



Self-Governance Advisory Committee

January 21 – January 22, 2020



Plymouth Rock to Alcatraz: Triumph of Tribal Self-Governance

2020 Tribal Self-Governance Consultation Conference
April 26 – April 30, 2020
Burlingame, CA



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DOI SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication & Education Tribal Consortium
314 West 14th Place – Tulsa, Oklahoma, 74119
Telephone (918) 271-5017 ~ Website: www.tribalselfgov.org

DOI Self-Governance Advisory Committee and Technical Workgroup

Quarterly Meeting

Tuesday, January 21, 2020 (9:00 am to 5:00 pm)

Wednesday, January 22, 2020 (8:30am to 4:30 pm)

Embassy Suites

900 -10th Street, NW
Washington, DC 20001
Phone: (202) 739-2001
Fax: (202) 739-2099

AGENDA

Tuesday, January 21, 2020 (9:00 am to 5:00 pm)

Meeting of the SGAC and Technical Workgroup Members

- | | |
|-----------------|---|
| 9:00 am | <u>Technical Workgroup Meeting</u> <ul style="list-style-type: none">• Identify the main points, issues or concerns that need to be discussed during the meeting |
| 11:00 am | <u>Tribal Caucus</u> |
| 11:45 am | Lunch |
| 1:00 pm | <u>Full SGAC & Federal Partners Meeting</u> <ul style="list-style-type: none">• Invocation• Roll Call / Establish Quorum• Introduction (All Participants & Invited Guests) |
| 1:15 pm | <u>Opening Remarks</u> <p><i>W. Ron Allen, Tribal Chairman/CEO, Jamestown S’Klallam Tribe and Chairman, Self-Governance Advisory Committee (SGAC)</i>
<i>Shawn Duran, Tribal Programs Administrator, Taos Pueblo Vice-Chair, Self-Governance Advisory Committee (SGAC)</i></p> |
| | <u>SGAC Committee Business</u> <ul style="list-style-type: none">• Approval of Meeting Minutes (October 2-3, 2019)• New Business – Committee Membership• SGAC 2020 Meeting Calendar |
| 1:30 pm | <u>Department of Treasury Advisory Committee Update</u> <p><i>W. Ron Allen, Tribal Chairman/CEO, Jamestown S’Klallam Tribe, Chairman, Self-Governance Advisory Committee (SGAC) and Member of the Department of Treasury Tribal Advisory Committee</i></p> |

- 1:45 pm** **Office of Self-Governance Update**
Sharee Freeman, Director, Office of Self-Governance, DOI
- 2:15 pm** **Bureau of Indian Education**
- Follow-up on Tribal Action Items from October 2019 SGAC Meeting
Tony Dearman, Director, Bureau of Indian Education, DOI
 - Johnson O'Malley Update (count and management of program)
Angela Barnett, JOM Program Analyst, Bureau of Indian Education, DOI
- 2:45 pm** **Office of Indian Services Update**
- Welfare Assistance
 - 477 MOU and Implementation
- Spike Bighorn, Acting Associate Deputy Bureau Director, Office of Indian Services, BIA*
Terry Parks, Division Chief, Office of Indian Services, BIA
Katie Klass, Attorney, Hobbs Straus
- 3:15 pm** **US Department of Agriculture Update**
- USDA Hemp Interim Final Rule
 - 2018 Farm Bill Demonstration Project – ISDEAA Agreements for Food Distribution Program on Indian Reservations
- Phil Baker-Shenk, Partner and/or Kayla Gebeck, Senior Public Affairs Advisor, Holland & Knight*
Diane Cullo, Director, Office of Tribal Relations, United States Department of Agriculture
- 4:15 pm** **Department of Transportation -TTSGP DRAFT NPRM Update**
Ronald Jackson, Assistant General Counsel for Operations, DOT
DOT Designated Federal Official for Tribal Transportation Self-Governance Program, Negotiated Rulemaking Committee
- 4:45 pm** **Preparation of Issues for Discussion with Assistant Secretary – Indian Affairs**
- 5:00 pm** **Adjourn for the Day**

Wednesday, January 22, 2020 (8:30 am to 4:30 pm)

Meeting of the SGAC & Technical Workgroup with Tara Mac Lean Sweeney, Assistant Secretary – Indian Affairs

(Only Members of the SGAC and Proxies to be seated at the table)

-
- 8:30 am** **Welcome**
W. Ron Allen, Tribal Chairman/CEO, Jamestown S'Klallam Tribe and Chairman, Self-Governance Advisory Committee (SGAC)
Shawn Duran, Tribal Programs Administrator, Taos Pueblo Vice-Chair, Self-Governance Advisory Committee (SGAC)
- 8:45 am** **Department of Justice/Bureau of Indian Affairs Office of Justice Services/National Institute of Justice**
- Executive Order on Missing and Murdered Indigenous Persons

- DOJ Rollout of MMIP – Coordination with BIA
- FBI Crime Data Reports – data gaps (MMIP)
- National Missing and Unidentified Persons System (NamUS)
- Human Trafficking and other courses to train Tribal officers

Sherriann Moore, Tribal Deputy Director, Tribal Affairs Division, Office of Violence Against Women, DOJ

Charles Addington, Director, Office of Justice Services, BIA-DOI

Charles Heurich, MFS, Senior Physical Scientist, National Institute of Justice, Office of Investigative and Forensic Sciences, National Unidentified Missing Persons System

9:45 am

SGAC Discussion of Issue Items with AS-IA

Tara Mac Lean Sweeney, Assistant Secretary – Indian Affairs, DOI

11:45 am

SGAC Committee Members Executive Session with Assistant Secretary – Indian Affairs

Lunch

1:00 pm

Legislative/Administrative/Litigation Update

- Progress Act (Title IV)
- VAWA Reauthorization
- Brakeen Case and Appeal

Congressional Staff

Geoff Strommer, Partner, Hobbs Straus

1:45 pm

BIA - Section 105(I) Leases

- Creation of subcommittee to determine funding need for 105(I) leases
- Steps the BIA/BIE have taken to prepare for these requests
- Indefinite Appropriations

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

Phil Baker-Shenk, Partner, Holland & Knight

Geoff Strommer, Partner, Hobbs Straus

2:15 pm

Budget Update

- OMB Exception Apportionment Authority for BIA
- Update on the Bureau's Funding Stream Review
- BIA Climate Resilience Funds excluded from SG Compacts/Contracts

Dave Conner, Director, Natural Resources, Red Lake Band of Chippewa Indians (Unable to attend but provided written update)

Tyler Scribner, Policy Analyst, National Congress of American Indians

George Bearpaw, Director, Office of Budget and Performance Management, DOI

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

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

- 3:15 pm** **Communication Services in Indian Country**
- Connect America Fund
 - Rural Tribal Window to Access Unassigned Spectrum
 - Native Nations Communications Task Force
- Will Micklin, First Vice President of the Central Council of the Tlingit-Haida Indian Tribes of Alaska*
Cheryl Andrews-Maltais, Chairwoman, Wampanoag Tribe of Gay Head Aquinnah
Sayuri Rajapakse, Deputy Chief, Office of Native Affairs and Policy, and Commission, FCC
TBD, 2.5 GHz Expert, Wireless Bureau, FCC
- 4:15 pm** **Technical Workgroup Follow-up**
- Review Follow-up Topics
 - Agenda Items for Next Meeting/Call
- Jennifer McLaughlin, SGAC, Tribal Technical Co-Chair, Self-Governance Legislative Associate, Jamestown S’Klallam Tribe*
Ken Reinfeld, SGAC, Federal Technical Co-Chair, OSG Senior Policy Analyst
- 4:30 pm** **Adjourn the SGAC Meeting**

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314 W. 14th Pl, Tulsa, OK 74119
Telephone (918) 370-4258 ~ Website: www.tribalselfgov.org

SGAC Membership

January 15, 2020

Area	Member	Status	Contact Information
Alaska	Robert Keith	Primary	angelraq.keith@gmail.com
	Will Micklin 3 rd Vice President Central Council Tlingit and Haida Indian Tribes of Alaska	Alternate	wmicklin@ccthita-nsn.gov
Eastern	Cheryl Andrews-Maltais Chairwoman Wampanoag tribe of Gay Head (Aquinnah)	Primary	chairwoman@wampanoagtribe.net
	Marilynn "Lynn" Malerba* Chief Mohegan Tribe of Connecticut	Alternate	lmalerba@moheganmail.com
Eastern Oklahoma	Chuck Hoskins, Jr. Principal Chief Cherokee Nation (Proxy: Karen Ketcher)	Primary	karen-ketcher@cherokee.org
	David Hill Principal Chief Muscogee (Creek) Nation (Proxy: Terra Branson)	Alternate	tbranson@mcn-nsn.gov
Midwest	Annette Johnson Treasurer Red Lake Band of Chippewa Indians	Primary	annette.johnson@redlakenation.org
	Jane Rohl Tribal Council Secretary Grand Traverse Band of Ottawa & Chippewa Indians	Alternate	jane.rohl@gtbindians.com
Northwest	W. Ron Allen Tribal Chairman/CEO Jamestown S'Klallam Tribe	Primary	rallen@jamestowntribe.org
	Tyson Johnston Vice President Quinault Indian Nation	Alternate	tjohnston@quinault.org
Pacific	Byron Nelson, Jr. Chairman Hoopa Valley Tribe	Primary	cbfdistrict@gmail.com
	Denise Richards-Padgett Chairperson Tolowa Dee-ni' Nation	Alternate	
Rocky Mountain	Michael Corcoran Tribal Business Committee Member Chippewa Cree Tribe	Primary	dustin@cct.rockyboy.org
		Alternate	
		Primary	

Southern Plains	John Barret, Jr. Chairman Citizen Potawatomi Nation (Proxy: Kasie Nichols)		Kasie.nichols@potawatomi.org
	Jacklyn King Secretary Sac and Fox Nation	Alternate	justinwood@sacandfoxnation-nsn.gov
Southwest	Richard Aspenwind Governor Taos Pueblo	Primary	governor@taospueblo.com
	E. Michael Silvas Governor Ysleta del Sur Pueblo	Alternate	michael.silvas@ydsp-nsn.gov
Western	Delia Carlyle Council Member Ak-Chin Indian Community	Primary	dcarlyle@ak-chin.nsn.us
		Alternate	

SGAC Technical Workgroup

Area	Member	Status	Contact Information
Alaska	Bruce Baltar Bristol Bay Native Association	Tech Rep	bbaltar@bbna.com
	John Bioff Kawerak, Inc.	Tech Rep	JBioff@kawerak.org
Eastern	Kitcki Carroll United South and Eastern Tribes	Tech Rep	SDuran@taospueblo.com
Eastern Oklahoma	Cliff Powell Cherokee Nation	Tech Rep	cliff-powell@cherokee.org
	Amanda Swope Muscogee (Creek) Nation	Tech Rep	aswope@mcn-nsn.gov
Midwest	Dave Connor Red Lake Band of Chippewa Indians	Tech Rep	redlakewae@aol.com
	Candice Skenandore Oneida Nation	Tech Rep	cskena10@oneidanation.org
Northwest	Jennifer McLaughlin Jamestown S'Klallam Tribe	Workgroup Co-Chair	jmclaughlin@jamestowntribe.org
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Pacific	John Robbins Hoopa Valley Tribe	Tech Rep	hvtsgjrobbinsjr@gmail.com
	Briannon Fraley Tolowa Dee-ni' Nation	Tech Rep	Briannon.Fraley@tolowa.com
Rocky Mountain	Chippewa Cree Tribe	Tech Rep	
Southern Plains	Jeremy Arnette Citizen Potawatomi Nation	Tech Rep	jarnette@potawatomi.org
Southwest	Linda Austin Ysleta del Sur Pueblo	Tech Rep	laustin@ydsp-nsn.gov
	Ian Chisholm Taos Pueblo	Tech Rep	IChisholm@taospueblo.com
Western	Karen Fierro Ak-Chin Indian Community	Tech Rep	KFierro@ak-chin.nsn.us
	Heather Washington Salt River Pima-Maricopa Indian Community	Tech Rep	Heather.Washington@SRPMIC-nsn.gov



Muscogee (CREEK) Nation

Executive Office

January 14, 2020

W. Ron Allen
Chairman
Self-Governance Advisory Committee
c/o Self-Governance Communication & Education

RE: Department of the Interior Self-Governance Advisory Committee – Eastern Oklahoma Alternate Representative

Dear Chairman Allen,

On behalf of Muscogee (Creek) Nation, I request the Department of the Interior Self-Governance Advisory Committee's ("SGAC") consideration to serve as the Eastern Oklahoma Region's Alternate Representative.

