

IHS Self-Governance Advisory Committee (TSGAC) Meeting Summary

August 3, 2022

10:15 – 11:30 AM Pacific Time

Attendance:

A quorum was established for the TSGAC meeting.

Open Discussion on Expansion of Self-Governance

*W. Ron Allen, Chairman/CEO, Jamestown S'Klallam Tribe, Vice Chairman IHS TSGAC
Benjamin Smith, Deputy Director IHS*

Chairman Allen began the discussion by encouraging ongoing support for expanding Self-Governance authority within the Department of Health and Human Services (HHS). Chairman Allen then elaborated on Secretary of HHS Becerra's concerns regarding self-governance expansion. The concerns mainly focus on the current structure of services and the complexity associated with modifying the existing programs to accommodate self-governance expansion. Another concern is the costs associated with expansion (e.g., contract support costs and 105(l) leases).

Chairman Allen acknowledged the concerns and expressed optimism for moving forward with expansion. He then reminded the group that self-governance has a successful track record and the Tribes do not need agency officials second-guessing their decision-making capabilities and encouraged IHS officials to share those success stories with Secretary Becerra going forward.

Deputy Director Smith discussed the increased efforts by the IHS to respond to concerns expressed by their sister operating divisions. He emphasized that increased requests for information pertaining to self-governance submitted by programs within the HHS are a good sign of progress.

Director Cooper shared Smith's sentiment and provided an overview of the IHS Office of Tribal Self-Governance's efforts to provide information to all interested HHS programs. Efforts include preparing and providing presentations on the history, functions, and successes of self-governance. Director Cooper also recognized the importance of Tribes sharing their success stories.

Update on Discussions with the Office of Management and Budget (OMB)

*W. Ron Allen, Chairman/CEO, Jamestown S'Klallam Tribe, Vice Chairman IHS TSGAC
Benjamin Smith, Deputy Director IHS*

The discussion began with an update on guidance provided by the OMB in which they could exempt CARES Act funding from future base funding calculations. The exemption

only applies to CARES Act funding, and Tribes are awaiting notification regarding the application of a similar exception to ARPA funding.

There is an ongoing concern that charging contract support costs (CSCs) to ARPA funds will distort the direct cost base, which could cause detrimental fluctuations in indirect cost rates over time.

Chairman Allen expressed a desire to meet with high-ranking OMB officials to discuss the potential impacts on base funding if the ARPA funds are considered when calculating rates.

Discussion regarding COVID Funding

- HHS Funding
- CRRSAA Funding

*W. Ron Allen, Chairman/CEO, Jamestown S'Klallam Tribe, Vice Chairman IHS TSGAC
Benjamin Smith, Deputy Director IHS*

Deputy Director Smith provided an update on the final allocation decisions for \$210 million in additional ARPA public health workforce funding. The allocation decision is pending, and the IHS hopes to announce the plan soon.

Chairman Allen provided comments regarding the IHS requiring Tribes to sign bilateral agreements and submit a COVID testing plan to the area offices within sixty days of executing the amendment. Furthermore, as soon as a reporting mechanism is available, Tribes are required to report quarterly. Chairman Allen requested an update on the plan template, reporting mechanism, and how it aligns with the self-governance relationship.

Jillian Curtis responded by acknowledging that the IHS does not typically collect this type of information from Tribes; however, the CRRSAA contains language that requires recipients (including Tribes) of funds to report to Congress by updating their testing plan and providing quarterly reports. Because this is information not usually collected from self-determination or self-governance Tribes, the IHS does not have the staff or a system in place to comply with the statute. However, the IHS is exploring options for establishing a system for reporting and compliance purposes that is low-burden for Tribes. In the meantime, they will continue to report at the area level.

Chairman Allen mentioned that some Tribes who have not utilized the funds are concerned that they will lose the testing funding if not used by September 30, 2022. Jillian Curtis responded by informing the group that the IHS has clarified with their Office of General Counsel that the funds that expire on the 30th are unobligated. And when funds are transported through an ISDEAA contract, they are considered obligated, so Tribes can spend those funds until they are exhausted.

Open Discussion on Behavioral Health Grants

*W. Ron Allen, Chairman/CEO, Jamestown S'Klallam Tribe, Vice Chairman IHS TSGAC
Benjamin Smith, Deputy Director IHS*

Chairman Allen began the discussion by informing IHS officials that Tribes are asking the IHS to reconsider distributing behavioral health funds through grants and instead distributing the funds into tribal funding agreements.

Deputy Director Smith informed the group that they are still considering the request and have yet to set a timeline on whether or how they will proceed.

Tribal officials requested that when the IHS requests funding or new programs from Congress, they avoid requesting funding in the form of grants. Tribes appreciate the funding; however, the additional grant compliance burdens placed on Tribes are overwhelming or inappropriate because not every Tribe has the resources or workforce capacity to ensure successful grant application and compliance.