

DOI SELF-GOVERNANCE ADVISORY COMMITTEE

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Washington, DC 20036
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Self-Governance Advisory Committee Quarterly Meeting

November 6, 2007
9:00 AM – 5:00 PM

Agenda Issues

Call to Order – W. Ron Allen, Chairman/Executive Director, Jamestown S’Klallam Tribe and Chairman, DOI SGAC

Invocation was given by Governor Gilbert Suazo, Sr., Taos Pueblo

Roll Call/Introductions – Roll Call was taken by Rhonda Butcher and a Tribal Quorum was established.

MEMBERS/ALTERNATES PRESENT:

W. Ron Allen, Chairman, Jamestown S’Klallam Tribe (Portland Delegate)
William E. Jones, Vice Chairman Lummi Nation (Portland Alternate)
J. Michael Chavarria, Governor, Santa Clara Pueblo (Albuquerque Delegate)
Lisa Spears, SG Coordinator, Red Lake Band (Minneapolis Delegate)
Joe Grayson, Jr., Deputy Principal Chief, Cherokee Nation (Muscogee Delegate)
Diane Enos, President, Salt River Pima-Maricopa (Phoenix Delegate)
Robert Keith, Board Chair, Kawerak (Juneau Delegate)

Areas Absent: Anadarko and Sacramento

TECHNICAL WORKGROUP PRESENT:

Bruce Baltar, General Counsel, Bristol Bay Native Association
Cyndi Ferguson, Director of Governmental Affairs, Jamestown S’Klallam Tribe
Rhonda Butcher, Director of SG, Citizen Potawatomi Nation
Pam Norris, SG Director, Shoalwater Bay Indian Tribe
Vickie Hanvey, SG Administrator, Cherokee Nation
Sonya Diggs, Senior Accountant/SG Coordinator, Choctaw Nation of Oklahoma
C. Juliet Pittman, President/CEO, SENSE, Inc.

FEDERAL REPRESENTATIVES PRESENT:

Mr. Carl Artman, Assistant Secretary, Indian Affairs, BIA
Mr. Pat Ragsdale, Deputy Director, Justice Services, BIA
Mr. Harry Rainbolt, Special Assistant to Deputy Director of Indian Services, BIA
Mr. Jerry Gidner, Director, Bureau of Indian Affairs, BIA
Ms. Stephanie Birdwell, Chief, Division of Human Services, BIA
Ms. Sharee Freeman, Director, Office of Self-Governance, DOI
Dr. Ken Reinfeld, Policy Analyst, Office of Self-Governance, DOI
Ms. Babette Herne, Administrative Assistant, Office of Self-Governance, DOI

OTHERS PRESENT:

Jerry Folsom, TSGF Director, Lummi Nation
Charleen H. Greer, Assistant General Council, Salt River Pima Maricopa
Tom Elkins, SG Analyst, Cherokee Nation
Shannon McDaniel, Executive Director Tribal Management, Choctaw Nation of Oklahoma
Angela Thompson, SG Director, Sac & Fox Nation
Edwin Tafoya, Director of SG, Santa Clara Pueblo
Donovan Gomez, Tribal Programs Administrator/SG Coordinator, Taos Pueblo
Gilbert Suazo, Sr., Governor, Taos Pueblo
Nelson Cordova, Director Government Services Division, Taos Pueblo
Steve Ginnil, President, Association Aleutian Housing Authorities
Dan Duame, Executive Director, Aleutian Housing Authority
Geoff Strommer, Attorney, Hobbs, Straus, Dean & Walker, LLP
Phil Baker-Shenk, Attorney, Holland & Knight, LLP
Paula Ragsdale, Senior Legislative Officer, Cherokee Nation of Oklahoma

Opening Comments were made by W. Ron Allen

Approve Summaries from Previous Meetings – January 23, 2007 summary was approved by consensus.