Muscogee (Creek) Nation ("MCN") signed its first Self-Governance Compact and Funding Agreement in 1996. Since then, MCN has worked to reduce federal bureaucracy and oversight of tribal programs. Permitting MCN to join the Committee would allow us to continue pursuit of these efforts and partner nationally to improve and strengthen Self-Governance.

I have provided my contact information below in addition to that of my technical representative for your use if this nomination is approved.

Eastern Oklahoma Alternate Representative

David Hill
Principal Chief
Muscogee (Creek) Nation
PO BOX 580
Okmulgee, OK 74447
(918) 732-7600

Technical Workgroup Member

Terra Branson-Thomas
Director, Planning, Grants & Self-Governance
Muscogee (Creek) Nation
PO BOX 580
Okmulgee, OK 74447
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(918) 549-2408

Thank you for considering this nomination. I look forward to hearing from the Committee in the future.

Sincerely,

A handwritten signature in black ink that reads "David W. Hill". The signature is written in a cursive style.

David W. Hill
Principal Chief

Self-Governance Advisory Committee Meeting

September/October 2019

Attendance: A quorum was present for the meeting.

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

Office of Self-Governance (OSG)

Sharee Freeman, Director, OSG, DOI

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

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

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

Other Updates:

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

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

U.S. Government Accountability Office

Anna-Maria Ortiz, Director, GAO

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

Background: GAO is an independent, nonpartisan organization and we are here to help Congress with its oversight function. We do financial and performance audits of government programs, of specific agencies, any sort of government spending. And we try to make recommendations that will improve government functioning and efficiency. Our requests are congressionally driven and that can be through either a request letter or from

several Congress people or through a mandate that says we must do a report. We do have a lot of say over the specific questions we ask and the um, methodology that we use. We want to retain a lot of independence on that so that we can really let the facts speak for themselves.

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

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

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

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

Legislative and Judicial Update

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

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

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

Updates on the case and materials can be found at:

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

Budget Update

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

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

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

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

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

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

Budget Related Questions

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

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

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

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

Department of Transportation

Ron Jackson, Assistant General Counsel for Operations, DOT

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

Comments:

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

Update from AS-IA

Tara Sweeney, AS-IA and Mark Cruz

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

Budget:

- We are starting off the fiscal year with a Continuing Resolution. The current one lasts through November 21st.
- Our financial systems are still in a blackout period through next week, but we are getting poised to move CR funds as quickly as possible once the financial system is up and running.
- We are hopeful there will be no lapse in appropriations, but we are taking the necessary planning steps in the event of a lapse.
- One the lessons learned last year was the need to process available CR funds to tribes quickly in order to avoid the problems we had during the lapse in appropriations.
- I sent out a request to Tribes asking for input on how we can improve our service to Indian Country during a shutdown.
- In response to your suggestions, we are developing communication plans to better engage with tribal leaders during a shutdown. This includes:
 - Plans to conduct regular calls with Tribes.
 - Developing a website to gather input from tribes on shutdown-related challenges;
 - Better utilizing existing emergency messaging systems to keep employees informed; and,
 - Clarifying guidance for staff regarding critical administrative functions that can be implemented during a shutdown.
- Regarding Congressional appropriations, we are closely tracking House and Senate activities.
- So far, the bills have been supportive of our priority areas such as law enforcement and missing and murdered Native Americans; and both versions include separate budget accounts for BIE.
- The initial House mark was more generous than the Senate.
 - The 2020 House mark provided roughly \$342 million over the 2019 enacted while the Senate was \$51 million more than the 2019 enacted.
 - The Senate report language directed Indian Affairs to engage tribes and tribal organizations to develop the necessary policies to evaluate future 105(l) lease requests.
 - The report language noted Indian Affairs should work with IHS, DOJ and OMB to formulate budget and legislative strategies to address increasing lease costs, including consideration of an indefinite appropriations as we have with Contract Support Costs.
 - I raise this because there is a growing interest in 105(l) leases, but under current funding levels, it is a challenge to support them.
 - We look forward to engaging with you to ensure 105(l) leases are strengthened to become a financially sustainable tool for facility and infrastructure support.
 - As an update, there are a total of 29 HEARTH leasing regulations for 27 tribes in various stages of review or awaiting approval.
 - 2 are in final form and ready for official approval;
 - 1 is in the final review stages;
 - 7 are with the applicant Tribe for modifications;
 - The remaining are proceeding through the review process at the regional level and with the Office of the Solicitor.

- Finally, many Tribes asked for the Departments support of advanced appropriations to address lapse in funding.
- Last week, our Deputy Assistant Secretary for Management testified on H.R. 1128, stressing the challenges created by any lapse in appropriations and our need to ensure Indian Affairs has the full capacity without interruption to meet our trust responsibilities to Indian Tribes. No position was taken, however, we did note technical changes that would improve steps to mitigate impacts during a shutdown.

Public Safety

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

Broadband Summit

- The framework of our policy approach at Indian Affairs is to empower Indian Country.
- Empowerment can take many different forms; through education, law enforcement, and resource development, for example, but these are only effective with access to modern technology.
- 35 percent of Americans living on tribal lands lack broadband service, compared to 8 percent of Americans overall. (2018 report from the FCC)
- This month we hosted the first National Tribal Broadband Summit.
- This was an unprecedented event that we developed in collaboration with the Department of Education and the Institute of Museum and Library Sciences.
- We had over 300 registrants for this two-day event, which brought together representatives from Tribes and tribal organizations, private industry, federal programs, and other stakeholders.
- The goal was to connect Indian Country with federal, private and non-profit partners aimed at building capacity, identifying investment roadblocks, explore new technology and to create an environment that fosters potential private investment for broadband deployment.
- The President is a champion for affordable, accessible, and secure broadband for all of America.
- Last year, through Executive Order 13821, President Trump established a national policy for the executive branch to accelerate deployment and adoption of affordable and reliable broadband to rural communities.
- Earlier this February, the President established the American Broadband Initiative, a comprehensive all-of-government effort to stimulate private investment in broadband.

- Under Secretary Bernhardt's leadership, DOI is focused on implementing these measures and carrying out the President's broadband agenda.
- BIA and the other DOI permitting agencies are working to identify, and reduce or eliminate, regulatory barriers to broadband.
- For example, under review at BIA is a Right-of-Way Handbook that will streamline and clarify the Right-of-Way process.
- This long overdue Handbook will help with investment in Indian Country by clearly explaining how to work with the Bureau of Indian Affairs, Federal partners, Tribal governments, and landowners when doing business in Indian Country.
- BIA is also exploring programmatic partnerships with other federal agencies that have an oversight or regulatory role with respect to broadband infrastructure.
- During the summit, I also announced that DOI is making a huge investment in broadband deployment: \$1.2 million dollars for the Indian Affairs Tribal Broadband Grant.
- The Tribal Broadband Grant will offer competitive financial awards to Tribes and Alaska Native villages for activities supporting connectivity, such as feasibility studies, that identify the barriers and the solutions to broadband deployment within Indian Country and Alaska Native villages.
- The grant program will also complement the Administration's Opportunity Zone initiative, by giving preference to those locations near Opportunity Zones.
- We'll be announcing more details about the grant program over the next few weeks.

TERA:

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

BIE:

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

REALTY, Fee To Trust:

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

Other realty activities include:

- The approval of 402 leasehold and trust land mortgages this fiscal year.
- We issued a policy memorandum that standardizes the process to request and receive certified title status reports.

- We issued a policy memorandum providing guidance for tracking mortgages.
- We finalized the Indian Affairs Mortgage Handbook and a contact guide for lenders.

BIA TRIBAL TRANSPORTATION

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

FACA E.O.

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

CONCLUSION

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

Tribal Questions

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

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

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

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

4. Any way to lump sum broadband funding instead of using grants? Is there a better way to take the smaller dollar amounts to attack the problem? Look at how we can engage a consultant so there is a more balanced review. Opportunity Zone we are ignored again
Governors of each state developed opportunity zones – as discussions about Opportunity Zone 2.0 advocate for all of Indian Country inclusion.

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

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

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

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

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

7. 105(l) leasing agenda – We need to get our arms around the number of facilities. How can we get our arms wrapped around it – will staff come up with a process for inventory?

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

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

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

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

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

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

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

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

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

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

Resuming the Discussion with Mark Cruz

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

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

are trying to clarify hiring requirements and tying resources to people and clarifying processes. House and Senate are both asking for hiring plans.

14. We would like the actual dollar amount that is going back to the Treasury. **(FOLLOW-UP ITEM)** Not all the regional directors communicate completely with the Tribes. Eastern region did not hear anything about year-end money that is available. Is the regional office communicating with OSG on available funding? What is the methodology being used to distribute money?

15. What are you doing as far as intercommunication with the other Interior Agencies?

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

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

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

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

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

477 Update

Spike Bighorn, Office on Indian Services, BIA

Congress expressed concerns with the MOA. Federal partners asked DOI to submit a response back to Congress. DOI is not able to compel all the other agencies to come to a meeting to revise the MOA and the only people who could do that was the White House. Tyler Fish from the White House did indicate he would take those concerns back to the White House. Competitive grants are another issue that has presented concerns. Some Federal agencies are interpreting the 477 program as only being able to include grants that only Tribes receive.

Questions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Questions

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

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

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

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

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

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

Department of Education and Bureau of Indian Education

Tony Dearman, Director, BIE

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

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

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

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

Summary of Talking Points from October Meeting That Was Provided to DOI

Department of Interior – Self-Governance Advisory Committee
Talking Points
October 2-3, 2019

OFFICE OF SELF-GOVERNANCE

- Formula Program Matrix Workgroup - phase I was completed. CSC was the last item the workgroup needs to discuss. Need to set up a date/time for next meeting.
 - There is currently not enough funding to pay CSC owed to Tribes. We have to go back to OMB to request additional funding. There is not a formal process on how to do this so OSG is developing something for its handbook. OIS does not have a process in place. It is not clear how the agency goes back to OMB to request funding.
 - No plans in place for when the CSC workgroup will meet again. We just had a change in the workgroup leadership.
- OSG Vacancies - Concern about the number of vacancies in OSG. How will this impact Tribes? What is being done to mitigate the impact from the lack of finance staff?
- Transparency - Which Tribes received implementation grants?

Tribal Ask: Develop a process for the Office of Indian Services/Office of Self-Governance to make formal requests to the Office of Management and Budget for additional resources to fully fund contract support costs when there is a shortfall. Fully staff the Office of Self-Governance to ensure the agency is upholding the trust responsibility and there is not a disruption in services to Tribes. There needs to be greater transparency between the agency and Tribes.

