**IHS Self-Governance Advisory Committee (TSGAC)**

**Meeting Summary**

**November 7, 2022**

**Park Hyatt Regency**

1201 24th Street NW

Washington, D.C., 20037

**Attendance:**

A quorum was established for the TSGAC meeting.

**Committee Business:**

* The August 2022 meeting minutes were approved.
* A nomination for Chief Beverly Cook, Saint Regis Mohawk Tribe, to serve as the primary representative and for Chairwoman Cheryl Andrews-Maltais, Wampanoag Tribe of Gay Head (Aquinnah), to serve as the alternate representative for the Nashville Area was presented and approved. (Motion to approve made by Melanie Fourkiller, seconded by Nickolaus Lewis, Lummi Nation.)
* A nomination for Mrs. Loni Taylor to serve as the primary representative and Mr. Joel Rossette to serve as the alternate for Chippewa Cree Tribe was presented and approved. (Motion to approve made by Melanie Fourkiller, seconded by Chairman Ron Allen.)
* A nomination to appoint Lieutenant Governor Chris Anoatubby as the co-chair of TSGAC was presented and approved. (Nominated by Kasey Nichols and motion to approve made by Cheryl Andrews-Maltais.)

**Strategic Planning for TSGAC/Focus Group Results**

***Candice Skenandore, Director of Self-Governance and Grants, Mohegan Tribe of Connecticut***

***Jay Spaan, Executive Director, SGCETC***

Recently a focus group was organized, with the assistance of an outside consultant, to identify issues that Tribal and Federal leaders and officials believe should be priorities for TSGAC to consider.

Comments collected during the focus group meetings can be categorized into the following issues:

* Self-Governance v. Grant Mechanisms for the Delivery of Funds
* Tribal Shares, PSFAs, and Negotiations
* Consistency Across Areas
* Timely Distribution of Funds, Information, and Responses
* Section 105(l)
* TSGAC
* Health IT Modernization
* PRC

Findings from the focus group will guide the development of a strategic plan.

The strategic plan will be used to develop future TSGAC meeting agendas; increase participation of committee and workgroup members; track progress in resolving issues or enhancing the implementation of Self-Governance, and increase partnerships and information sharing between Tribal and Federal partners.

Not all issues of concern to TSGAC will be included in the Strategic Plan as it is intended to be used as a resource to assist the committee, not a document to bind or control TSGAC.

Goals of the strategic planning process:

* Enhance the effectiveness and efficiency of the advisory committee
* ensure challenges or issues are not just being exchanged in letters but that actions are taken to overcome challenges and address issues
* ensure advisory meetings are a productive use of time for all
* measure the effectiveness of the committee and identify areas for continuous improvement

**Comment:** A recommendation was made to include a category aimed at developing a mutually defined voluntary unified set of data consistent with congressional intent found in Title V and can be used for budgeting mandatory funding.

**Office of Tribal Self-Governance (OTSG) Update**

***Jennifer Cooper, Director, OTSG***

Director Cooper began her update by announcing the addition of two new Tribes (Tanana Tribal Council (Alaska Area) and Mashantucket Pequot Tribal Nation (Nashville Area) to Self-Governance and welcoming Jessaka Nakai as an Administrative Officer. There are 137 IHS funding agreements between Tribes, tribal organizations, and the IHS.

Self-Governance planning and negotiation cooperative agreements we awarded for FY 2022-2023 to the following Tribes:

* Cherokee Indian Nation
* Eastern Shoshone Tribe
* Northern Arapaho Tribe

The OTSG released the updated negotiation handbook & OTSG brochure. These are resources that will prove helpful to Tribes considering entering self-governance. The resources can be found at: <https://www.ihs.gov/SelfGovernance/resources/>.

The OTSG works diligently to coordinate and support the IHS Director's Advisory Workgroup on Tribal Consultation activities. The next virtual meeting will be held on Monday, November 22.

