MEMORANDUM

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FROM: JOE TALLAKSON

DATE: March 30, 1988

SUBJECT: SELF-GOVERNANCE DEMONSTRATION PROJECT “OBSTACLES REPORT,” DATA COLLECTION AND CONSOLIDATION.

On December 22, 1987 the U.S. Congress established the Self-Governance Demonstration Project (SGDP). It appropriated $1,000,000 to support the first years' planning process and directed that Indian governments participating in the planning processes will submit a consolidated report describing obstacles experienced during the process, and suggested remedies. In compliance with this requirement, Indian governments participating in the Self-Governance Demonstration Project are obliged to establish internal procedures to monitor obstacles experienced during the course of the planning process. The findings resulting from monitoring procedures are expected to be consolidated into a single report to the U.S. House Interior Appropriations Committee by September 1, 1988.

While participating governments conduct monitoring procedures, a joint process obstacles monitoring procedure was authorized by a decision of the Self-Governance Heads of Government meeting in Albuquerque, NM and Washington, DC in January 1988.

Though each government will likely conduct “Process Monitoring Procedures” according to prevailing local conditions, the obligation to produce a report demands that minimal standards for data collection be met—particularly to meet the goal of a consolidated report. Accordingly, the following suggestions are made to meet minimal standards.

PROCESS OBSTACLE MONITORING SCOPE:

The Planning Phase of the Self-Governance Demonstration Project must be viewed in a context separate from the actual execution of the Self-Governance Demonstration Project itself. Within a one to two year period, individual Indian governments will conduct planning, research and organizational activities to form the basis of a later decision whether to negotiate a Self-Governance agreement with the United States government or not. During this period, Indian governments may encounter bureaucratic, legislative, legal and/or political obstacles which obstruct their planning progress, their ability to make decisions and/or their overall ability to achieve self-governance goals.
Identification of these obstacles is essential to the determination of how or whether Indian Nations can achieve an acceptable level of self-governance. Understanding these obstacles is also important to future decisions by Indian Governments and the United States Congress. After identifying and understanding obstacles to Self-Governance Planning, it is important to determine the possible remedies which may remove obstacles in the future.

OVERVIEW & DEFINITIONS

The Self-Governance Demonstration Project, by its very existence as a consequence of decisions by the U.S. government and ten Indian governments, constitutes a basic departure from patterns of relationships that have evolved over decades. The basic premise of SGDP is that Indian governments may assume direct control over funds and functions now performed by the U.S. Department of the Interior, and, implicitly the powers associated with such control. Such a possibility threatens the bureaucratic foundations of U.S. governmental agencies which provide funding to Indian Nations, or administer services to Indian people. Political figures and private individuals who depend on the current relationship between Indian Nations and the U.S. bureaucracy for their livelihood may perceive the possibility of new Indian government controls and powers as a threat. Organizations, businesses and associations which depend on the existing relationship may also perceive an implicit threat to their interests if there is a shift of control and power. To the extent that U.S. agency personnel, political officials, private individuals, businesses and organizations perceive a threat to their interests, there may be formal or informal efforts to obstruct Indian government planning. Their may also be a tendency to obstruct the actual implementation of the Self-Governance Demonstration Project for those Indian governments which successfully negotiate a Self-Governance Agreement with the United States Government.

In addition to the possibility of intentional bureaucratic, legal, political and legislative obstacles, there is the possibility of institutional obstacles which are unintentional. These might include provisions in a Tribal constitution, a treaty, Tribal laws, regulations or policies, and/or U.S. constitutional, treaty, legal, regulatory or policy obstacles. In other words, there may be internal or external, intentional or unintentional obstacles to achieving Self-Governance.

An obstacle, therefore, may be defined as Any intentional or unintentional action by an individual, group, organization, institution or government internal or external to an Indian Nation which tends to hinder or obstruct Indian government Self-Governance planning, negotiations or implementation.

METHODOLOGY

The U.S. Congress expressed in its appropriations language establishing the Self-Governance Demonstration Project its desire for Indian governments to suggest possible remedies to obstacles encountered during the planning period. To comply with this
request, obstacles encountered during the planning process must first be documented, then evaluated. Based on systematic evaluation and analysis, each Indian government may suggest specific remedies to remove obstructions to the self-governance process.