GOVERNMENT ACCOUNTABILITY OFFICE

High Risk List - Is BIA making progress in its efforts to get removed from the high-risk list?

Effectiveness of Self-Governance Programs - How is GAO determining “effectiveness” of programs administered under a Self-Governance agreement? (Addressing Juvenile Delinquency among Tribal Youth & Oversight of JOM Program)

- For the JOM Program review, we need clarification on the objective related to tracking contracts.
- Who is the requestor of the IHS funding methodology review?

Tribal Ask: Provide an update on the progress made toward addressing the issues raised in the GAO Report placing the Bureau of Indian Affairs on the High-Risk List.

BUDGET

Exception Apportionment – IHS received authority from OMB to pay the majority of Title I and Title V funding agreements on October 1 for fiscal year 2020, even though we are under a CR. If IHS received this authority, it seems it should be an option for Indian Affairs (IA) as well.

Advanced Appropriations - Is Indian Affairs/DOI supporting advance appropriations? Has there been outreach to the hill to indicate support?

Regional Office/HQ Budgets – The Bureau indicated they were working on ensuring consistency across regions, to include, formulas and methodologies. A Tribal representative requested that each region provide a year-end report to Tribes to ensure that all funds within the region are being obligated and spent. Internal systems and processes within the Department are being reviewed to ensure funding is distributed in a timely manner.

We need an update on what funds have been distributed and funds not disbursed before the funds are being swept – to go back to Treasury or put into the TMP account. Transparency of TMP account- how money is used, where it is coming from, etc.

Carry-over Funding - BIA has been using carry-over from Administrative funds to pay salaries in offices that are underfunded to include the Office of Self-Governance and Indian Gaming. IT carryover is being used to fund IT and AS-IA support office. Expectation was for all carry-over to be off the books by years end. Tribes expressed concerns about using carry-over to fund federal shortfalls instead of requesting the amount needed upfront from Congress. Tribes also expressed strong objection to carry-over funding being returned to Treasury when there are overwhelming funding needs across Indian country. Tribes requested an update be provided on current staffing needs and obligations.

Funding Distribution - An update on the project to identify why funding takes so long to distribute. What is the agency doing to address GAO's recommendation to disburse funding in a manner compliant with funding agreements?

Tribal Ask: Make a formal request to the Office of Management and Budget for an Exception Apportionment for Indian Affairs similar to the authority granted to the Indian Health Service to allow contracting and compacting Tribes to receive a majority of their funding at the start of the new fiscal year even if the agency is operating under a Continuing Resolution.

Has the agency taken an official position on Advanced Appropriations? Provide a status update on steps the agency is taking to prepare for funding distribution in the event the Advanced Appropriations legislation is enacted.

Require each Regional Office to provide a year-end report to Tribes that details the funding remaining at the regional level to include funds that have been obligated and any remaining amounts before they are swept. Tribes strongly object to any funding for Indian programs and Services being returned to Treasury when there are over-whelming needs across Indian country. If the funds are to the Treasury Tribes want a detailed explanation why.

Develop a policy for Regional Offices that requires them to notify every Tribe that submits a request for additional funding whether their request has been approved or denied and the reasons why.

Provide specific details regarding how the TMP Account funds are being used.

The Bureau should be requesting sufficient amounts from Congress to cover current employee staffing, IT needs, and AS-IA Office support rather than using carry-over to address these deficiencies.

Provide an update on the work being done to improve funding distribution.

NON-BIA AGREEMENTS

National Park Service/Fish and Wildlife Service:

- There are some great examples of SG Tribes assuming management of non-BIA functions and services (Gila River Indian Community example). Do non-BIA agencies coordinate and share information about what is working well—such as the importance of relationship building?
- How does NPS and FWS ensure consistency in its determinations?
- From HQ level, how do you ensure that Tribal requests to include functions in a SG agreement are being considered in accordance with ISDEAA?
- What actions are being taken to ensure that NPS/FWS staff are knowledgeable about ISDEAA?
- What criteria is used to determine whether a Tribe can assume functions and services from NPS and FWS?
- What coordination is occurring between IA, OSG, and the non-BIA bureaus related to Tribes assuming management of non-BIA functions and services?
- What Tribes have been denied assumption of non-BIA services and functions under ISDEAA?
- Additional benefits may result from increased collaboration between non-BIA agencies and Tribal Nations.

OMB is pushing back that Non-BIA agencies with no agreements should be listed in reports to Congress as being eligible for assumption under ISDEAA.

***Tribal Ask:** Provide an update to Tribes on how Indian Affairs, the Office of Self-Governance and the non-BIA Bureaus are coordinating and collaborating to ensure Tribes desiring to enter into non-BIA Agreements are successful in assuming management of non-BIA functions and services.*

DEPARTMENT OF TRANSPORTATION

Draft rule published today.

SGAC encourages DOT to establish an Office of Self-Governance. Has DOT identified a timeframe or plan for establishing this office?

***Tribal Ask:** Continue dialogue with the Department of Transportation to share knowledge and expertise as they move towards implementation of Self-Governance.*

ASSISTANT SECRETARY—INDIAN AFFAIRS

Inherently Federal Functions - What is the status of IA actions to address GAO's recommendation to develop additional guidance for the department to use when it determines inherently federal functions?

- We ask for Tribal representation in this effort.

Executive Order to Reduce Advisory Committees - Regarding the Executive Order to reduce advisory committees, did Indian Affairs submit a list of advisory committees to OMB? If so, what was the recommendation from Indian Affairs/ DOI?

Lack of communication during the shutdown - Tribes raised concerns about the lack of communication and updates from the Bureau during the shutdown and several consequences relating to the shutdown were raised including project delays, permit delays, leasing delays, grant projects falling behind, and public safety challenges to name a few.

- Has IA developed a communication strategy or plan in the event of a future shutdown?

Inter-agency Communication - There is still concern about the amount of communication between offices within Indian Affairs and whether information is being disseminated.

- It is a positive step forward that OSG was invited to the RD meeting, but is the daily information being disseminated between offices?
- Has IA developed a communications plan to ensure information is being shared in a timely manner?
- Other actions taken to improve coordination within IA and to break down all silos between offices to ensure that Tribes receive all relevant information in a timely manner?
- SG Tribes are still not being notified in a timely manner about the availability of funds.
- Inconsistency between regions and programs regarding the dissemination of information.
- Routine conference calls might be helpful to improve dissemination of information.

Land-Into-Trust Process— there are significant concerns related to the length of time for processing land into trust applications. Lost opportunities. (Ak-Chin Indian Community example)

- Has IA identified the cause behind the unacceptable timeframe for processing applications?
- What actions are being taken to improve the process internally?
- Are process improvements being focused at both HQ and the Regional office? What actions are being taken to ensure consistency in processes between Regions?
- How many applications for taking land into trust have been processed?
- How many are waiting to be processed?
- What is the status of land to trust for Alaska?
- Response to SGAC letter submitted to AS-IA?

Tribal Ask: Provide a status update on actions Indian Affairs has taken to address GAO's recommendation to develop Guidance on how to determine inherently federal functions and allow for Tribal input in the development of this policy.

What was the recommendation from Indian Affairs/Department of Interior on the reduction of Federal Advisory Committees?

Has Indian Affairs developed a Communication Strategy in the event of a future shutdown?

Develop a Communication Plan for Inter-agency coordination to ensure Tribes receive all relevant information in a timely manner. Routine phone calls between Indian Affairs and Tribes would be a step in the right direction.

Provide an update on the number of land into trust applications received, processed and approved. There has been significant delays in processing land-into-trust applications (7 years or more in some cases) resulting in lost opportunities for Tribes – what are the reasons for these delays and what steps are you taking to ameliorate them?

Provide an update on the Plan to address Tribal concerns with the 477 MOA. Is there communication between Indian Affairs and the White House?

BUREAU OF INDIAN EDUCATION

Recruitment/staffing update – a status update on federal health insurance for BIE/Tribal school employees and request for the staffing percentages to be translated into hard numbers so we know how many positions are vacant. We also need to know what the Bureau is doing to address recruitment and retention issues, such as prolonged background checks, lack of housing and lack of public safety. As of July 2019, the staffing was at 53.9% or 170 positions.

- What happened to the funding for the positions that remain vacant—where were these dollars allocated?

BIE Independent Bureau - The BIE is being established as an independent Bureau with a separate funding source and it is in the process of developing its own Greenbook.

- Given the two different budget structures, how is the BIE going to engage with Tribes to establish budget priorities?

Congressional Mandate - Congressional mandate to update the Windows 10 System and the Bureau estimated it needed to purchase 3600 computers at a cost of \$5.1 million – concern is that the Administration proposed a budget cut to BIE (46 million) and now we have these additional costs on top of the already underfunded programs and services. How are you addressing lack of IT/broadband in schools? Concern is the BIE will purchase all these computers without the infrastructure in place to allow for use.

JOM - Tribes raised concerns about ensuring the language is crafted carefully to be inclusive of all the different situations that exist and the need for additional JOM funding due to the projected increase in the count was stressed.

Federal Agency Coordination and Collaboration - How are the Department of Education and Bureau of Indian Education collaborating to ensure 90% of students in public schools are receiving high quality education and that AI/AN curriculum is being woven into the public schools?

School construction backlog – how can Tribes utilize the 105(l) lease option to assist with the backlog in construction?

- FOIA request back in July for a copy of the one approved 105(l) lease. Need assistance completing this request.

Education in Alaska - In Alaska, the state requires a certain number of students or funding is cut for education – this translates into schools closing, loss of jobs and families having to make hard decisions such as moving away from their communities to make sure their kids receive an education – what is being done to address this?

Impact Aid Funds – who is holding the states accountable and ensuring the funds are used for AI/AN students? We need to know how impact aid is broken down by state and the formula that is applied.

Tribal Advisory Committee - Is there a Tribal Advisory Committee for Department of Education?

Data – who is tracking the unmet need for AI/AN education?

Education Tribal Shares – Tribes consistently request information on Tribal shares.

Tribal Ask: As of July 2019 only 53.9% of the BIE positions were filled. What is being done to address recruitment/retention issues: prolonged background checks, lack of professional housing, etc. at the BIE?

Provide an Update on how the BIE is going to engage with Tribes regarding budget priorities?

Provide an Update on what the BIE is doing to address the lack of IT/broadband in BIE schools?

JOM language is crafted carefully to be inclusive of all the different situations that exist and the need for additional JOM funding due to the projected increase in the count was stressed.

There needs to be better coordination and collaboration between the Department of Education and the BIE to ensure all AI/AN are provided a quality education.

What is the BIE doing to address the education issues in Alaska and throughout Indian country?

Develop a policy that holds states accountable for ensuring that Impact Aid Funds are used for AI/AN students. Request for a detailed breakdown by state the funding amounts and formula being applied.

Information is requested on data and Tribal shares.

477

Continued concern about the final 477 MOA, particularly related to the eligibility criteria and giving agencies outside of BIA authority to determine program eligibility.

- What are the results of the recent interagency meeting?
- What are the White House's plans to address concerns?
- Has Indian Affairs made recommendations to the White House regarding needed changes to the amendment?

Tribal Ask: Provide an update on the Plan to address Tribal concerns with the 477 MOA. Is there communication between Indian Affairs and the White House?

