contact Geoff Strommer ([gstrommer@hobbsstrauss.com](mailto:gstrommer@hobbsstrauss.com) or 503-242-1745), Michael Willis ([mwillis@hobbsstrauss.com](mailto:mwillis@hobbsstrauss.com) or 202-822-8282), Adam Bailey ([abailey@hobbsstrauss.com](mailto:abailey@hobbsstrauss.com) or 916-442-9444) or Moriah O'Brien ([mobrien@hobbsstrauss.com](mailto:mobrien@hobbsstrauss.com) or 202-822-8282).

Tab 12: Other Documents

Department of Justice  
Office of Public Affairs

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FOR IMMEDIATE RELEASE

Tuesday, January 12, 2016

## **United States to Accept Concurrent Jurisdiction Over Mille Lacs Band of Ojibwe Reservation in Minnesota**

### ***Second Assumption of Federal Jurisdiction under Historic Tribal Law and Order Act***

The Department of Justice has granted a request by the Mille Lacs Band of Ojibwe for the United States to assume concurrent criminal jurisdiction on the tribe's reservation in central Minnesota, Deputy Attorney General Sally Quillian Yates announced today.

The decision was the second assumption of jurisdiction granted by the Department of Justice under the landmark Tribal Law and Order Act of 2010 (TLOA), which gave the department discretion to accept concurrent federal jurisdiction to prosecute violations of the General Crimes Act and the Major Crimes Act within areas of Indian country that are also subject to state criminal jurisdiction under Public Law 280. Public Law 280 is the 1953 law that mandated the transfer of federal law enforcement jurisdiction for certain tribes to six states, including Minnesota. The first assumption of federal jurisdiction took place on Minnesota's White Earth Reservation in March 2013.

The decision will take effect on Jan. 1, 2017. Tribal, state and county prosecutors and law enforcement agencies will also continue to have criminal jurisdiction on the reservation.

"We believe this decision – made after a careful review of the tribe's application and the facts on the ground – will strengthen public safety and the criminal justice system serving the Mille Lacs Band of Ojibwe," said Deputy Attorney General Yates. "This is another step forward in the Justice Department's commitment to serve and protect American Indian and Alaska Native communities, to deal with them on a government-to-government basis and to fulfill the historic promise of the Tribal Law and Order Act. Strong law enforcement partnerships with the Tribe, as well as state and local counterparts, will be essential to the success of this effort."

"We want to make certain that the outcome of this decision will benefit the residents of the Mille Lacs Band and improve the safety of the community," said U.S. Attorney Andrew M. Luger of the District of Minnesota. "As we work towards full implementation, we will work to strengthen the bonds between our tribal and local partners in pursuit of our common goal of providing a safe environment where this community can thrive."

The Department of Justice already has jurisdiction to prosecute certain crimes, such as drug trafficking, wherever they occur in the United States – including on the Mille Lacs Reservation. The change announced today will expand this existing jurisdiction to allow federal prosecution of major crimes such as murder, rape, felony assault and felony child abuse.

The decision followed careful consideration of the request and information provided by the Mille Lacs Band Tribal government, as well as by the Justice Department's Office of Tribal Justice, the Executive Office for U.S. Attorneys, the U.S. Attorney's Office for the District of Minnesota, the Federal Bureau of Investigation, the U.S. District Court, state and local law enforcement partners and other sources.



The [U.S. Department of Justice](#) (DOJ) is pleased to announce that it is seeking applications for funding to improve public safety and victim services in tribal communities. This solicitation provides federally recognized tribes and tribal consortia an opportunity to develop a comprehensive and coordinated approach to public safety and victimization issues and to apply for funding. The DOJ's existing Tribal Government-specific programs are included in and available through this single Coordinated Tribal Assistance Solicitation.