TRIBAL GOVERNMENT LEVEL MONITORING

Each participating Indian government will assign a single individual responsible for gathering and documenting "process obstacles information." When an obstacle is said to be identified by appropriate tribal officials, the person in charge of gathering and documenting "process obstacles information" will prepare a written report using a standardized "Obstacles Report." If the identified obstacle is already in written form, the person in charge will complete the "Obstacles Report" and attach copies of the documents.

When an obstacle is identified which does not have supportive documentation, an "Obstacles Report" will be completed with an expanded "description" section.

The completed "Obstacles Report" and its associated documentation will be duplicated and sent to the Chairman of the PROCESS OBSTACLES WORKING GROUP, and the original documentation will be maintained in a filing system at the tribal offices. If a particular Indian government chooses, it may then further codify information contained in the "Obstacles Report" on a computerized database (Self-Governance Demonstration Project Process Obstacles Database SGDP-PODB) which will be designed for this purpose using DBase II (Ashton Tate) database format. (Note Database description in supplemental memorandum.)

JOINT COUNTRY-WIDE LEVEL MONITORING

When each Indian government concludes obstacle monitoring, documentation, evaluation and suggested remedies, a report must be drafted. Each tribal specific report will then be included in a "consolidated report" prepared by the jointly established PROCESS OBSTACLES WORKING GROUP.

While each Indian government conducts its obstacles monitoring and documentation process, the jointly established PROCESS OBSTACLES WORKING GROUP will also be gathering information which cuts across all Indian Nations participating in the Self-Governance Demonstration Planning process. The working group will document and record data in the same way as each tribal government. This documentation will be compiled and included with the "tribal specific reports" in the consolidated report.

The Working Group will include each Indian government's "Process Obstacles Report" unaltered in the consolidated report. Computerized data recorded by participating Indian governments will be combined with the computerized data recorded by the Working Group in a single database. This combined (tribal specific and cross tribal) database will then be used to perform an overall evaluation, analysis and interpretation. Inter-tribal and cross-tribal patterns of obstruction will be identified and evaluated. This will assist in the process of determining whether an obstacle is actually tribal specific or chronically
cross-tribal. Furthermore, such cross-referencing will aid in making the determination of whether an obstacle is actually institutional or motivated by special interests or a function of special interests bending institutional norms to become obstacles.

When all individual tribal reports are finally combined into a "consolidated report" with country-wide analysis, a final draft report will be submitted to each Indian government for final review. After editorial adjustments, a "Consolidated Indian Self-Governance Planning Process Obstacles Report" will be submitted to the U.S. House Interior Appropriations Committee on September 1, 1988.

For those Indian governments which will continue the Self-Governance Planning process after September 1, 1988, the "Process Obstacles Monitoring" will continue, and accumulated information will be collated as before.

OBSSTACLES REPORT DESIGN

While the actual process of identifying an obstacle is subjective, it is presumed that the following definition of an obstacle will serve as a general guide: Any intentional or unintentional action by an individual, group, organization, institution or government internal or external to an Indian Nation which tends to hinder or obstruct Indian government Self-Governance planning, negotiations or implementation. When an obstacle is determined to exist and is clearly identified, an "Obstacles Report" will be completed.

After reports have been completed and documented, these are the questions which will be answered by the "Obstacles Report" after analysis:

1. When was the obstacle first identified?
2. When did the obstacle actually begin to have an effect?
3. What is the source of information about the obstacle?
4. How was the obstacle discovered?
5. What kind of obstacle is it (bureaucratic, legal, legislative, political)?
6. What (organization, institution, group, individual) is the primary originator of the obstacle, location and name?
7. How is the identified obstacle obstructing the self-governance process?
8. What impact does the obstacle have on the self-governance process?
9. How does the obstacle impact the Indian government's decisions?
10. What descriptive remarks might further explain the nature of the obstacle?
11. Is there documentation to further describe the obstacle?
12. Why in the Tribe's opinion was the obstacle created?
13. Was this particular obstacle encountered before? When?
14. Is this a recurring obstacle for the Indian government, or is it solely associated with the Self-Governance
15. How might this obstacle be overcome?
16. Who should take the initiative to remove this obstacle?
17. Has this obstacle been overcome?
18. Describe how the obstacle was overcome?
19. How would this obstacle be categorized: 1. Irritant

The "Obstacles Report" contains about 60% closed questions (multiple answer possibilities) and the remaining 40% will be open questions which require written responses. If this approach is used, the vast number of responses can be standardized, and thus statistically evaluated. The open questions will provide sufficient deviation to allow for variable analysis conditioned on local prevailing circumstances.