Treasury Tribal Advisory Committee Overview & Meeting Minutes from September 2019

Treasury Tribal Advisory Committee (TTAC)t

Overview

Pursuant to Section 3 of the Tribal General Welfare Exclusion Act of 2014, Pub. L. 113-168, and in accordance with the provisions of the FACA, the TTAC was established on February 10, 2015. This seven member Tribal advisory committee advises the Secretary on significant matters related to the taxation of Indians, the training of Internal Revenue Service field agents, and the provisions of training and technical assistance to Native American financial officers. The membership has three appointees nominated by the Secretary, two appointed by the House Committee on Ways and Means and two nominated by the Senate Committee on Finance.

<https://home.treasury.gov/policy-issues/tribal-affairs/treasury-tribal-advisory-committee>

U.S. DEPARTMENT OF THE TREASURY
TREASURY TRIBAL ADVISORY COMMITTEE
PUBLIC MEETING MINUTES –
September 18, 2019
9:00 a.m. to 4:30 p.m.

The Treasury Tribal Advisory Committee (TTAC) conducted a public meeting on September 18, 2019, in the Cash Room at the U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, D.C.

In accordance with the provisions of Public Law 92-463, the meeting was open to the public from 9:00 a.m. to 4:30 p.m.

The following TTAC members were present:

TTAC

Chairman W. Ron Allen
Rebecca Benally
Sharon Edenfield
Lacey Horn, Chair
Patricia “Trish” King
Eugene Magnuson, Vice-Chair
Chief Lynn Malerba

The following Treasury representatives were present:

Office of Tax Policy

Krishna Vallabhaneni, Tax Legislative Counsel and TTAC Designated Federal Officer (DFO)
Kimberly Koch, Attorney-Advisor, Office of Tax Legislative Counsel

CDFI Fund

Clint Hastings, Senior Portfolio Manager
Rosa Martinez, New Markets Tax Credits

Internal Revenue Service

Christie Jacobs, Director, Indian Tribal Governments Office
Telly Meier, Indian Tribal Governments Office
Victoria Judson, Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes (EEE)), IRS/Office of Chief Counsel
Janine Cook, Deputy Associate Chief Counsel (Exempt Organizations and Employment Taxes), IRS/Office of Chief Counsel (EEE)
Pamela Kinard, Special Counsel to the ACC, IRS/Office of Chief Counsel (EEE)
Lisa Mojiri-Azad, Assistant to the Branch Chief IRS/Office of Associate Chief Counsel (Income Tax and Accounting)
Angella Warren, Branch Chief, IRS/Office of Associate Chief Counsel (Income Tax and Accounting)

Dave Rifkin, Senior Attorney, IRS/Office of Chief Counsel (EEE)

CALL TO ORDER

DFO Vallabhaneni called the meeting to order at 9:14 a.m. and turned it over to Chairperson Lacey Horn.

TTAC Member Rebecca Benally provided a tribal opening

ROLL CALL

All TTAC members were present with the exception of Chairman W. Ron Allen, who joined the meeting at 10:42 a.m.

Rebecca Benally made a motion to approve the June 20, 2019, TTAC Public Meeting Minutes. Chief Lynn Malerba seconded. Motion passed unanimously.

Vice-Chair Magnuson made a motion recommending that the TTAC Charter be amended to reflect a membership start date of June 20, 2019. Councilwoman Sharon Edenfield seconded. Motion passed unanimously.

Rebecca Benally made a motion to approve the TTAC Committee bylaws. Chief Lynn Malerba seconded. Motion passed unanimously.

Rebecca Benally thanked NAFOA and NCAI for their work in supporting the TTAC

TTAC member Sharon Edenfield summarized written public comments submitted by the National Congress of American Indians, Kickapoo Traditional Tribe of Texas, Lummi Nation, Oglala Sioux Tribe, Santa Ynez Band of Chumash Indians and the Prairie Band of Potawatomi Nation. Public comments will be available on the Treasury Tribal Policy website.

Chairperson Horn invited members of the audience to make public comments.

Samuel Cohen, Government Affairs and Legal Officer, Santa Ynez Band of Chumash Indians, thanked Treasury and IRS for their recent guidance regarding the refinancing of Tribal Economic Development Bonds. He then discussed issues related to the General Welfare Exclusion and requested additional guidance on consideration for medical benefits.

Lydia Bearkiller, Office of Special Trustee Representative, Oglala Sioux Tribe, expressed concerns about the reorganizing of the IRS, including the Indian Tribal Governments office and downsizing of regional offices. A lack of regional offices to provide support to remote tribes puts a burden on these tribes. Often they need to travel great distances or need to secure expensive legal assistance to continue business operations.

Jackson S. Brossy, Executive Director, Native CDFI Network discussed the importance of the Native American CDFI Program, recommendations for examining the need for the program in Indian Country and increasing resources to the Program. He also discussed barriers to tribal participation in Opportunity Zones and New Markets Tax Credits and the negative impact of dual taxation on economic development in Indian Country.

Clint Hastings, Senior Portfolio Manager CDFI Fund, thanked Jackson S. Brossy for his comments and made recommendations to attend the CDFI Advisory Committee meetings and getting in contact with Shane Jets from the CDFI Advisory Committee who oversees lending and community development in Indian Country.

The Chair thanked the presenters for their comments and participation.

Vice-Chair Magnuson mentioned that the recently adopted bylaws require that public comments be received 15 calendar days in advance of a public meeting. This will provide adequate time to forward comments to TTAC members for consideration.

The TTAC discussed the need to develop a Priority Matrix that will define issues related to tax, propose solutions and identify action items for the TTAC to pursue.

The TTAC suggested that NAFOA would be the best choice to work with the TTAC in developing this, as they have the ability to secure feedback from tribes. Chief Lynn Malerba made a motion to request that NAFOA develop a Priority Matrix with tribal input. Vice-Chairperson Eugene Magnuson seconded, motion passed unanimously.

The TTAC then led a discussion on the General Welfare Exclusion. This is the primary statutory mandate for the creation of the TTAC. Particular emphasis was spent on the lack of definition of the terms “lavish and extravagant” as they relate to tribal benefits and income taxation. Defining these terms as they relate to benefits and taxable income will require in-depth exploration of the role that tribal culture plays in providing benefits. There was also discussion on the current moratorium on auditing tribal benefits and whether reinstituting audits would trigger a retroactive audit. IRS staff reiterated that usually audits are forward-looking. IRS staff discussed the process for removing the moratorium, which would involve issuing guidance, developing IRS field agent and tribal financial officers’ training, and then implementing that training. The TTAC and Treasury reiterated that they will be working together to provide relevant guidance and training as part of their mandate. The DFO stated that the law requires that Treasury consult with tribes regarding the definition of “lavish and extravagant”. Chairperson Horn expressed support for a “safe harbor” provision for GWE benefits.

Chairperson Horn discussed the work of the three subcommittees and the need for external experts to provide expertise on the priority issues. Chief Lynn Malerba made a motion for NAFOA to conduct a call for experts. Sharon Edenfield seconded. Motion passed unanimously.

Chief Lynn Malerba discussed the need for as many TTAC members as possible to participate in the GWE subcommittee. It was noted that the DFO will need to participate in any subcommittee meetings that involve four or more TTAC members. It was noted that Treasury’s expertise will be required in depth on GWE issues. Chief Malerba emphasized that, “It’s not about the source of funds, such as gaming or other enterprises, but more on the use of funds that create a stable community. We are in a process of nation-rebuilding.”

Sharon Edenfield, reiterated Chief Lynn Malerba's comments. She noted tribal nations are all different and the cultural significance for each tribe is different and unique and will need to be highlighted in further discussion and solutions.

Vice Chairperson Eugene Magnuson made a note that individual audits are continuing and GWE payments and other items are being scrutinized despite not being income and nontaxable. Vice-Chairperson Eugene recommended a reminder to IRS field agents concerning the moratorium on audits and the unique nature of GWE payments.

Sharon Edenfield posed a technical question, concerning the moratorium of audits and whether the audits will be retroactive following guidance.

Treasury officials provided clarity. In general, when Treasury issues guidance under a statutory provision through regulation process and most generally regulations and other guidance are prospective and there are exceptions depending on the issue, but something we will keep into consideration.

Sharon Edenfield pursued the question on the moratorium and retroactive audits.

Christie Jacobs mentioned this will be an issue to be worked out. This issue has been outstanding since 2014 and guidance has yet to be issued. Tribal officials and governments are trying to stay in compliance during this period/. She addressed a question from Vice-Chairperson Magnuson on individual audits, whereby individuals are audited because the 1099 statement submitted by the tax payer does not match the 1099 received by the IRS for tribal benefits. Letters are sent to the taxpayer requesting that they contact the IRS. . She mentioned that this outcome could be the result of a mismatch between automated records. The IRS Tribal Governments Office would encourage the tax payer to reach out to the Tribal Government office for clarification.

Chairman W. Ron Allen Joined the Meeting at 10:42 A.M. He provided comments on GWE and items to be clarified.

Rebecca Benally made comments regarding cultural and ceremonial issues under GWE.

Patricia King made comments on the use of revenue used by the nations, i.e. gaming and other enterprise dollars, which fund the services and governance. In our nation is it almost one hundred percent of gaming dollars going to those items. We pay regulatory fees which are not taxes on gaming operations. There needs to be another conversation on these items.

Chairman W. Ron Allen, mentioned planning on the training of IRS field agents and Native American finance officers. He mentioned identifying and collecting information from tribal leaders that are unique to each region and tribe in Indian Country.

Telly Meier, IRS, agreed, but reiterated that guidance needs to be issued first until considerations for training are considered.

Krishna Vallabhaneni made comments on the issuance of guidance and that this will be a consultative process. DFO Vallabhaneni went further to quote the TGWEA, “Ambiguities in section 139E of such Code [Internal Revenue Code of 1986], as added by this Act, shall be resolved in favor of Indian tribal governments and deference shall be given to Indian tribal governments for the programs administered and authorized by the tribe to benefit the general welfare of the tribal community.”

Sharon Edenfield concurred and thanked Krishna Vallabhaneni for this reference.

Chairperson Horn affirmed the discussion and agreed with the substance of the GWE conversation.

The next order of business was to identify experts to serve on a volunteer basis on TTAC subcommittees. A process will be identified after the second meeting and before the third meeting. The motion to put out a call for experts was motioned by Chief Lynn Malerba and seconded by Chairman W. Ron Allen. The motion carried unanimously.

Chief Lynn Malerba recommended and requested that each of the TTAC members be allowed to participate in conversations with the GWE subcommittee since it is integral to the mandate of the Committee.

Chairman W. Ron Allen provided support for Chief Lynn Malerba’s comments. He recommended and requested regular updates from the subcommittees.

Patricia King motioned to request that Chairman W. Ron Allen draft a purpose statement for the GWE subcommittee to help guide their work. The TTAC will review and finalize the statement. Sharon Edenfield seconded. Motion carried unanimously.

Chief Lynn Malerba led a discussion on Dual Taxation. She reiterated that the issue of dual taxation hinders economic development in Indian Country, and tribes need to have the ability to tax businesses in order to provide for tribal services. The negative externality of dual taxation in a reservation setting is compounded by the fact the non-tribal taxing municipality uses the taxes received from reservation businesses to provide services to non-tribal citizens. In effect, the tribal citizens do not receive any benefit from that taxation since tribal services are provided and financed by the tribe through their own coffers. Rebecca Benally noted that dual taxation makes investment on tribal lands unattractive to potential investors.

Vice-Chairperson Eugene Magnuson led a discussion on the dual Tribal Pension system and noted that this requires extra expense, additional compliance and results in a loss of economic investment advantages because this system leads to a lack of economies of scale for pension investments.