Identification and Discussion of Issues

OSG Effectiveness and BIA Budgets

1. OSG Staffing and 2007/2008 payment delays
2. Formula Funding/TPA Base and Tribal Input via TBAC
3. Law Enforcement – What is the funding formula?
4. GA Assistance – Effects of Program cuts. Tribal/BIA workgroup on November 15th
5. Recurring ISD necessary for successful implementation of CSC Policy (TBAC Meeting)

Discussion:

Ron Allen— Delayed payment process and OSG staffing is a serious concern. \$380 million and 240 tribes are served by OSG yet the office has only 7 staff members. There is much frustration with the slow process of getting the money out. Some 2007 and most of 2008 funds not yet been received. While only 2 staff are available to transfer funds to tribes, the Office of Energy and Economic Development has many (22) staffers. Is SG working if you can't get

money out in a timely manner? This becomes a deterrent for tribes for those in it and those wanting in. Is it adequately staffed? As a member of TBAC, I am very concerned.

Carl Artman—the Department supports SG and it is a very important part of modernization. Many want to see more programs in the hands of the tribes. Although we still have some that don't. Rest assured, this administration wants to see SG continue to grow. Having Sharee leading the OSG has helped. She has raised the personnel issue with me multiple times. We will try to find help. **We will try to find the money. Action item: Mr. Artman will talk with Debbie Clark about transferring staff from OEED.** While we are under CR, it is difficult to find the money. We will try to get more but have no time line. I hope to look to SG as a growth area for us.

Tribal Response—The delay of the budget and money getting out to tribes has made its way into the modernization meetings.

Ron Allen—Money moving is still a problem. OSG needs a person to bird dog the movement of funding. Next three issues are about specific funding. While we have advocated for fair shares, there is a reluctance to exhibit and define what a fair share is. Lack of funding fairness is undermining tribal needs. Transparency is needed. What's the formula? What is the basis of allocation? How was the Law Enforcement (LE) money distributed? How do we get that information on HIP, GA and LE?

Pat Ragsdale—The law enforcement allocation is straight forward. \$205 million goes to corrections and courts. The last base funding was in 2006. We have not adjusted the allocations by location recently. Additional money was targeted for meth and high crime areas. High Crime money is based on high crime reports. LE determined where we had the most understaffed police departments with the highest crime rate.

Tribal Response--Does the new funding have a formula?

Pat Ragsdale--No. However, we don't discriminate between SG and direct service tribes. We did make the decision not to send out funds to all tribes because it would be like pouring water in the sand.

Tribal Response--Where do crime rate reports come from?

Pat Ragsdale-- The individual police departments. We encourage tribes to report quarterly but are not sure this happens. If you are not reporting, then you are not considered for additional funding. Population, # violent crimes, and the ratio of police to population are all considered.

Tribal Response—We need to beat the data drum. The data needs to have standardized format.

Pat Ragsdale-- Our numbers are fairly accurate. Some of our worst areas for crime are rural locations. The Secretary's increase is \$16 million but the President's budget has not been adopted. This includes special initiatives plus 100 new officers. Funds flow out in incremental allocations. We have a lot of vacancies right now. We need to get "feet on the street." We are 200 officers short at this time. \$11 million is for tribal courts allocation.

Carl Artman—If we have more police, there is more thru-put of costs into the court and jail. Where do we go next with this? These are not domestic violence offenders looking at a year in jail. These are serious offenders. Tribes are giving multiple years of jail time and a detention center will not work. We will need to work with DOJ regarding jails and federal facilities.

Ron Allen—We know we are underfunded. Tribes need to be informed on distribution and information. Moving on, Stephanie, can you describe the current GA distribution advisory workgroup. How were reps chosen and do we have SG representation?

Stephanie Birdwell-- \$80 million for General Assistance is capped by Congress. This is a needs based program. Some tribes have large carryover with estimated amounts. This year, the Analysis of Funds form is based on actual expenditures. Tribes will be paid 50% of what they actually spent last year, early on. Then when we get their year end report, we hope to give them 100% of what they actually spent last year. The newly formed tribal/BIA advisory workgroup is scheduled to meet next week in Albuquerque. If a SG rep is interested in

attending, they are welcome. My number is 202-236-1510. We wanted 12 to 15 people as that is a manageable size, but everyone who wants to attend is welcome.

Tribal Response— In 2007, some of our GA funding was taken back (Santa Clara Pueblo). We first got a letter saying we could use that money in the following year but then it was taken back. This does not seem right.

Ken Reinfeld—We looked at adverse impact prior to taking the GA funds back.

