

DOI SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication and Education

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Sent electronically exsec@ios.doi.gov

November 17, 2020

The Honorable David Bernhardt
Secretary
U.S. Department of the Interior
1849 C Street, NW, Mail Stop 6612
Washington, DC 20240

Re: Negotiated Rulemaking Committee - P.L. 116-180, PROGRESS for Indian Tribes Act

Dear Secretary Bernhardt:

On behalf of the Department of the Interior Self-Governance Advisory Committee (DOI-SGAC), I write about the Department's efforts to initiate procedures to form a Negotiated Rulemaking Committee (the Committee) as required by Section 413 of P.L. 116-180, the PROGRESS for Indian Tribes Act.

We are almost thirty days into the ninety-day period in which the negotiations should commence, and the Department has not issued a solicitation in the Federal Register for the nominations of Tribal representatives to serve on the Committee. We urge the Department to begin the process of identifying representatives to serve on the Committee post haste.

In addition to taking the necessary steps to set up the Committee, I wanted to share some views that we have about the Committee:

1. As you know, the Progress Act will only impact mandatory programs that DOI bureaus carry out for the "benefit of Indians". Consequently, we believe that Federal representatives on the Committee should only come from the three bureaus that have those programs: Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM) and Bureau of Reclamation (BOR). Other non-BIA bureaus only have discretionary programs that will be completely unaffected by these regulations, and while we don't object to them observing the rulemaking process, we do not believe that it is appropriate for them to have representation on the Committee.
2. BIA (and, by extension DOI) should fully commit adequate resources to allow the negotiated rulemaking to be conducted thoroughly to meet the deadlines

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identified in the statute: initiate rulemaking by January 19, 2021 and promulgate and publish final regulations by July 21, 2022. Inasmuch as the first six-months will likely be virtual sessions, this should help contain overall costs.

3. Finally, the negotiations should include representatives from the Federal Mediation and Conciliation Services (FMCS).

Self-Governance Tribes have worked on this legislation for more than eighteen years and we are very anxious to make sure that these regulations execute the benefits of the PROGRESS Act. The SGAC is available to assist the Department in this effort to expedite the initiation and continuance of this process.

If you have questions or would like to discuss this letter in further detail, please contact me at rallen@jamestowntribe.org or at (360) 681-4621. Thank you.

Sincerely,



W. Ron Allen, Tribal Chairman/CEO
Jamestown S'Klallam Tribe
Chairman, SGAC

Cc: Tara Mac Lean Sweeney, Assistant Secretary Indian Affairs, DOI
Mark Cruz, Deputy Assistant Secretary for Policy and Economic Development, DOI
Sharee Freeman, Director, Office of Self-Governance, DOI
SGAC and Technical Workgroup Members