Patricia King made a motion to assign Chairman W. Ron Allen and Sharon Edenfield to lead the GWE subcommittee. Sharon Edenfield seconded and motion passed unanimously.

Sharon Edenfield made a motion to assign Chief Lynn Malerba and Rebecca Benally to lead the Dual Taxation subcommittee. Chairman W. Ron Allen seconded and motion carried unanimously.

Chairman W. Ron Allen made a motion for NAFOA to manage subcommittee scheduling, work plans and deliverables. Vice-Chairperson Eugene Magnuson seconded motion. Motion carried unanimously.

The TTAC emphasized the need for Treasury to provide resources to support subcommittees. IRS stated that they will be working with Treasury to provide support for subcommittee work. Vicki Judson will provide support regarding tribal pensions. Other Treasury Bureaus and Offices expressed their support for the TTAC's work.

IRS/Office of Chief Counsel staff Vicki Judson and Pamela Kinard introduced themselves to the TTAC and provided background on Tribal Pensions.

TTAC members discussed the overlap between tax policy issues and other federal agency policy issues. It was suggested that Treasury meet with other federal agencies (DOL, DOI/OST) as necessary to inform TTAC priorities.

Taxation on per capita distributions was discussed. IRS mentioned recent guidance on this issue, which will be forwarded to the TTAC.

Vice-Chairperson Eugene Magnuson called for a recess.

Break for Lunch 11:15 a.m., reconvened at 12:00 p.m.

Chairperson Horn opened the floor for Public Comments. Phillip Elli, Treasurer, Absentee Shawnee Tribe of Indians of Oklahoma, thanked the TTAC for their work on behalf of the tribes of Oklahoma.

Chairperson Horn mentioned the upcoming tribal consultations on tribally-chartered corporations on October 8, 2019, and October 10, 2019, and on Opportunity Zones on October 21, 2019.

CLOSING BUSINESS

Future Meeting Dates

The TTAC has the following future dates, subject to change:

- December 3, 2019
- March 24, 25, 26, 2020
- September 14, 15, 16 – 2020

Meeting adjourned at 12:14 p.m.

EXCERPT ON WELFARE ASSISTANCE FROM BIA FY2020 GREENBOOK

Subactivity -Welfare Assistance (TPA) (FY 2020: \$74,734,000; FTE: 0):

Program Overview:

The Welfare Assistance program offers five types of direct assistance: General Assistance, Child Assistance, Non-Medical Institutional or Custodial Care of Adults, Burial Assistance, and Emergency Assistance. The program provides financial assistance to (American Indian/Alaska Native) AI/AN who do not qualify for the HHS TANF program or have exceeded the lifetime limit for other Federal services, including TANF. It is BIA's position that Welfare Assistance programs are a secondary resource. Therefore, otherwise eligible AI/AN are assessed, screened, and referred to other public assistance programs through which they might receive direct financial assistance, such as: Foster Care Placement, Supplemental Security Insurance (SSI), Social Security Disability Insurance, medical assistance, and State-operated general assistance programs. In total, approximately 90 compacted tribes and 161 contracted tribes have joined with 47 BIA agency offices to deliver direct social services to individual AI/AN through the Welfare Assistance program.

In FY 2020, the DHS will develop a tribal and BIA working group to begin analyzing the activities and costs associated with tribal and BIA Child Welfare activities including the child assistance program.

Child Assistance is categorized under the umbrella of Welfare Assistance. However, Child Assistance is very different in intent and whom it serves than the General Assistance, Adult Care Assistance, Burial Assistance and Emergency Assistance program. Child Assistance is intended to pay for the costs for children who are placed in out-of-home care due to allegations of abuse and/or neglect. Adequate funding is necessary for tribes and BIA to meet the costs of out-of-home placement for Indian children IA-HS-5 under their care and supervision. The workgroup will be tasked to develop recommendations for the BIA and the Tribal Interior Budget Committee (TIBC) on how best Child Assistance funding should be distributed and managed by the BIA.

January 7, 2020 PL 477 Update

PL 477 Program. The PL 477 Program allows tribes and tribal organizations to design their own holistic and unique employment and training programs to meet the needs of their people by integrating eligible federal programs and their funds into one PL 477 plan, with approval of the Department of the Interior (DOI). With an approved PL 477 plan, a tribe or tribal organization may reallocate the federal funds tied to the integrated programs as it sees fit to carry out the purposes of its PL 477 plan and may use a limited portion of the funds for economic activities to create additional jobs. An approved PL 477 plan—including its integrated programs—need only be reported on once per year. Operating a PL 477 plan allows for one client intake form, one client file, one annual report, and one budget, lowering administrative costs and thereby funneling more federal funds to direct services. PL 477 plans have high employment success rates.

PL 477 Program Amendment. The PL 477 Program, codified at 25 U.S.C. §§ 3401–3417, was created in 1992 and amended in 2017 for the purposes of expanding the PL 477 Program and stopping agencies from introducing problems that reduced the PL 477 Program’s effectiveness.

Memorandum of Agreement. The 2017 amendment to the PL 477 Program called on the 12 agencies now covered by the PL 477 Program to enter into a Memorandum of Agreement (MOA). The agencies refused to implement the PL 477 Program as amended until they completed their MOA, which was released without tribal consultation in December of 2018. The MOA reintroduces many of the problems the amendment sought to fix, and it contradicts statutory language in a number of ways, including by severely restricting the programs eligible for integration into PL 477 plans and by giving agencies other than DOI authority to approve or deny program eligibility. The P.L. 102-477 Tribal Work Group (Work Group), the National Congress of American Indians, and the amendment’s congressional cosponsors formally notified the agencies of the illegality of the MOA, and on November 6, 2019, the Senate Committee on Indian Affairs held an oversight hearing.

Ongoing Efforts to Secure Amendment of MOA.

- During the oversight hearing, Chairman Hoeven requested DOI provide a report on progress made on amending the MOA within 30 days. There is more follow up taking place on this. Additionally, an oversight hearing on the House side is possible.
- The Work Group has been in contact with the White House about initiating the MOA amendment process and will continue to follow up.
- The Work Group has discussed with DOI the possibility of guidance intended to resolve some of the issues in the MOA.
- Now that agencies are denying programs for integration into PL 477 plans on unlawful bases found in the MOA, litigation on these denials is possible.
- Legislative clarifications have also been discussed.

Reporting Form Update. The agencies and Work Group are working collaboratively together to update the PL 477 reporting forms, which are a set of forms for reporting annually on PL 477 plans, to account for new programs now eligible for integration into PL 477 plans.

USDA Request for Information

the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Authority: Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Dated: December 2, 2019.

Bruce Summers,
Administrator, Agricultural Marketing Service.

[FR Doc. 2019-26542 Filed 12-9-19; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Performance Review Board Membership

AGENCY: Office of Human Resource Management, Departmental Administration, USDA.

ACTION: Notice of Performance Review Board Appointments.

SUMMARY: This notice announces the members of the Senior Executive Service (SES) and Senior Level (SL) and Scientific or Professional (ST) Performance Review Boards.

Agriculture has two PRBs with representatives from each USDA Mission Area. The PRBs are comprised of a Chairperson and a mix of career and noncareer senior executives and senior professionals that meet annually to review and evaluate performance appraisal documents. The PRB provides a written recommendation to the Secretary for final approval of each executive's performance rating, performance-based pay adjustment, and performance award. The PRBs are advised by the Office of Human Resources Management, Office of General Counsel, and Office of the Assistant Secretary for Civil Rights to ensure compliance with laws and regulations.

DATES: The board membership is applicable beginning on November 21, 2019.

FOR FURTHER INFORMATION CONTACT:

Mary Pletcher Rice, Chief Human Capital Officer, Office of Human Resources Management, telephone: (202) 756-7149, or Karleese Kelly, Chief Learning Officer, telephone: (202) 720-0185.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the USDA PRB members are named below: Abbott, Linda; Bretting, Peter; Bucknall, Janet; Davis, Scott; Denton, Angilla; Dixon, Antoine; Dombroski, Patricia; Fantinato, Jessica; Giles, Misty; Glendenning, Roger; Hamer Jr., Hubert; Harwood, Joy; Ibarra, Robert; Laconte, Cara; Liu, Simon; Long, Cynthia; Martin, Michiko; Messner, Kurt; Morris, Erin; Mulach, Ronald; Pollard, Nicole; Prestemon, Jeff; Rhoads, Matthew; Rodriguez-Franco, Carlos; Rowley, Allen; Su, Emily; Tkacz, Kailee; Tohamy, Soumaya; Walker, Lorren; Watson, Michael; Daniel Whitley; and Zakarka, Christine.

Mary Pletcher Rice,

Chief Human Capital Officer, Office of Human Resources Management.

[FR Doc. 2019-26543 Filed 12-9-19; 8:45 am]

BILLING CODE 3410-96-P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Request for information: Self-Determination Demonstration Project for Tribes That Administer the Food Distribution Program on Indian Reservations

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice; request for information

SUMMARY: This is a Request for Information to help the Secretary of the U.S. Department of Agriculture (the Secretary or USDA) develop the additional criteria, as authorized in the Agriculture Improvement Act of 2018, for a self-determination demonstration project related to the purchase of agricultural commodities for the Food Distribution Program on Indian Reservations (FDPIR). USDA requests feedback from Indian Tribal Organizations (ITOs) and State agencies that administer FDPIR, Tribal leaders and representatives, and Tribal associations. This notice is not a request for proposal and does not commit the Government to issue a solicitation, make an award, or pay any costs associated with responding to this announcement. All submitted information shall remain with the Government and will not be

returned. All responses will become part of the public record and will not be held confidential.

USDA received authority in section 4003(b) of the Agriculture Improvement Act of 2018 (Pub. L. 115-334, the 2018 Farm Bill) to establish a demonstration project for one or more Tribal Organization(s) administering FDPIR to enter into self-determination contracts to purchase agricultural commodities (which are hereafter referred to as "food(s)") for the FDPIR food package for their Indian Tribe. These Tribally purchased foods will be issued to FDPIR participants in lieu of similar USDA Foods available in the FDPIR food package. The 2018 Farm Bill authorizes up to \$5 million to remain available until expended to carry out this demonstration project; however, availability of funds is subject to Congressional appropriations.

The objective of this Request for Information is to receive feedback to assist USDA in developing the process and criteria for determining if a FDPIR Tribal Organization is eligible for a self-determination demonstration project contract, as specified in the 2018 Farm Bill under Section 4003(b)(3). USDA invites comments on specific questions included in this Request for Information (see **SUPPLEMENTARY INFORMATION**) and welcomes comments from those involved in the administration of FDPIR, Tribal leaders and representatives, and Tribal associations. USDA will use the comments in response to this Request for Information to inform the competitive process for entering into a self-determination contract(s) as required by Section 4003(b)(2) of the 2018 Farm Bill, upon receipt of Congressional appropriations. **DATES:** To be assured of consideration, written comments must be submitted or postmarked on or before February 10, 2020.

ADDRESSES: The Food and Nutrition Service, USDA, invites the submission of the requested information through one of the following methods:

- **Preferred method:** Submit information through the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the online instructions for submissions.

- **Mail:** Submissions should be addressed to Erica Antonson, Branch Chief, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Alexandria, VA 22314.

- **Email:** Send comments to FDPIR-RC@usda.gov with a subject line "FDPIR: RFI 638 Demonstration Project".