Stephanie Birdwell— It was determined that we can't let some tribes keep carryover funds while others have to shut down programs.

Ron Allen—Please be careful about the term of adverse impact. Moving money annually up and down is a problem. If we negotiated a share, it should be respected.

Tribal Response—Did the SG volunteers from the Spring meeting get contacted and what about the \$900,000 at headquarters?

Stephanie Birdwell— Since only 50% is allocated at the beginning of the year, then we will distribute the rest. If we need to prorate a reduction, then money would be used. We always allocate all the money out.

Action item: Ms. Birdwell will contact volunteers from the Spring meeting to serve on the workgroup.

Negotiation Issues

1. Footnotes with Disagreements
2. Security Requirements
3. Access to Database

Discussion:

Ron Allen—Security Clearance has become a big issue. Is the Security Clearance one size fits all?

Jerry Gidner—I am not sure of the answer but I will find out. We are trying to get to a suitability determination so I need to see if varying levels of suitability determination will work.

Tribal Response— Who do we talk to about the security clearances? IRR, OST, OSG all have different contacts. No one is returning phone calls. Can we have a meeting with all players to get this under control?

Carl Artman—I think we are about to turn the corner in the technology that you are using. It will change. Data bases will change. Soon you will be coming thru one portal so only one security clearance should be needed. So, by the time we have meeting, it may be obsolete.

Tribal Response—Do we need a clearance even for hard copy records? At Cherokee Nation that could easily be 100 people. That will be very expensive at 2 clearances per \$1,000.

Tribal Response—I would like to ask for the meeting regarding the security clearances. We realize it is all based on risk. NIST is the standard for security.

Pat Ragsdale— We probably need to develop standards we can all live with.

Ron Allen—What exactly is expected? It may vary between IRR, OST, and OSG.

Carl Artman—**Action item: Mr. Artman will follow up with Ross Swimmer regarding the OST standards.**

Tribal Response— Santa Clara Pueblo has had a problem with OST and appraisals because of security clearances being required for contractors. They gave us a list of appraisers. But no one wanted to do the appraisals given the requirements.

Tribal Response— I want to clarify—We are going to have a meeting soon on this matter and I will have a person to contact on this matter or the Cherokee Nation won't have a signed FA.

Carl Artman— **Yes, a meeting regarding security clearances is probably a good idea given the confusion.** I want to talk about the Footnotes with disagreements. The issue is the ability to negotiate to agreement. We enter negotiations as though we are facing a partner. We

want to work it out. However, we do allow disagreements in a separate side documents. Isn't that fair?

Tribal Response—While we did not like removing the disagreements, we are living with it.

CSC Workgroup Implementation Issues

1. **Shortfall Report Due November 15**
2. **Training Sessions**
3. **Negotiation of DCSC (consistency)**

Discussion:

Ron Allen—We are concerned about ISD money rolling over into subsequent years into pool 2 and 3. Is this a problem? What about the Shortfall report?

Harry Rainbolt-- The ISD fund is set up for start up for new and expanded contracts and 100% of CSC in first year. Currently, there is a fairly large carryover balance in ISD funds so we have not been able to ask for new money. \$4.5million balance in ISD remains. However, remember that it is non-recurring. There is no new money. It is very important that we get new money to follow tribes into the second year. The new policy was implemented in 2007 and a stable, recurring funding level for tribes was established. 100% of IDC was paid and 1.87% of DCSC based upon prior year (2006) need. The funding you received last year is what you will get this year.

Tribal Response—IHS funds move within pools. It is all recurring. Can we request that ISD is recurring?

Harry Rainbolt— **Yes. We need about \$1 million in ISD recurring annually so that money can follow the tribe's need into pool 2 for the 2nd year and ongoing.** The workgroup is finishing up the shortfall report format. Hopefully, it will be completed tomorrow. We do need a system to track negotiation consistency. We need to be able to look across Regions and see consistent direct contract support costs are being applied.

Tribal Response-- Taos Pueblo has had a request for start up funds for quite a while. When will we be receiving those funds?

Harry Rainbolt—**I will check on that and get back to you.**

Indian Reservation Roads Update

1. **Access to RIFDS**
2. **Inventory Issues**
3. **IRR Addendum**

Discussion:

Ron Allen— Where are we with IRR?