The OTSG has transferred $3 billion in non-recurring & recurring funds to Title V Tribes for FY 2022. Out of 137 Tribes, there are 85 fiscal year Tribes/tribal organizations (26 in Alaska & 59 in the lower 48) whose funding agreements begin at the start of the fiscal year as opposed to the start of the calendar year.

The OTSG is currently updating the OSTG webpage, continues to support agency lead negotiators (ALNs), and furthers efforts to interface the OTSG Funds Management Database with UFMS. The OTSG is hopeful that connecting/interfacing the two systems will improve the alignment of reporting.

**Open Discussion on Health IT Modernization**

***A.C. Locklear, National Indian Health Board***

***Mitchell Thornburgh, Chief Information Officer, and Director, Office of IT, IHS***

***Stewart Ferguson, Chief Information Office, ANTHC***

CIO Mitchell Thornburgh provided an update on efforts to modernize the Resource Patient Management System (RPMS), which has been operational for nearly 40 years. For FY2022, $144.5M in recurring funding was appropriated for EHR modernization. The FY2023 congressional justification includes an ask of $284.5M and $6B over five years. Additionally, the CARES Act of 2020 provided $65M in one-time funding, and the American Rescue Plan ACT(ARPA) provided $70M in one-time funding. The IHS also distributed $141M from CARES and ARPA to federal, tribal, and urban sites for telehealth and technology needs.

The IHS has been actively engaged in activities to support solution development through publishing requests for proposals, distribution of communications products, participating in tribal consultation and urban confer, and continued one-on-one engagement with Tribes and urban Indian organizations.

**Questions:** A release announcing that IHS awarded General Dynamics Information Technology (GDIT) an $89M contract was issued. GDIT stated that it would continue to provide software engineering support services for RPMS. The five-year contract includes a one-year base period with four option years.

Given that the contract provides that GDIT will deliver complete software development life cycle services for RPMS, does the IHS anticipate needing to exercise the option years provided in the contract?

How will GDIT work on RPMS enhancements to facilitate the EHR modernization efforts?

Since implementation at each site is a separate project, how will IHS ensure that all system users have what they need to succeed?

**Answers:** The GDIT contract was awarded –the RPMS engineering and support contract. We feel that it will be necessary for several years to maintain our commitment to RPMS users.

When considering the project cost, we look at the one-time cost that includes planning, system management, and organizational change components. We are also looking at the ongoing costs (annual recurring costs). We use a GAO twelve-step process for cost planning for large government estimates. We are trying to get the most accurate estimate possible to ensure success.

Concerning reimbursement for expenses covered by Tribes, we do not have the statutory authority to reimburse Tribes for funding they spent outside their funding agreement with the IHS. That does not mean we are opposed to that, we are happy to talk about it, but we do not currently have the authority.

For additional information, please visit the Health IT Modernization Program website: <https://www.ihs.gov/hit/>

**ACA Project Update**

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

The IHS Office of Tribal Self-Governance has funded the ACA/IHCIA Project for 2022-2023. Betsy Barron has re-joined as the Project Intern for this year. The Medicaid Unwinding Webinar was held on September 21, 2022. Two breakout sessions about ACA/IHCIA were held during the annual SGCETC conference. One breakout session was held during the annual NIHB conference covering ACA/IHCIA topics.

The following briefing papers were recently released:

* Review of Affordable Care Act and Medicare Provisions in Recently Enacted Budget Reconciliation Bill ("Inflation Reduction Act") (dated 8/17/2022).
* Overview of Federal Guidance on Medicaid and CHIP Eligibility and Enrollment Procedures After COVID -19 Public Health Emergency Ends (dated 9/8/2022).

Issue tracking remains a priority, and the team maintains an updated list of TSGAC project priority items. This month, a project survey will be provided to gather information for developing topics for upcoming webinars/training, technical assistance, and policy briefing papers. For further information, please visit <https://www.tribalselfgov.org/health-reform/>

**Office of Financing and Accounting (OFA) Update**

***Jillian Curtis, Director, Office of Finance and Accounting, IHS***

Both the House and Senate marks for FY 2023 include increases for the IHS in the $2B range. However, the bills are not currently considered to be bipartisan. The IHS is unsure where lawmakers are in the process of reaching an agreement for FY 2023 overall appropriations and continues to operate under a short-term continuing resolution until December 16, 2022. The IHS continues a dialogue with Congress regarding advance appropriations for FY 2023.

