**Talking Points**

**IHS TSGAC Meeting**

**November 7, 2022**

**Strategic planning for TSGAC/ Focus group results**

*Candice Skenandore, Director of Self-Governance and Grants, Mohegan Tribe of Connecticut and Jay Spaan, Executive Director, SGCETC*

**IHS Office of Tribal Self-Governance Update**

*Jennifer Cooper, Director, Office of Tribal Self-Governance, IHS*

**Health IT Modernization discussion**

*Mitch Thornbrugh, Chief Information Officer, Indian Health Service (virtual participation)*

* How will Tribes be involved in the modernization process moving forward?
* Update on any decisions related to reimbursement for Tribes that already modernized their health IT systems.

**ACA Project Update**

*Cyndi Ferguson, Self-Governance Specialist, SENSE Incorporated*

**Office of Finance & Accounting Update**

*Jillian Curtis, Director, Office of Finance and Accounting, Indian Health Service*

* Exception apportionment status
* Update on the Tribal Federal Workgroup on Mandatory Funding
* Section 105(l) and CSC - discussion on organizational changes
  + How will moving CSC and Section 105(l) under OFA improve processes?
  + Who will be the lead staff on Section 105(l) negotiations?
  + Tribes have been participating in a series of CSC workgroup planning calls and are seeing new CSC IHS staff involved. Can IHS provide information related to the various roles and responsibilities of individuals participating in workgroup calls?

**OMB exemption and IHS guidance related to reporting and expiration of COVID funds**

A year ago, TSGAC raised the concern that OMB issued guidance to advise the Interior Business Center to only exempt the CARES Act Coronavirus Relief Funds from the Tribe’s Indirect Cost Rates. We encouraged OMB to issue additional guidance to include other stimulus funding be exempt. OMB said they will take that question back and follow up with the IHS. TSGAC believes all one-time funding should be exempt from the Indirect Cost Rates.

* At our last meeting the IHS said that they will work with the DOI to address this issue and that they will try to revamp dialog with the OMB. Does the IHS have any updates on conversations had with DOI and/or OMB?

**CHAP discussion**

IHS is asserting that the collection and storage of data for the purpose of certifying CHAP providers in an inherent federal function. Data in this instance is the personal information like name, birth date, education, etc.

Under the ISDEAA, an inherent federal function is something that cannot legally be delegated to an Indian Tribe. See 25 U.S.C. § 5381(a)(4). Typical examples include the approval of an ISDEAA contract, compact, and funding agreements, or putting a budget together for a federal agency.

The term does not normally include gathering information for or providing advice, opinions, recommendations, or ideas to Federal Government officials.

In Alaska the CHAP Certification Board collects and stores all the data for the purpose of making a recommendation to the Area Director for an individual to be certified.

The Portland Area CHAP Certification Board was set up to mirror the Alaska process.

The final decision to certify is the decision of the Area Director

The recommendation from the Area Certification Board does not preempt the Federal officials’ decision-making process, discretion, or authority.

* Please identify the specific legislation that IHS used to make the decision that collecting data like name, birth date, education, and more is an inherently federal function..
* Request that IHS provide in writing that the Area certification Boards can operate without the National Certification Board being in place.

**Discussion with IHS Director Roselyn Tso**

Relationship between IHS and CMS

* There are a number of Administrative and policy issues being addressed by the TTAG which will coordination and cooperation between the CMS and IHS.
* What is IHS’s involvement in the process?

Funding new SDPI grantees (how to ensure no harm to existing recipients)

TSGAC believes that existing recipients should be held harmless regarding the SDPI funding. Not only has the SDPI been funded at $150 million for the past few years, but sequestration brought the funding amount down to $147 million. On the other hand, there were several additional tribal applicants this year that are new to the program. TSGAC encourages IHS to fund new grantees with prior year unobligated balances and hold existing recipients harmless.

* How is IHS ensuring that existing recipients are held harmless with less funding and additional participants?
* What steps are being taken to ensure that new and existing Tribes have the funded needed to combat diabetes?

**Funding Tribal administrative costs associated with Sanitation Facilities Construction**

TSGAC believes the IHS should use a portion of their $105 million set-aside ($21 million/per year), other than what the law specified for “federal staff” from Infrastructure Investment Jobs Act SFC projects to fund tribal administrative costs to associated with SFC projects. *IHS OGC has advised HQ-OEHE leadership that IIJA statutes preclude IHS from funding through ISDEAA agreements.*

* *If IHS states they cannot reprogram and provide funding to support our SFC, we may want to say that we will IPA our staff from the $105 million.*

It is TSGAC’s understanding that the IHS requested permission to reprogram funds from the FY 2022 SFC appropriation to fund tribal costs. The same holds true for FY 2023 with a request to include $34 million in the SFC line item to fund tribal costs.

* Has the Appropriation managers approved the reprogramming request for FY 2022?

**Expansion of Self-Governance authority to HHS programs**

The SGCETC has been involved in efforts to expand Self-Governance into other HHS’s agencies besides the IHS. We have asked the IHS to partner with us in these efforts by educating their colleagues, promoting the benefits and successes of Self-Governance and providing technical advice related to Self-Governance to Secretary Becerra and his team. Members of TSGAC presented this idea at the NIHB conference last month and it was well received.

* In our last meeting the IHS said they have and will continue to have conversations with their HHS colleagues and the benefits of Self-Governance. Has there been further movement on the IHS side regarding the expansion of Self-Governance into HHS?
* Are there any other updates from the IHS on this topic?

**Behavioral Health Funding – former TSGAC request**

Then IHS Director RADM Weahkee decided to include language that encourages the IHS to distribute behavioral health funds through a grant’s mechanism. TSGAC asked the IHS to reconsider this decision and instead have those funds use the ISDEAA mechanisms. TSGAC has been raising this issue the past few TSGAC meetings and at our last meeting we requested that a workgroup be formed address this issue and ensure that Congress and the Administration eliminate barriers that prevent funds from going into ISEAA agreements.

* TSGAC wants to hold harmless those Urban and Direct Service Tribes but would like Behavioral Health and other grant funding, that’s not obligated to be a grant by law, to go into our ISDEAA agreements.
* How can the TSGAC and IHS work together regarding behavioral health funding to attain our shared goals and solutions for mitigating the health and behavioral health disparities experienced in our communities?

**IHS Director Priorities**

Please share your priorities for IHS during your term as Director.

What can IHS do to further assist in advancing Tribal Self-Governance within the agency?