All information properly and timely submitted, using one of the three methods described above and in response to this request for information, will be included in the record and will be made available to the public on the internet at <http://www.regulations.gov>. Please be advised that the substance of the information provided and the identity of the individuals or entities submitting it will be subject to public disclosure.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of this request for information should be directed to FDPIR-RC@usda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Program Information

FDPIR provides USDA Foods to income-eligible households living on Indian reservations, and to American Indian households residing in approved areas near reservations and in Oklahoma. The Food and Nutrition Service (FNS), an agency of USDA, administers FDPIR at the Federal level. The program is administered locally by either ITOs or an agency of a State government. ITOs and State agencies, known as FDPIR administering agencies, store and distribute the foods, determine applicant eligibility, and provide nutrition education to recipients. FNS provides FDPIR administering agencies with funds for program administrative costs.

FNS has an agreement with the Agricultural Marketing Service (AMS), another agency of USDA, and the Department of Defense's Defense Logistics Agency (DLA) to buy food for the FDPIR program. Eligible households may choose from over 100 nutritious, domestically produced items across a variety of categories including meat/poultry, dairy, grains, and fruits/vegetables to make up a monthly food package benefit. In recent years, FNS has also worked to expand the availability of traditional foods as part of the food package, including bison, wild rice, wild salmon, catfish, and blue cornmeal. In addition, most FDPIR programs receive a variety of fresh produce as part of the food package. FNS also works closely with the Food Package Review Work Group, a work group comprised of Tribal representatives and Tribal nutritionists, to review the FDPIR food package on an ongoing basis with the goal of revising it to better meet the nutritional needs and food preferences of program participants. As of FY 2019, there are

approximately 276 tribes receiving benefits under FDPIR through 102 ITOs and 3 State agencies. The program serves approximately 85,000 participants on an average monthly basis.

II. 2018 Farm Bill

Section 4003(b) of the 2018 Farm Bill authorizes a demonstration project for one or more Tribal Organization(s) within the FDPIR to enter into self-determination contracts to procure foods to supplant FDPIR foods purchased by USDA for their Indian Tribe. Self-determination contracts are also known as 638 Contracts in reference to Public Law 93-638, the Indian Self-Determination and Education Assistance Act. This authority allows Tribal Organizations to take on a larger administrative role in delivering federally funded services and to have more control over the governmental affairs of their Organizations, fostering further self-governance. The 2018 Farm Bill provision under Section 4003(b) supports Tribal Organization self-governance by specifically allowing Tribal Organizations to procure foods instead of USDA.

The 2018 Farm Bill specifically provides the following on Tribal Organization eligibility and procurement of foods for this demonstration project:

Tribal Organization Eligibility (Section 4003(b)(3)(B))

- A Tribal Organization(s) must be successfully administering FDPIR;
- A Tribal Organization(s) must have capacity to purchase agricultural foods following the criteria listed under Procurement of Agricultural Commodities in section 4003(b)(4) below; and
- A Tribal Organization(s) must meet any other criteria determined by the Secretary, in consultation with the Secretary of Interior and Indian tribes.

Procurement of Agricultural Commodities (Section 4003(b)(4))

- A Tribal Organization(s) must be able to procure foods that are domestically produced for this demonstration project;
- Food(s) selected for this demonstration project will supplant, not supplement, the type of agricultural food(s) currently available in the FDPIR food package;
- Food(s) selected for this demonstration project must be of similar or higher nutritional value than the food(s) it is supplanting in the existing FDPIR food package; and

- Food(s) selected for this demonstration project must meet any other criteria determined by the Secretary.

The specific requirements noted above will inform which Tribal Organization(s) are eligible to participate in the demonstration project. Eligible Tribal Organizations will have an opportunity to apply for participation based on a process to be determined and informed by answers to the questions below.

III. Questions

USDA requests that commenters respond in detail to any or all of the items below to help inform who may be eligible for a self-determination contract under Section 4003(b) of the 2018 Farm Bill. Please provide any material that addresses the information requested or any other information that may be pertinent. USDA will consider comments that may require regulatory changes. Additional references or links to materials are welcome.

1. What process should be used to determine which Tribal Organizations should be selected to participate in this demonstration project given that project funds are limited?
2. What, if any, additional criteria should be established for a Tribal Organization to be considered eligible to participate in this demonstration project?
3. What factors should be considered in determining whether a Tribal Organization has the capacity to purchase agricultural foods for this demonstration project?
4. Are there any specific criteria that should be given priority in the selection process?

Dated: December 5, 2019.

Pamilyn Miller,

Administrator, Food and Nutrition Service.

[FR Doc. 2019-26565 Filed 12-9-19; 8:45 am]

BILLING CODE 3410-30-P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Oregon Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the meeting of the Oregon Advisory Committee (Committee) to the Commission will be held at 12:00 p.m.

SGAC Comments Submitted to Department of Transportation

DOI SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication and Education

314 W. 14th Place, Tulsa, OK 74119

Telephone (918) 302-0252 ~ Facsimile (918) 423-7639 ~ Website: www.tribalselfgov.org

Uploaded electronically: www.regulations.gov

Docket Name: Tribal Transportation Self-Governance Program

Docket Number: (DOT-OST-2018-0104)

December 2, 2019

Office of the Secretary
U.S. Department of Transportation
Docket Operations
M-30, West Building Ground Floor, Room W12-140
1200 New Jersey Avenue SE
Washington, DC 20590

**Re: Department of the Interior Self-Governance Advisory Committee Comments
Regarding Proposed DOT Self-Governance Program Regulations 49 CFR 29,
DOT-OST-2018-0104, RIN 2105-AE71**

Dear Sir/Madam:

On behalf of the Department of the Interior Self-Governance Advisory Committee (SGAC), we write to provide our comments to the U.S. Department of Transportation's proposed rule to establish and implement the Tribal Transportation Self-Governance Program (TTSGP or Program), as authorized by Section 1121 of the Fixing America's Surface Transportation (FAST) Act, 49 C.F.R. 29.

The SGAC is comprised of Tribes and Tribal organizations from across the United States, who operate Self-Governance compacts and contracts under the Indian Self-Determination and Education Assistance Act (ISDEAA), P.L. 93-638 within the U. S. Departments of Interior (DOI) and Health and Human Services (HHS). Many Self-Governance Tribes perform transportation planning, design, construction and maintenance activities through the Bureau of Indian Affairs Transportation Department, or in partnership with the (DOT) through the Federal Highways Administration (FHWA) Program Agreements. Self-Governance Tribes have supported and advocated for the DOT Self-Governance Program in the latest statutory FAST Act authorization and are excited to see its inclusion.

This new Self-Governance program within DOT is an important step forward for expanding Tribal Self-Governance and Tribal sovereignty and we commend the DOT's efforts to develop and support this new program. The SGAC supports the proposed rule as it has been developed through a close working relationship between DOT and Tribes in the negotiated rulemaking process. The draft rule reflects most Self-Governance principles carried over from DOI and IHS Self-Governance principles and regulations, and improves on some of these processes.

A hallmark of Self-Governance is the ability of tribes to redesign/reprogram and reallocate programs, services, functions and activities (PSFAs) without interference or approval by federal agencies. However, the self-governance provisions in the FAST Act require that tribes administering DOT Self-Governance Programs can only redesign/reprogram or reallocate PSFAs on projects identified in a tribal transportation improvement program, which must be approved by the DOT Secretary (See 23 U.S.C. § 207 (e)(1)(A)(ii)(I)). The SGAC believes the practice of submitting program plans for any reason to the DOT for approval undermines Tribal Self-Governance; such program flexibility allows tribes to adjust PSFAs based on what their community, rather than what the agency, needs. The language proposed in Section 310 allows for redesign/reprogram and reallocation, provided that such funds are expended on projects identified in a tribal transportation improvement program (TIP) approved by the Department “where statutorily required.” We urge the Department to implement this provision so that the Department is complying with Section 2(a) and (g) which provide that the Department shall “support Tribal sovereignty and self-determination” and “liberally construe this part to effectuate 23 U.S.C. 207 for the benefit of Tribes participating in this Program.” This means that the Department’s only involvement will be to approve the TIP, and not to otherwise be involved in a Tribe’s decisions regarding redesign, reprogram, and reallocation of tribal PSFAs and associated funding.

Our understanding is that during the rulemaking negotiations, the Department advised that there are instances where it may not be possible for the Department to disburse funding as quickly as the ISDEAA requires, particularly where the statute requires the transfer of funding not more than ten days from the time the funding is made available for the Department. 25 U.S.C. § 5388(a). Consequently, Sections 403 and 404 as written allow for a 30-day time period in this regulation, with the understanding that the Department work to improve its system such that they are able to meet a 10-day requirement. However, the statutory terms require that the transfer of funds “shall be made not later than 10 days after the apportionment of such funds by the Office of Management and Budget to the Department, ***unless the funding agreement provides otherwise.***” *Id.* Rather than adopt a regulation inconsistent with the statutory requirements, the Department should comply with the ten-day requirement, unless a tribe agrees to a different time frame in its individual funding agreement. For this reason, Section 403 should be modified to match the statutory requirements and to read as follows:

“...the Department will make the first transfer no later than ~~30~~ **ten** days after the apportionment of such funds by the Office of Management and Budget to the Department, unless the funding agreement provides otherwise.”

The Preamble to the proposed rule includes four areas of disagreement: 1) whether to establish an Office of Self-Governance in the DOT and create a Self-Governance advisory committee; 2) whether Tribes should be entitled to contract support costs as additional funding to the direct funding they receive under this program; 3) whether Tribes should be able to receive lease payments for facilities a Tribe makes available to the program; and, 4) whether the DOT may require that a Tribe exhaust administrative remedies for pre-award decisions, other than final offers, as a pre-condition to the Tribe filing suit in Federal court.

The SGAC strongly supports the Tribal view reflected in the Preamble on these four disagreement items, for the reasons provided in the Preamble expressed by the Tribal representatives on the Negotiated Rulemaking Committee.

To the extent DOT is making an effort to identify those who will liaison with Tribes internally for the DOT Self-Governance Program, and express that they might at some point develop an Office of Self-Governance, we support those efforts. We believe though, that such an Office should be created and maintained immediately so that it is a resource for Tribes as this program continues to be established and becomes operational. Tribes need to have one office and staff within DOT to work with them as they consider what programs to assume.

The SGAC believes contract support costs and lease payments, and the provisions allowing Tribes to receive these payments that are incorporated into Section 207, are not in conflict with the statute. We know from experience that without a separate pool of contract support funding to pay for administrative costs of running transportation programs, Tribes will have to cannibalize program funding, and the result is less resources for infrastructure development for our regions.

Though there are still disagreement items, as mentioned in the Preamble, there was consensus among the Tribal and Federal officials on the Negotiated Rulemaking Committee on 25 major issue areas that now comprise the vast majority of the tentatively agreed upon provisions in the proposed rule. This is a major accomplishment. The SGAC appreciates the work and the product as reflected in the proposed rule.

Thank you for your consideration.

Sincerely,



W. Ron Allen, Tribal Chairman/CEO
Jamestown S'Klallam Tribe
Chairman, Self-Governance Advisory Committee

Attorney General's Advisory Subcommittee

DOJ Strategy on MMIP

Executive Order on MMIP

ATTORNEY GENERAL'S ADVISORY SUBCOMMITTEE ON NATIVE AMERICAN ISSUES MEETS IN NEW MEXICO

August 30, 2019

U.S. Attorneys Visit Santa Ana and Acoma Pueblos, Discuss Missing and Murdered People, and Strategies to Reduce Crime and Violence in Indian Country

The Attorney General's Advisory Subcommittee on Native American Issues (NAIS) convened August 28-30, in Santa Ana Pueblo, New Mexico, to discuss crime reduction strategies and victim services in Indian country. The NAIS consists of 53 U.S. Attorneys serving in districts that include Indian country or one or more federally recognized tribes and makes policy recommendations to Attorney General William Barr regarding public safety and legal issues in tribal communities.