# U.S. Department of Justice

## Coordinated Tribal Assistance Solicitation

*Fiscal Year 2016 competitive grant announcement*

### Eligibility

**It is very important that applicants review this information carefully. Applications submitted by ineligible entities will be removed from further consideration during an initial review process.**

Only federally recognized Indian Tribal Governments, as determined by the Secretary of the Interior, may apply. This includes Alaska Native villages and tribal consortia consisting of two or more federally recognized Indian tribes. Tribal designees are eligible participants only for certain activities related to the DOJ's Office on Violence Against Women (OVW) and Office for Victims of Crime (OVC) programs. (See pages i through iii for a list of additional eligibility criteria and exceptions by purpose area.)

**The DOJ may elect to make awards for applications submitted under this solicitation for FY 2017 depending on the merit of the applications and the availability of appropriations. Individual Purpose Areas may consider FY 2016 applications for FY 2017 and *not* solicit for new applicants in the FY 2017 CTAS.**

### Eligibility exceptions

#### Purpose Area #1 (COPS Office Public Safety and Community Policing)

Under this purpose area only, applicants must have an established law enforcement agency that is operational as of February 23, 2016 (which is the closing date of this application) or receive services through a new or existing contract for law enforcement services with the Bureau of Indian Affairs (BIA) or a state or local agency.

#### Purpose Area #5 (OVW Violence Against Women Tribal Governments Program)

A federally recognized tribe or an organization that is acting as the authorized designee of a federally recognized Indian tribe may apply. If the applicant is a **tribal designee** under Purpose Area #5, OVW



Violence Against Women Tribal Governments Program, the applicant will need a tribal resolution or other satisfactory evidence of legal authority from the tribe as part of the application, which should (1) authorize the applicant to submit an application on behalf of the federally recognized Indian tribe and (2) state the tribe's support for the project and its commitment to participate in the project if it is selected for funding. **This resolution or other satisfactory evidence of legal authority must be current, must be sufficient to demonstrate authority for the application, must contain authorized signature(s), and must be submitted by the application due date.**

In addition, applicants that received OVW Tribal Governments Program funding in FY 2014 or FY 2015 are not eligible to apply for continuation funding with regard to the FY 2014 or FY 2015 awards or new funding. Applicants with OVW Tribal Governments Program awards from FY 2013 or earlier generally are eligible to apply for Purpose Area #5 funding in FY 2016; however, eligibility may be limited as follows based on the amount of funding remaining in the applicant's FY 2013 or earlier award:

- If the applicant has 70% or more of funds remaining in the award as of February 23, 2016, it is not eligible for FY 2016 funding in this program.
- If the applicant has 50–69% of funds remaining in the award as of February 23, 2016, it is eligible but the amount of funding may be reduced from the requested amount.
- If the applicant has 49% or less of funds remaining in the award as of February 23, 2016, it is eligible for an award up to the full amount.

Applicants with open awards from multiple years (including FY 2014 and 2015) may apply for continuation of awards from 2013 or earlier.

This eligibility requirement also extends to organizations or associations that are granted the authority to apply on behalf of the tribe(s). In addition, if a tribe has an award from 2014 or 2015, it generally may not apply through a designee in 2016.

Purpose Areas #6 (OVC Children's Justice Act Partnerships for Indian Communities program)

A federally recognized tribe or an organization that is acting as the authorized designee of a federally recognized Indian tribe may apply. If the applicant is a tribal designee under Purpose Area #6, OVC Children's Justice Act Partnerships for Indian Communities (CJA) program, the applicant will need a tribal resolution or other satisfactory evidence of legal authority from the tribe as part of the application, which should (1) authorize the applicant to submit an application on behalf of the federally recognized Indian tribe and (2) state the tribe's support for the project and its commitment to participate in the project if it is selected for funding. **This resolution or other satisfactory evidence of legal authority must be current, must be sufficient to demonstrate authority for the application, must contain authorized signature(s), and must be submitted by the application due date.** In addition, under this purpose area, CTAS FY 2015 CJA Program awardees are *not eligible* to apply for CTAS FY 2016 Purpose Area #6, CJA program.