The OMB has approved exception apportionments for the IHS under the current continuing resolution.

Following consistent recommendations made during tribal consultations for a sub-workgroup on mandatory funding, The National Tribal Budget Formulation Workgroup (NTBFW) solicited volunteers for the sub-workgroup. The OFA has requested that sub-workgroup members include one tribal representative member of the NTBFW from each Area and up to two additional technical representatives from each Area. They haven't received volunteers for the Tucson and Great Plains Areas, and they have received a partial response from the Pheonix Area.

The IHS will publish a DTLL/DUIOLL notifying Tribes that once COVID-19 funds are obligated, once transferred to a Tribal Health Program through an ISDEAA Title I or Title V contract or compact. **Once obligated, the funds are available until expended.**

Regarding the CRRSAA funds reporting, Tribal recipients must provide an updated testing plan and quarterly report on commitments, obligations, and use of funds. OFA will release interim guidance to guide Tribes while they continue to develop a reporting system.

Tribes are concerned about how the one-time COVID-19 funds will affect indirect cost rates and CSC. The OMB has issued guidance to the Interior Business Center to disallow funding received through the Treasury's Coronavirus relief fund if the program did not permit indirect cost recovery. The IHS and Tribes still await OMB guidance concerning one remaining one-time funding. It is not clear if OMB will issue additional guidance.

The IHS is transitioning HQ CSC and 105(l) lease activities to the OFA. They are hopeful that the transition will build capacity, institutionalize expertise, and develop or enhance systems to improve the timeliness of payments.

**Question:** What is the estimated date when the HQ CSC transition will be completed and the system operationalized?

**Answer:** This will be a phased transition. The first phase will occur during the first quarter of FY 2023.

**Comments:** About the OMB guidance concerning one-time COVID-19 funds, we believe that guidance should provide Tribes with the flexibility to negotiate in a way that represents how they allocate their costs.

The mandatory and inflation funds that were appropriated in 2021 were not paid until July & August of 2022 and were paid as non-recurring. Can you explain the issue?

**Response:** The timing of those payments is not acceptable.We are attempting to put some controls in place to ensure that we are never in that situation again.I will say, though, that COVID-19 and the related funding we received took our attention away from our annual appropriation in a way that was not helpful.

Regarding the recurring versus non-recurring issue, essentially, what happened was by the time that we were ready to allocate those funds, we were already so far into the fiscal year that prep for the next fiscal year had already been completed. A vital part of that is identifying what recurring funding amounts are; so, for the sake of expediency, because we were so close to the end of the period of availability, we issued the funds as non-recurring with a plan of issuing them as recurring the following fiscal year.

**Comment:**  Regarding the Special Diabetes Program for Indians (SDPI), I do not believe that there is one Tribe in Indian Country that could not or should not be entitled to the use of SDPI funding. Using the competitive grant funding delivery mechanism has created a scenario where officials are left to determine whose lives are more important. That should never happen. SDPI funding should be formula-based and available for all Tribes.

**CHAP Update**

***Christina Friedt Peters, Tribal Community Health Provider Program Director, Northwest Portland Area Indian Health Board***

***Martha Ketcher, MBA, HCA Sr. Advisor for Health, Cherokee Nation***

The Community Health Aide Program (CHAP), developed in Alaska, is a system of health provider education. The program provides regulatory oversight for providers through the Area CHAP Certification Board. CHAP intends to train local people to serve as health aides in their communities by expanding access to primary care, emergency, acute, chronic, and preventive health care.

Some of the additional benefits of CHAP implementation beyond access to primary care include responding to social detriments of health through support of education attainment and economic stability. Individuals can receive training and work as a Dental Health Aide (DHA), Behavioral Health Aide (BHA), or Community Health Aide/Practitioner (CHA/P).