On Wednesday, August 28, U.S. Attorney Trent Shores of the Northern District of Oklahoma and NAIS Chair, U.S. Attorney John Anderson of the District of New Mexico, and Governor Timothy Menchego of the Pueblo of Santa Ana provided opening remarks.

The morning's first panel discussion centered on missing and murdered indigenous persons and was led by NAIS Vice Chair, U.S. Attorney Kurt Alme of the District of Montana. Panelists included Director Tracy Toulou of the Office of Tribal Justice, Department of Justice; Charles Addington, BIA Office of Justice Services; Supervisory Special Agent Briana Grant of the FBI Indian Country and Violent Crimes Unit. Panelists discussed tools for gathering and maintaining accurate missing persons data in Indian Country and guidelines and protocols for reporting and investigating murdered and missing persons cases.



US Attorneys met with Pueblo of Acoma and toured Sky City, the oldest continuously inhabited settlement in North America.

During the panel, the NAIS reaffirmed its support for legislative efforts to address missing and murdered women and girls, including the goals of Savanna's Act. Learn more about Savanna's Act [here](#). The NAIS also joined with Department of Justice officials in announcing the expansion of the Justice Department's Tribal Access Program (TAP) in Indian country. TAP is a crucial tool for Indian Country law enforcement, especially when responding to murdered and missing cases. TAP provides federally recognized tribes the ability to access and exchange data with national crime information databases for both civil and criminal purposes and provides training as well as software and biometric/biographic kiosk workstations to process finger and palm prints. TAP also gives Tribes the ability to take mugshots and submit information to FBI CJIS. By the end of 2019, TAP will be deployed to more than 70 tribes with over 300 Tribal agencies participating. Nationwide, tribal leaders who utilize TAP have consistently discussed the benefits of the program with U.S. Attorneys serving on the NAIS and tribal liaisons.

The Justice Department will accept TAP [applications](#) from September 1 through October 31, 2019. Eligible tribes that are selected for participation will be notified in November. Learn about the fifth expansion of the program [here](#).



U.S. Attorneys and their tribal liaisons met with the Pueblo of Acoma during the NAIS meeting held August 28-30, 2019

The afternoon session kicked off with remarks from Principal Deputy Assistant Attorney General Katharine Sullivan of the Office of Justice Programs, identifying grants available to improve public safety in Indian country and rural Alaska. Ms. Sullivan leads the Department of Justice's principal funding, research and statistical component, overseeing more than \$5 billion in grants and other resources to support state, local and tribal criminal and juvenile justice activities and victim services.

U.S. Attorney Bill Williams of the District of Oregon, led a panel highlighting drug trafficking strategies. The panel reiterated the importance of collaborative multi-agency efforts and showcased examples of disruption and deterrence of illicit drug rings.

Wednesday's agenda also included a panel discussion that focused on investigating and prosecuting sex crimes perpetrated against Native American children. U.S. Attorney Erica McDonald of the District of Minnesota led the panel, which focused on the importance of multi-disciplinary teams and coordination with tribal services.

On Thursday, August 29, the NAIS traveled to the Pueblo of Acoma. NAIS members and tribal liaisons were greeted by Governor Brian Vallo who took part in discussions about building cultural understanding when working with Native American and Alaska Native peoples. The Pueblo of Acoma provided a tour of Sky City Cultural Center and Haak'u Museum. Sky City is the oldest continuously inhabited settlement in North America and is of significant cultural value to the Pueblo of Acoma and the state of New Mexico.

U.S. Attorneys and their tribal liaisons met with the Pueblo of Acoma Thursday and visited Sky City, the oldest continuously inhabited settlement in North America

In addition, Phillip Francisco, Chief of Police for the Navajo Nation, joined a panel discussion on law enforcement resources in Indian country. The panel stressed the importance of recruiting and retaining officers and investigators to serve in Indian country. U.S Attorney Ron Parsons of South Dakota led the discussion.

The day ended with a panel addressing tools to help protect Native cultural patrimony, including the Indian Arts and Crafts Act, Native American Graves Protection and Repatriation Act (NAGPRA), and the Archaeological Resources Protection Act (ARPA). The Indian Arts and Crafts Act of 1990 is a truth-in-advertising law that prohibits misrepresentation in the marketing of Indian arts and crafts products within the United States. NAGPRA is a federal law passed in 1990, providing a process for museums and federal agencies to return certain Native American cultural items—human remains, funerary objects, sacred objects, or objects of cultural patrimony—to lineal descendants, and culturally affiliated Indian tribes and Native Hawaiian organizations. ARPA secures, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands.

On Friday, August 30, U.S. Attorneys met in breakout sessions to discuss the subcommittee's four priority areas in Indian country and rural Alaska: violent crime, drug trafficking, law enforcement resources, and white collar crime.

JUSTICE NEWS

Department of Justice
Office of Public Affairs

FOR IMMEDIATE RELEASE

Friday, November 22, 2019

ATTORNEY GENERAL WILLIAM P. BARR LAUNCHES NATIONAL STRATEGY TO ADDRESS MISSING AND MURDERED INDIGENOUS PERSONS

Federal prosecutors and the FBI to enhance investigations into Missing Persons, and Develop Protocols for Law Enforcement, Improvements to Data Collection and Analyses, Training and Technical Assistance

Attorney General William P. Barr today launched a national strategy to address missing and murdered Native Americans. The Missing and Murdered Indigenous Persons (MMIP) Initiative places MMIP coordinators in 11 U.S. Attorney's offices who will develop protocols for a more coordinated law enforcement response to missing cases. The plan also calls for the deployment of the FBI's most advanced response capabilities when needed, improved data collection and analysis, and training to support local response efforts.

Attorney General Barr made the announcement during a visit to the Flathead Reservation in Montana, home of the Confederated Salish and Kootenai Tribes (CSKT). In addition, the Attorney General met with the CSKT MMIP working group and the CSKT Tribal Council. He was joined by U.S. Attorney Kurt Alme, vice chair of the Attorney General's Native American Issues Subcommittee (NAIS), whose office has been in the forefront of this issue.

"American Indian and Alaska Native people suffer from unacceptable and disproportionately high levels of violence, which can have lasting impacts on families and communities. Native American women face particularly high rates of violence, with at least half suffering sexual or intimate-partner violence in their lifetime. Too many of these families have experienced the loss of loved ones who went missing or were murdered," said Attorney General William P. Barr. "This important initiative will further strengthen the federal, state, and tribal law enforcement response to these continuing problems."

"The FBI recognizes the violence that tribal communities face and is fully committed to working with our federal, state, local, and tribal law enforcement partners to provide support to those impacted by these crimes," said FBI Director Christopher Wray. "We are dedicated to delivering justice and to the FBI's mission to protect all the people we serve. We reaffirm our focus on allocating resources to serve Native American needs."

“In Montana, we recognize that Native American women face too much violence, and too often go missing and are murdered,” said U.S. Attorney for the District of Montana Kurt Alme. “The missing need to be found and brought home, murderers and abusers must be brought to justice, and violence against women must stop. With the Attorney General’s leadership, this initiative will provide an improved, nationally coordinated response when a Native American goes missing. It will complement the steps taken by our office this year to bring public training to all seven Montana reservations on how to find missing loved ones; to partner with the Montana Department of Justice (MTDOJ), the FBI and the BIA to provide two statewide trainings on using missing persons databases and alerts; and to partner with the MTDOJ and the tribes on the statewide missing indigenous persons task force to collectively find solutions to this issue.”

“Tribal leaders from across America have spoken, and we have listened,” said U.S. Attorney Trent Shores for the Northern District of Oklahoma and NAIS Chairman. “Now is the time for action. For far too long Native Americans and Alaska Natives, especially women, have experienced unacceptably high rates of violence. Attorney General Barr’s Missing and Murdered Indigenous Persons Initiative will enhance public safety partnerships in Indian Country while also helping provide justice to families mourning a murder victim or assistance to communities searching for a missing friend or neighbor.”

“We’re honored to host Attorney General William Barr to the homeland of the Confederated Salish and Kootenai Tribes,” said CSKT Chairman Ronald Trahan. “There are many issues we’d like to discuss including one that is particularly important, the Missing and Murdered Indigenous Persons efforts. Knowing that Attorney General Barr is working to secure the safety of our people brings us comfort in the face of a challenging issue.”

The strategy has three parts:

Establish MMIP coordinators: The Department of Justice is investing an initial \$1.5 million to hire 11 MMIP coordinators in 11 states to serve with all U.S. Attorney’s offices in those states, and others who request assistance. The states are Alaska, Arizona, Montana, Oklahoma, Michigan, Utah, Nevada, Minnesota, Oregon, New Mexico, and Washington state. MMIP coordinators will work closely with federal, tribal, state and local agencies to develop common protocols and procedure for responding to reports of missing or murdered indigenous people. The first MMIP coordinator is already on board in Montana.

Specialized FBI Rapid Deployment Teams: The strategy will bring needed tools and resources to law enforcement. Upon request by a tribal, state, or local law enforcement agency the FBI will provide expert assistance based upon the circumstances of a missing indigenous persons case. FBI resources and personnel which may be activated to assist with cases include: Child Abduction Rapid Deployment (CARD) teams, Cellular Analysis Support Teams, Evidence Response Teams, Cyber Agents for timely

analysis of digital evidence/social media, Victim Services Division Response Teams, and others. MMIP coordinators will assist in developing protocols.

Comprehensive Data Analysis: The department will perform in-depth analysis of federally supported databases and analyze data collection practices to identify opportunities to improve missing persons data and share the results of this analysis with our partners in this effort.

More broadly, the MMIP Initiative will involve a coordinated effort by more than 50 U.S. Attorneys on NAIS, the FBI, the Office of Tribal Justice, with support from the Office of Justice Programs (OJP) and the Office on Violence Against Women (OVW).

Today's announcement follows the August **NAIS meeting** in New Mexico and **OVW listening session** in Michigan, where Missing and Murdered Indigenous Persons and violence against women in Indian country were prevalent topics of discussion by U.S. Attorneys, OVW officials, and tribal representatives.

Presidential Documents

Title 3—**Executive Order 13898 of November 26, 2019****The President****Establishing the Task Force on Missing and Murdered American Indians and Alaska Natives**

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to enhance the operation of the criminal justice system and address the legitimate concerns of American Indian and Alaska Native communities regarding missing and murdered people—particularly missing and murdered indigenous women and girls—it is hereby ordered as follows:

Section 1. Purpose. My Administration has heard the ongoing and serious concerns of tribal governments regarding missing and murdered members of American Indian and Alaska Native communities, particularly women and girls. To address the severity of those concerns, top officials within the Federal Government will coordinate and engage with the tribal governments.

Sec. 2. Establishment. (a) There is hereby established the Task Force on Missing and Murdered American Indians and Alaska Natives (Task Force), co-chaired by the Attorney General and the Secretary of the Interior (Secretary) or their designees.

(b) The Department of Justice shall provide funding and administrative support as may be necessary for the performance and functions of the Task Force. The Attorney General, in consultation with the Secretary, shall designate an official of the Department of Justice to serve as the Executive Director of the Task Force, responsible for coordinating its day-to-day functions. As necessary and appropriate, the Co-Chairs may afford the other members of the Task Force an opportunity to provide input into the decision of whom to designate as the Executive Director.