Jerry Gidner--RIFDS is on line now. Training is going on at the Regions. Relative to Security Clearances, we don't know yet what a tribe has to do to get access to the RIFDS network. The goal is that tribes will be entering their own data into the system soon. A letter has gone out. We will have to check on security requirements for the system. There is an "air gap" so perhaps the security standards won't be too high.

Carl Artman— **We will need to discuss security clearances for RIFDS in the future.**

Pat Ragsdale-- If you are going to be using the BIA systems for realty you have to have check.

Ken Reinfeld—A risk assessment in level of clearance is by position.

Ron Allen—Back to IRR addendum. We are encouraged that the addendum is moving. Can the addendum be adjusted and who is the lead negotiator?

Sheree-- Leroy's office does help work out the IRR agreement. The negotiators are OSG, the IRR Regional Engineer, and Leroy Gishi for IRR headquarters, and the solicitor who must concur on the IRR Addendum. It works best if they are all at the table together.

Tribal Response—Santa Clara Pueblo has asked for a waiver for appraisals for road easements/ROWS on tribal trust land. This is a waste of money as no payment is expected or will be made.

Carl Artman—Granting these waivers is done on a case by case basis. The bar is pretty high even though it is tribal lands.

Data Management Update/GPRA/PART

1. **\$500K Budget Request for 2008**
2. **Signing of Phase II Charter**
3. **What actions have been taken or do you intend to take?**
4. **How do you account for reprogramming in GPRA/PART**

Discussion:

Ron Allen—Are we going to see the budget proposal for the Data Management Workgroup and how close are we to getting the charter signed? We are concerned about how the funding for 2007 was spent and the scope of work under the Charter. We don't want the workgroup limited to GPRA/Part Data. GPRA doesn't work well with SG and reprogramming. Tribal data needs are also important to this effort. We want to justify an increased budget. Data is important for the BIA as well as the Tribes.

Carl Artman—We certainly want to address both our needs and Tribal needs. Answers to the questions above are: 1. The 2008 budget is not yet passed; 2. Sunday or Monday for signing of the Phase 2 Charter; 3. So far, base level of expectations of data transfer have been identified. It will take steps to get to a final data point. First, we need to prove we that we can collect data and handle it. This document starts with baby steps.

Tribal Response—I would still like to know how the \$500,000 was spent last year. **Action Item: Mr. Artman will get the budget for the \$500,000 by the December TBAC meeting.** I realize that this is the system and we are stuck with. However, the system needs to accommodate Tribal data so that we can use the system.

Ron Allen—I am personally tired of going to OMB and them saying that they don't know what we are doing with the funding. We need accurate verifiable data.

Carl Artman—We need to get basic data first.

Ron Allen- How about if we collaborate on the design of a system?

Tribal Response—We are not even sure what data we are to report. For example, with law enforcement, the Tribe contributes money to the Tribal Police Department. BIA funds only 2 officers. Do we report on the Police Department as a whole?

Carl Artman-- This Data targets the Federal dollars only.

Tribal Response—I am concerned about the GPRA form. We hear we are getting a new form and data is to be collected on a monthly basis. We really need to know what to collect ahead of time.

BIA Modernization

1. What is the Agenda
2. What have you determined to strengthen Self-Governance and move it forward
3. How does Trust Reform Fit

Discussion:

Ron Allen--What will you do with information from the Modernization meetings and when will you get a report to the tribes? If modernization really includes SG and building it up, then we are part of the solution. Where do you think we are going?

Carl Artman--We got good comments and will try to produce results after NCAI. **We are pulling out the ideas and will put them in the report. NCAI will form a group and work on the input.** We received much input and that was our goal. Shutting down Regional Offices was not a solution. Centers of excellence is an idea. We have to take our diversity into account. The Primary purpose of the dialog was to begin conversation. Transparency is important and we must adapt. We need to be thinking about how we are approaching ourselves. **We will give you a list of the ideas and, hopefully, that will promote the next discussion. These meetings were a foundation for next level of discussion.**

Tribal Response-- There was some concern that SG was getting a bad rap from BIA. We need to get a positive message regarding SG to all Regional Directors. This message must come from the top down. A real understanding of SG is needed.