## Purpose Area #7 (OVC Comprehensive Tribal Victim Assistance program)

A federally recognized tribe or an organization that is acting as the authorized designee of a federally recognized Indian tribe may apply. If the applicant is a **tribal designee** under Purpose Area #7, OVC Comprehensive Tribal Victim Assistance (CTVA) program, the applicant will need a tribal resolution or other satisfactory evidence of legal authority from the tribe as part of the application, which should (1) authorize the applicant to submit an application on behalf of the federally recognized Indian tribe and (2) state the tribe's support for the project and its commitment to participate in the project if it is selected for funding. **This resolution or other satisfactory evidence of legal authority must be current, must be sufficient to demonstrate authority for the application, must contain authorized signature(s), and must be submitted by the application due date. In addition, under this purpose area, CTAS FY 2015 CTVA Program awardees are not eligible to apply for CTAS FY 2016 Purpose Area #7, CTVA program.**

## Deadline

All applications must be submitted through the DOJ's online Grants Management System (GMS) at <https://grants.ojp.usdoj.gov/gmsexternal/>. There are two steps: (1) registering in GMS and (2) applying and submitting an application in GMS.

## Registration

Applicants must register with GMS prior to submitting an application. An applicant will not be able to submit an application without registering in GMS before the application deadline of **9:00 p.m. Eastern Time (ET) on February 23, 2016**. *Applicants should begin the registration process immediately to meet the GMS registration deadline, especially if this is the first time using the system. It is strongly recommended that applicants register early, but no later than Tuesday, February 2, 2016, in order to resolve difficulties well in advance of the application deadline. See Section H "How to Apply" for further details.*

**Note:** This solicitation will be available in GMS from November 19, 2015 through February 23, 2016.

## Application submission

The deadline for submitting applications in response to this grant announcement is **9:00 p.m. ET on Tuesday, February 23, 2016**. Applications submitted after **9:00 p.m. ET on February 23, 2016**, will *not* be considered for funding.

**It is strongly recommended that applicants submit their application well in advance of the application deadline to ensure all application steps are completed and all materials submitted before the deadline.**

Refer to "How to Apply" on page 51 for more information on how to register with GMS.

**Note:** If Internet access is not available to submit an application electronically to GMS, contact the Response Center at 800-421-6770 no later than Friday, January 22, 2016, to request instructions on how to submit an application by alternative means.

**IMPORTANT WARNING! Each tribe or tribal consortium will be allowed only one application submission.** An application can be revised in GMS until the application deadline, **9:00 p.m. ET, Tuesday, February 23, 2016**. Please note that only the final version of an application submitted in GMS will be considered.

**If a tribe or tribal consortium submits more than one application, only the final application will be considered in the review process.**

A tribe may apply as part of a consortium and also submit its own independent application, provided that this independent application is for funding for activities that are distinct from those activities for which the tribal consortium has applied.

## Contact Information

### Technical assistance for submitting an application

Contact the GMS Support Hotline at 888-549-9901, option 3, or via e-mail at [GMSHelpDesk@usdoj.gov](mailto:GMSHelpDesk@usdoj.gov). The GMS Support Hotline hours of operation are Monday–Friday from 6:00 a.m. to 12:00 midnight ET, except U.S. Federal Government holidays (see <https://www.opm.gov/policy-data-oversight/snow-dismissal-procedures/federal-holidays/#url=2015>).

### Solicitation requirements programmatic and general assistance

Contact the Response Center at 800-421-6770 or via e-mail at [tribalgrants@usdoj.gov](mailto:tribalgrants@usdoj.gov). The Response Center’s hours of operation are Monday–Friday from 9:00 a.m. to 5:00 p.m. ET, except U.S. Federal Government holidays (see <https://www.opm.gov/policy-data-oversight/snow-dismissal-procedures/federal-holidays/#url=2015>).

Information regarding upcoming webinars and trainings is available at [www.justice.gov/tribal/training-and-technical-assistance](http://www.justice.gov/tribal/training-and-technical-assistance).

### Solicitation documents

Visit the Tribal Justice and Safety website for all supporting documents pertaining to the Coordinated Tribal Assistance Solicitation ([www.justice.gov/tribal/](http://www.justice.gov/tribal/)).

### Release date

November 19, 2015