Sec. 3. Membership. (a) In addition to the Co-Chairs, the Task Force shall be composed wholly of full-time, or permanent part-time, officers or employees of the Federal Government and shall include the following members:

- (i) the Director of the Federal Bureau of Investigation;
- (ii) the Assistant Secretary for Indian Affairs, Department of the Interior;
- (iii) the Director of the Office on Violence Against Women, Department of Justice;
- (iv) the Director of the Office of Justice Services, Bureau of Indian Affairs, Department of the Interior;
- (v) the Chair of the Native American Issues Subcommittee of the Attorney General's Advisory Committee;
- (vi) the Commissioner of the Administration for Native Americans, Department of Health and Human Services; and
- (vii) such representatives of other executive departments, agencies, and offices as the Co-Chairs may, from time to time, designate.

(b) In performing the functions set forth in sections 4 and 5 of this order, the Co-Chairs and members may designate representatives of their respective departments, agencies, offices, or entities under their direction to participate in the Task Force as necessary, and the Co-Chairs may also direct coordination with other Presidential task forces. In carrying out its functions, the Task Force shall coordinate with appropriate White House officials, including the Senior Counselor to the President, the Assistant

to the President for Domestic Policy, and the Deputy Assistant to the President and Director of Intergovernmental Affairs.

Sec. 4. *Mission and Functions.* (a) The Task Force shall:

(i) conduct appropriate consultations with tribal governments on the scope and nature of the issues regarding missing and murdered American Indians and Alaska Natives;

(ii) develop model protocols and procedures to apply to new and unsolved cases of missing or murdered persons in American Indian and Alaska Native communities, including best practices for:

(A) improving the way law enforcement investigators and prosecutors respond to the high volume of such cases, and to the investigative challenges that might be presented in cases involving female victims;

(B) collecting and sharing data among various jurisdictions and law enforcement agencies; and

(C) better use of existing criminal databases, such as the National Missing and Unidentified Persons System (NamUs), the National Crime Information Center (NCIC), and the Combined DNA Index System (CODIS) including the National DNA Index System (NDIS);

(iii) establish a multi-disciplinary, multi-jurisdictional team including representatives from tribal law enforcement and the Departments of Justice and the Interior to review cold cases involving missing and murdered American Indians and Alaska Natives;

(iv) address the need for greater clarity concerning roles, authorities, and jurisdiction throughout the lifecycle of cases involving missing and murdered American Indians and Alaska Natives by:

(A) developing and publishing best-practices guidance for use by Federal, State, local, and tribal law enforcement in cases involving missing and murdered American Indians and Alaska Natives, to include best practices related to communication with affected families from initiation of an investigation through case resolution or closure;

(B) facilitating formal agreements or arrangements among Federal, State, local, and tribal law enforcement to promote maximally cooperative, trauma-informed responses to cases involving missing and murdered American Indians and Alaska Natives;

(C) developing and executing an education and outreach campaign for communities that are most affected by crime against American Indians and Alaska Natives to identify and reduce such crime; and

(D) developing, in partnership with NamUs, a public-awareness campaign to educate both rural and urban communities about the needs of affected families and resources that are both needed and available.

Sec. 5. *Reporting.* (a) No later than 1 year after the date of this order, the Task Force shall develop and submit to the President, through the Assistant to the President for Domestic Policy, a written report regarding the activities and accomplishments of the Task Force, the status of projects the Task Force has not yet completed, and specific recommendations for future action of the Task Force.

(b) No later than 2 years after the date of this order, the Task Force shall develop and submit to the President, through the Assistant to the President for Domestic Policy, a final written report regarding the activities and accomplishments of the Task Force.

Sec. 6. *Termination.* The Task Force shall terminate 2 years after the date of this order, unless otherwise directed by the President.

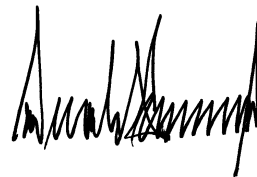
Sec. 7. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
November 26, 2019.

[FR Doc. 2019-26178
Filed 11-29-19; 11:15 am]
Billing code 3295-F0-P

Budget Update

SGAC Budget Update

FY 2019

The 2019 enacted budget for BIA/BIE was \$3.081 billion, which is actually a decrease of \$3 million over the 2018 enacted budget. The budget was flat, with just a few small increases in Road Maintenance, Natural Resources, Real Estate Services, Public Safety, Courts, and Contract Support. All of the Administrations proposed cuts were rejected.

In Public Safety, it is noteworthy that there was an increase of \$750,000 in Criminal Investigations & Police Services to address opioids, bringing the FY 2019 opioid assistance level to \$8.2 million, all of which is directed to more police officers in Indian Country. There was a \$2 million increase in Detention, which is to fund approximately 25 new correctional staff at detention facilities throughout Indian Country. And, there was a \$1.5 million increase in Tribal Courts, to be distributed pro rata.

In an effort to end the government shutdown, the House was forced to re-pass the FY 2019 Interior bill, at the lower Senate numbers. This resulted in the BIA getting \$26.5 million less in FY 2019, than what the full House had originally approved last July. So, the government shutdown caused a real loss in much needed funding because the regular appropriations process was upended.

FY 2020 President's Budget

The President's FY 2020 budget request separated BIA and BIE into two components. Combined, the President's budget for BIA/BIE was \$2.789 billion, which is \$291.7 million less than the FY 2019 enacted budget. This represents a 9.5% cut. Last year the President's FY 2019 budget request proposed a massive \$665 million cut to BIA/BIE, and this was by far the largest proposed cut to any Interior agency. The FY 2020 proposed cut to BIA/BIE is actually the smallest proposed cut to any Interior agency percentage-wise, so it might be said there has been some progress compared to last year.

It should be noted that no cuts were requested to the top 11 TIBC FY 2020 Budget Priority Rankings, except in the case of Tribal Scholarships and HIP, both of which were proposed for elimination. Most of the proposed cuts in FY 2020 were in construction programs.

There were a number of programs proposed for elimination in the FY 2020 budget including Small & Needy Tribes, HIP, Tribal Scholarships and other Higher Education Scholarships, Climate Resilience, Indian Guaranteed Loan Program, Litigation Support, Other Indian Rights Protection, Replacement School and Facilities Construction.

In FY 2019 and FY 2018, the Administration had proposed elimination of the Tiwahe Initiative and its funding, although Congress restored it each year. In FY 2020, the President's budget includes all of the Tiwahe funding at the FY 2019 level, however, the word "Tiwahe" does not appear in the BIA's FY 2020 Budget Justification (Greenbook).

FY 2020 Interior Appropriations Bill

On June 25, the House passed an FY 2020 Mini-bus package of five appropriations bills, including the Interior Appropriations bill. The bill included \$3.5 billion for BIA/BIE, which was \$432 million above the FY 2019 enacted level - by far the greatest increase ever recommended.

On October 31, the Senate delivered to tribes a Trick, not a Treat, with passage of their version of the

2020 Interior bill. The total for BIA & BIE was \$3.1 billion, a very disappointing \$50 million increase over 2019, half of which was court-mandated Contract Support Costs.

The final FY 2020 Interior bill was enacted on December 20, 2019. Funding for BIA and BIE was better than the Senate recommendation but much less than the House. The total for BIA and BIE is \$3.223 Billion, which is \$142.3 million above the 2019 enacted level. Of this total, \$2.032 Billion is for BIA, and \$1.191 Billion is for BIE. As in FY 2018 and 2019, all of the President's proposed cuts were rejected.

Some highlights of the House FY 2020 Interior bill for BIA/BIE include:

Human Services

- Housing Improvement Program increased by \$2 million
- Full funding for Tiwahe Initiative programs and activities at the FY 2019 level

Trust Natural Resources

- Total increase of \$20 million across several programs including Natural Resources General, Rights Protection Implementation, Tribal Management/Development, Endangered Species, Cooperative Landscape Conservation (Climate Resilience), Agriculture, Forestry, Water Resources, and Fish, Wildlife & Parks.

Trust Real Estate Services

- Total increase of \$7.4 million including increases for Environmental Quality TPA, Environmental Quality Projects, Rights Protection TPA, and Water Rights Negotiation/Litigation.

Public Safety & Justice

- Criminal Investigations & Police Services increased by \$2.6 million
 - Detention/Corrections increased by \$2.4 million for tribally-operated detention facilities
 - Law Enforcement Special Initiatives increased by \$4.5 million
 - Tribal Justice Support increased by \$3 million to implement VAWA
 - Facilities Operation and Maintenance increased by \$4.5 million
 - Tribal Courts increased by \$5.3 million
- At least \$3.5 million of the Public Safety & Justice increases is to assist with the crisis of Missing and Murdered Indigenous Women

Community and Economic Development

- Job Placement & Training increased by \$1 million
- Economic Development increased by \$1 million
- \$3 million grant program for native language and immersion activities for students in non-BIE schools

Executive Direction and Administrative Services increased by \$4.5 million

Public Safety & Justice Construction

- Facilities Replacement & New Construction increased by \$7.5 million

Bureau of Indian Education

- ISEP Formula Funds increased by \$11 million

- Education Program Enhancements increased by \$2 million
- Facilities Operations & Maintenance increased by \$7 million
- Johnson O'Malley increased by \$5.4 million
- Haskell & SIPI increased by \$1 million
- Tribal Colleges & Universities increased by \$4 million
- Education Program Management increased by \$7.2 million

Education Construction

- Replacement School Construction increased by \$10 million

The President's FY 2021 budget is slated to be released on February 10, 2020, one day in advance of the House Interior Appropriations Subcommittee's Tribal Witness hearings on February 11 and 12.

BIA Tribal Climate Resilience Funds Excluded from Self Governance Compacts/Contracts

The Tribal Climate Resilience program is also known as the Cooperative Landscape Conservation program. It has multiple names because of differing political views of the Climate Change issue. It has been a recurring BIA Trust Natural Resources program, funded at \$10 million per year, since 2004. Congress increased the funding for this program to \$15 million in FY 2020. The program provides funds to tribes, inter-tribal organizations, and tribal colleges to develop climate adaptation and implementation strategies based on an application process. The process for distributing these funds is similar to a number of other BIA Trust Natural Resources programs including but not limited to Invasive Species, Noxious Weed Eradication, Endangered Species, Fish Hatchery Maintenance, Tribal Youth Initiative, and Water Management Planning and Pre-Development.

About five years ago, the BIA proposed to move several BIA Trust Natural Resource programs to an application process through Grants.Gov. This proposal was strongly objected to by the Tribal Interior Budget Council, and Indian Affairs Leadership said they would scrap the idea. But someone didn't get the memo, because a couple of years ago BIA snuck this program onto Grants.Gov, and now tribes must go through this process to obtain climate funds. It is the only BIA budget line to do so.

Self-governance tribes are eligible to apply for Climate Resilience funds, but if a self-governance tribe goes through the Grants.Gov process to apply, and if they receive an award, the funding is NOT distributed to the tribe through its self-governance agreement. OSG never sees these funds and they're not tracked through the OSG database (the funds come by way of a separate non-self-governance ASAP distribution). This creates particular difficulties for self-governance tribes, who track and monitor their BIA funding through OSG and the OSG database.

So here we have a significant (\$15 million) BIA tribal budget line item that is excluded from self-governance. This never should have been allowed to happen in the first place, as the BIA effectively manages numerous application-based funding programs.

As a somewhat humorous close to this topic, at the 2015 TIBC National BIA Budget meeting, after the regions gave their budget presentations, Larry Roberts, then Deputy Assistant Secretary, quipped: "I loved the Ghost Buster slide"





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