

**IHS TRIBAL SELF-GOVERNANCE ADVISORY COMMITTEE**  
**c/o Self-Governance Communication and Education Tribal Consortium**  
**314 West 14<sup>th</sup> Place - Tulsa, Oklahoma 74119**  
**Telephone (918) 370-4258 ~ Website: [www.tribalsef.gov](http://www.tribalsef.gov)**

*Sent electronically via [Denise.Turk@ihs.gov](mailto:Denise.Turk@ihs.gov)*

January 26, 2023

Ms. Roselyn Tso  
Director  
Indian Health Service  
5600 Fishers Lane  
Rockville, MD 20857

**RE: Summary of Issues Discussed at the Tribal Self-Governance Advisory Committee (TSGAC) Meeting November 7, 2022**

Dear Director Tso:

On behalf of the Indian Health Service (IHS) Tribal Self-Governance Advisory Committee (TSGAC), I write to thank the IHS for taking part in our tri-annual meeting held on November 7, 2022, in Washington, D.C. We were pleased to engage with you in your new role as the IHS Director and look forward to advancing our partnership. The following is a summary of the main issues and actions discussed during our meeting:

1. TSGAC Strategic Planning Initiative. To enhance the effectiveness and efficiency of the TSGAC, the committee is developing a strategic plan. At the November meeting, TSGAC reviewed the results of focus groups held with TSGAC members and identified the following priorities that could be incorporated into the plan:
  - Self-Governance v. Grant Mechanisms for the Delivery of Funds
  - Tribal Shares, PSFAs, and Negotiations
  - Support and Promotion of Self-Governance Authority
  - Consistency Across Areas
  - Timely Distribution of Funds, Information, and Responses
  - Section 105(l)
  - TSGAC Operations
  - Health IT Modernization
  - Data Requirements/ Needs
  - Recruitment and Retention Issues
  - Contract Support Costs.

**Request:** We appreciate the Office of Tribal Self-Governance (OTSG)'s commitment to partner with TSGAC in the development of the strategic plan and request continued support from IHS.

2. Updating the PSFA Manual. OTSG shared that efforts to update the Programs, Services, Functions, and Activities (PSFAs) manual was paused due to the pandemic, but that it remains a priority for the agency.

**Request:** TSGAC supports efforts to update the Headquarters PSFA manual and requests that OTSG keep this as a key priority for 2023. TSGAC members would also like updates on the status of this effort in future meetings.

3. Access to the OTSG Funds Management System. Some TSGAC members are experiencing challenges accessing financial files on the OTSG Funds Management System. Specifically, some users receive a “corrupt files” message when trying to retrieve documents.

**Request:** TSGAC requests that OTSG examine whether this is a widespread issue or something unique to specific users.

4. Indirect Cost Rates and COVID Funds. The Office of Management and Budget (OMB) approved an exception to 2 C.F.R. § 200.405(b), Allocable Costs, that allow Tribal governments to exclude from the direct cost base any CARES Act funds that deny indirect cost recovery. TSGAC believes this exception should not be limited to just CARES Act funds but rather to all one-time funding disbursements.

**Request:** TSGAC requests that IHS engage with OMB to discuss the importance of expanding this exception beyond just the CARES Act funds.

5. Transferring Section 105(l) Responsibilities to OFA. TSGAC members expressed interest in learning more about the IHS decision to transfer Section 105(l) responsibilities to Office of Finance and Accounting. Particularly, how will the agency ensure lease agreement processing and payments are not delayed? As discussed at the meeting, mandatory funds for 2021 were not paid until 2022 and they were paid as non-recurring.

**Request:** TSGAC requests that IHS takes the necessary steps and implement controls to ensure funds are paid in a timely manner, consistent with the Prompt Payment Act.

6. Community Health Aide Program (CHAP) Funding. TSGAC does not believe that the collection and storage of data for the purposes of certifying CHAP providers is an inherent federal function when the data being collected and stored is personal information like name, birth date, education, etc. In accordance with 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)]. In Alaska, the CHAP Certification Board collects and stores all the data for the purposes of making a recommendation to the Area Director for an individual to be certified.

