



Dr. Lynn Malerba
Chairwoman
IHS Tribal Self-Governance Advisory Committee
c/o Self-Governance Communication and Education
314 W. 14th Place
Tulsa, OK 74119

Dear Chairwoman Malerba:

I am responding to your June 7, 2021, letter, which summarizes four key issues discussed during the Tribal Self-Governance Advisory Committee (TSGAC) meeting held virtually on February 17, 2021. I would also like to take this opportunity to acknowledge Tribes, Tribal Organizations, as well as the Indian Health Service (IHS), for our unified efforts to combat the pandemic by mobilizing Tribal and community members to be vaccinated. Our unified vaccination efforts are proving to be effective as COVID-19 positivity rates have been reduced significantly across Indian country.

Included below are responses to the key issues highlighted in your letter:

- 1. Reconsider and review the decision regarding continued Behavioral Health Grantmaking.** During the February 17 TSGAC Meeting, and in your June 7 letter, the TSGAC requested that the current Administration reconsider the Agency's position to continue using the grant mechanism to distribute certain IHS Behavioral Health funding. Specifically, the TSGAC recommended that the Agency review the consultation comments, publicly summarize any conflicting sentiment, and reconsider the previous Administration's decision, before the current grantees and grant applications move forward for Fiscal Year (FY) 2023.

IHS response: I appreciate TSGAC's comments and I am aware of the ongoing concerns shared by some Tribes and Tribal Organizations (T/TO) regarding the use of grant mechanisms to distribute certain behavioral health and other funding. I remain committed to having more discussions with TSGAC and the National Tribal Advisory Committee (NTAC) on Behavioral Health as to whether future Behavioral Health Initiative funding can be distributed through another mechanism other than grants. We are still considering the appropriate next steps for continued dialogue on the topic. Currently, the IHS continues to prioritize recruiting Tribal leaders to fill the 6 vacancies on the NTAC for Behavioral Health so that the NTAC can meet with a quorum and have further discussion on this topic.

Regarding the referenced IHS Behavioral Health funding and opportunities, I would like to highlight some upcoming opportunities for T/TOs. The IHS plans to provide awards to applicants from seven (7) grant programs in FY 2022:

- 1. Behavioral Health Integration Initiative;*
- 2. Domestic Violence Prevention Program;*

3. *Domestic Violence Prevention: Forensic Healthcare Services;*
4. *Substance Abuse and Suicide Prevention Program: Substance Abuse Prevention, Treatment, and Aftercare;*
5. *Substance Abuse and Suicide Prevention Program: Suicide Prevention, Intervention, and Postvention;*
6. *Zero Suicide Initiative; and*
7. *Youth Regional Treatment Center Aftercare Project.*

2. **Section 105(l) Leases.** The TSGAC reiterated two separate requests of IHS regarding the Indian Self-Determination and Education Assistance Act (ISDEAA), at 25 U.S.C. § 5324(l), also referred to as “Section 105(l)”: 1) to establish a budget projection sub-workgroup that provides better estimates for future projections for Section 105(l) lease agreement costs. This sub-workgroup would submit recommendations to the IHS National Tribal Budget Formulation Workgroup (NTBFWG) annually for inclusion in the submission to the HHS Secretary; and 2) to create a separate Section 105(l) lease policy workgroup. Regarding the second request, the TSGAC requested that a joint policy workgroup, which includes Tribal and Federal experts, be established to develop recommendations for a Section 105(l) lease policy and, if necessary, guidance for Section 105(l) lease proposal negotiations and calculations.

IHS response: The IHS convened the Section 105(l) Projections Sub-workgroup on June 10 to resume discussions on how to best survey ISDEAA contractors for information needed to support future cost projections for Section 105(l) leases. This sub-workgroup will continue to meet and work through the year to gather this information. Regarding the Section 105(l) lease policy, the IHS has held initial discussions with the Bureau of Indian Affairs (BIA) to discuss the requirement set forth by the Consolidated Appropriations Act, 2021, that the IHS and BIA consult with Tribes and Tribal Organizations on the requirements for Section 105(l) leases. This consultation will be the first step in evaluating the development of a Section 105(l) lease negotiation policy/guidance. More information about this Tribal Consultation is forthcoming.

3. **Final Indian Health Care Improvement Fund (IHCIF) Workgroup Report.** The TSGAC requests that the final IHCIF report be circulated with the IHCIF Workgroup and remitted to IHS leadership to be finalized, as soon as is reasonable.

IHS response: The IHS convened a virtual meeting of the IHCIF Workgroup on June 23 to resume review and revision of the draft IHCIF Final Report. The IHCIF Workgroup anticipates finalization of the report this month. The IHS will then host a 90-day Tribal Consultation on the Workgroup’s recommendations for updating the IHCIF formula and solicit additional Tribal input for informing Agency decisions. Due to the complexity of the IHCIF formula, the Tribal Consultation period will consist of virtual Learning Sessions that will focus on presenting the existing IHCIF formula and the IHCIF Workgroup’s final recommendations as well as virtual Tribal Consultation sessions. An overall timeline has been discussed with the IHCIF Workgroup to ensure the IHS is well prepared for any potential funding increases Congress may provide for the IHCIF in a final budget for FY 2022.

- 4. Budget Formulation Process – Identifying Full Funding.** During the February 17 TSGAC meeting, and in the June 7 letter, the TSGAC reiterated that Tribes would like to quantify full funding through a Sub-workgroup of the NTBFWG. Specifically, TSGAC requests that the Agency, in coordination with the Sub-workgroup, convene a series of discussions to review the assessment for full funding, to discuss potential changes to the calculation, and, if necessary, make recommendations to the full NTBFWG prior to the FY 2024 formulation meeting. The TSGAC also requested that the IHS advocate for a fully funded budget.

IHS response: In FY 2022, the President’s proposed budget for the IHS included a significant funding increase of \$2.2 billion, or 36 percent, for a total of \$8.5 billion. The FY 2022 budget includes \$5.7 billion for services; \$1.5 billion for facilities; \$150 million for Section 105(l) Tribal leases; and \$1.1 billion for Contract Support Costs (CSC). While both CSC and Section 105(l) leases remain indefinite discretionary appropriations in FY 2022, these accounts are proposed to shift to mandatory funding in FY 2023. The proposed budget also includes approval for advance appropriations for FY 2023. This is a tremendous change for the IHS and we are grateful for the Administration’s support of this recurring Tribal recommendation.

The President’s Budget proposes historic investments in Indian health, and we recognize additional resources are still needed. I understand identification of a full funding level is very important to the TSGAC, T/TOs, and the NTBFWG, and that obtaining full funding for the Indian health care system has been a priority for years. I’m pleased to share with you that the FY 2022 Budget commits to conducting robust Tribal Consultation and Urban Confer to evaluate options, including mandatory funding, to provide adequate, stable, and predictable funding for IHS in the future. We look forward to carrying out this work in partnership with Tribal and Urban Indian Organization Leaders and leveraging these efforts to inform the NTBFWG’s FY 2024 recommendations. I assure you that the IHS is continuing to share Tribal priorities, such as full funding, with the Administration and Congress.

I trust this information is helpful. If you have any questions, please contact Ms. Jennifer Cooper, Director, Office of Tribal Self-Governance, IHS, by telephone at (301) 443-7821, or by e-mail at jennifer.cooper@ihs.gov. Thank you for your ongoing support and partnership as we work towards a shared vision for healthy communities and quality health care systems.

Sincerely,

Elizabeth A. Fowler
Acting Director