Carl Artman—A SG 101 training session is probably a good idea. Perhaps I can get to it on our December 5-6 RD meeting.

Tribal Response—Regions often blame the SG tribes for inadequate funding. Technical assistance is denied. BIA doesn't know that is still their role.

Tribal Response—I (Willie Jones) was designated to recruit new self-governance tribes. Lummi is setting up a model to re-educate ourselves. Training is ongoing. We can help with training.

Governor of Taos Pueblo—We have been at SG for 11 months. Self Governance is a different way of doing business. Despite the obstacles, it is a positive step. BIA needs to support SG Tribes. Another issue for us is the Water Settlement. We are trying to get a bill introduced in Congress. The longer it takes, the more it is costing us in legal fees and technical fees. We appreciate having the ability to discuss matters with the Assistant Secretary. We got into SG because we have to do things in a different way. Not to get more money. We are doing more with less. The Self-Governance movement needs to get traction within the administration. The faster the resources meet the local community, the better. Natural resources protection is important. It is our responsibility to address the issues but we need help. It is a partnership. Also, it cost a lot of money to come out here to DC. The need to be heard is clear. It seems like Tribes with resources can get their voices heard rather than those with less resources.

Carl Artman—There are pockets of folks who don't accept SG that we need to reach. Travel is not always necessary to get your message heard. Conference calls are an option.

Trust Reform Issues

1. Fee to Trust Priority
2. Trust Regulations
3. Cobell Update and Internet Access

Discussion:

Ron Allen—Fee to Trust is a priority. Where are we on the Regulations and Part 151? What about Cobell and Internet access?

Carl Artman-- Cobell...Judge Roberts is moving quickly. He is tackling this as a large litigation. He has cut out some trips to Lenexa and he is moving through it. Hopefully, in December we will be back up on internet. Need security in place. We are going from 0 to 120 mph. I hope the department will begin to lighten up and we will be able to get rid of fax machine. Trust Regulations—I don't know when they will be moving forward. Leases are in the third phase and we hope in the first quarter to discuss these proposed Regulations. On Part 151, we are not doing regulations for on reservation acquisitions. Rather, we are revising the BIA handbook. We need nation-wide consistency for all tribes. Title documents must be consistent. At the end of the day, a title is a title. For example, a categorical exclusion is fine when there is no change in land use. We are trying to figure out what we have. We had a 1300 backlog of applications across the Regions. Of those, only 217 were complete applications. They must be complete before being defined as an application. That leaves 1100 that will need to be dealt with by the tribes. We need to talk about off reservation gaming applications. We need to think about the impact upon gaming overall when Tribes want to go 350 miles from home and there is no historical link. What is the definition of contiguous? Gaming has brought a lot of people home. Land base is important. In off reservation non-gaming applications, we need to have discretion. What is the portability of jurisdictional issues? We may look at gaming on case by case basis.

Tribal Response---Can we get a copy of the Revisions to the handbook?

Carl Artman—I have to say no at this time. After we get it done, you can have a copy. I want to get it done quickly for consistency. I am not worried about on reservation acquisitions. If a parcel is on reservation, you probably have good chance of getting it completed in a year.

Tribal Response--Santa Clara Pueblo—We have a question. If the land is in a land grant area, will it automatically go into trust upon purchase by the Tribe? We have a Solicitor's opinion saying that if land is within the original boundaries then it goes into trust automatically.

Carl Artman—I can't give legal advice. You will have to talk to your lawyer about that.

Title IV Self-Governance Amendments

1. What is the Status?

Discussion:

Ron Allen—What is the Status of Title IV Amendments?

Carl Artman--Other agencies is a problem. They keep asking: "Can the tribe do this?" We don't know the answer to that. The Department will not support the bill as it is on Thursday. Fourteen (14) items remain problematic. Mr. Cason will speak on behalf of the Department at the hearing. The Secretary wants to have control over how it impacts non tribal entities. The concept is good. However, the means to get there is questionable.

Schedule Next Meeting—

Discussion:

Ron Allen— We appreciate you taking so much time to listen to us today. We would like to get the next meeting on your schedule.

Carl Artman—Please Call Janice. She keeps my schedule.

Closing Prayer - William E. Jones, Sr. provided a closing prayer.