**Request:** TSGAC supports immediate implementation of Area Community Health Aide Program Certification Boards (ACB). Some ACBs are ready to certify providers now and cannot wait for IHS to complete its work on national CHAP implementation. For these reasons, TSGAC requests that IHS support a change to the first function of the two-part certification process. As to the first function, IHS must authorize ACBs to collect data for the purpose of making a provider certification recommendation to the Area Director. The second function, certification of the provider by the Area Director, should remain an IHS function.

7. Sanitation Facilities Construction (SFC) Funding. TSGAC appreciates that IHS reprogrammed \$21 million in FY 2022 from the annual appropriation for SFC to the Facilities and Environmental Health Services line to make sure resources were available for Tribal governments that elected to carry out their own projects. TSGAC believes that IHS should continue to provide equitable support for Tribally administered programs and IHS administered programs. For instance, IHS should use a portion of the \$105 million set-aside in the Infrastructure Investment Jobs Act (IIJA) to fund Tribal administrative costs for sanitation facilities construction projects.

**Request:** TSGAC would like to continue discussions with the IHS to find a way to allocate an equitable portion of the IIJA funds to Tribal governments. In addition, TSGAC encourages the IHS to continue discussions with Congress on the need to provide annual appropriations for

Tribal administrative costs. Lastly, TSGAC would like an update on when all reprogrammed funds will be disbursed to Tribal governments.

8. Expansion of Self-Governance into HHS. For more than four decades, Tribal Nations have demonstrated success administering IHS programs under Self-Determination and Self-Governance agreements. Yet, Tribal governments provide health care services to their communities funded by many non-IHS agencies within HHS, albeit primarily through grant mechanisms. Unlike Self-Determination and Self-Governance mechanisms, grant mechanisms do not provide Tribal governments the opportunity to redesign programs, effectively leverage resources, or develop comprehensive, wraparound health care systems. In recent months, we have heard that HHS leadership continues to have concerns about supporting legislation that expands Self-Governance authority.

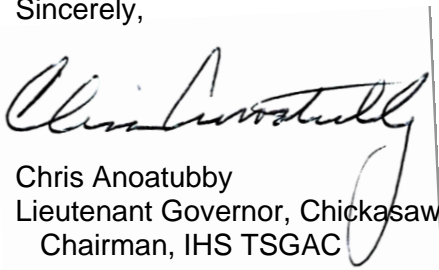
**Request:** TSGAC requests IHS help to educate its HHS colleagues on the benefits and successes of Self-Governance, and to provide technical advice related to Self-Governance authority to Secretary Becerra and his team.

9. Behavioral Health Funding. In opposition to requests from TSGAC, former IHS Director RADM Weahkee determined that IHS would distribute behavioral health funds through a grant mechanism.

**Request:** TSGAC requests that IHS reconsider this decision and encourages IHS to form a workgroup to identify how the current process is working and how it can be adjusted into a formula-based model for those Tribal governments that wish to receive these funds through Self-Determination and Self-Governance mechanisms.

In closing, we again express our appreciation to IHS for its dedication and participation in TSGAC meetings and we look forward to further discussions on these priorities. In the meantime, should you have any questions or wish to discuss further, please do not hesitate to contact Jay Spaan, Executive Director, Self-Governance Communication & Education Tribal Consortium at 918-370-4258 or [jays@tribalselfgov.org](mailto:jays@tribalselfgov.org). Thank you.

Sincerely,



Chris Anotubby  
Lieutenant Governor, Chickasaw Nation, and  
Chairman, IHS TSGAC

cc: Jennifer Cooper, Director, Office of Tribal Self-Governance  
Jay Spaan, Executive Director, Self-Governance Communication and Education Tribal Consortium  
TSGAC Members and Technical Workgroup