The Area Certification Boards (ACB) act as the regulatory board for CHAP providers. They as an accrediting body for CHAP education programs similar to the function of national accreditation organizations.

The CHAP Tribal Advisory Group (CHAP TAG) was formed in 2018 and met quarterly until 2022, when they began holding monthly meetings. The meetings are held on the 4th Tuesday of each month virtually. CHAP TAG provides subject matter expertise, program information, innovative solutions, and advice to the IHS to establish a National CHAP. CHAP TAG currently has open seats in the Albuquerque, Bemidji, and Tucson Areas and DSTAC.

Along with funding challenges, another issue encountered is that the IHS asserts that collecting and storing data for certifying providers is an inherent federal function. The group believes that the inherent federal function ( *see* 25 U.S.C. §5381(a)(4)) does not apply to gathering information for or providing advice, opinions, recommendations, or ideas to Federal Government officials.

The CHAP TAG made the following requests:

* Please identify the specific legislation that IHS used to decide that collecting data is an inherently federal function
* Please put in writing that Area Certification Boards can operate without the National Certification Board being in place
* Separate the two functions of 1) collecting data to make a recommendation and 2) issuing a certification from the IHS Area Office so that Area Certification Boards can move forward with certification
* Utilize program formula funding to add to ISDEAA instruments and grants for CHAP expansion

**Tribal Leader/IHS Discussion**

***Roselyn Tso, Director, Indian Health Service***

Chairman Allen began the discussion by welcoming Director TSO and providing her with an overview of the group's priorities.

Director Tso provided initial remarks mentioning that her priorities include aligning resources to priorities, addressing potential compliance issues, improving communications, and fostering partnerships. Additionally, Tso mentioned that we are in a place where we can see budget improvements. She has asked Elizabeth "Liz" Fowler to stay on during the transition.

Additionally, Director Tso shared her commitment to improving mental health care and emphasized the need for additional resources and providers. She mentioned that the IHS needs to improve its approach to internal training related to ISDEAA, CSC, and 105(l) leases.

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

Melanie Fourkiller shared one of TSGAC's concerns regarding the tribal administrative costs associated with Sanitation Facilities Construction. More specifically, TSGAC is concerned with appropriations language that specifies that federal staff must be utilized in supporting those activities. Tribes will need additional funds to support the activities as well.

TSGAC requests that the IHS find a way to allocate a portion of the $100M provided by the Infrastructure Investment and Jobs ACT (IIJA) to Tribes or explore a way of reallocating other funds to meet this purpose – as long as Tribal programs are supported similar to IHS programs.

Director Tso acknowledged the concern and stated, "we need to go back to the drawing board and figure out how this gets done." The IHS is already past year one, and unsure how many projects have been completed. Director TSO expressed her need for collaboration from Tribes to find a solution.

Jillian Curtis notified the group that the IHS did complete a reprogramming of funding in 2022 of $21M from the annual appropriations for Sanitation Facilities Construction (SFC) to the Facilities and Environmental Health Services line. The IHS will continue to discuss and explain the need for those additional resources to Congress, hoping they will provide them from the annual appropriations process.

When asked when the resources will be sent out to the areas receiving reprogrammed funding, Jillian Curtis replied that she would have to follow up with the team.

When asked if, for 2023, the justification for SFC included $36M, Jillian Curtis explained that the goal is to get both bills (annual appropriations and IIJA) to about 10% of total funding appropriated each year. Based on the historical analysis, that is more appropriate than the 3% we got.

**Expansion of Self-Governance to other programs within HHS (Title VI)**

SGCETC continues efforts to expand Self-Governance into other programs within HHS. TSGAC has asked the IHS to partner with us in efforts and can assist by educating their colleagues, promoting the benefits and successes of Self-Governance, and providing technical advice to Secretary Becerra.

Chairman Allen suggested they develop a pilot program and transfer programs into an IHS funding agreement. This would address the CSC issue of agencies saying they don't have a CSC component.

**Behavioral Health Funding**

Chairman Allen turned the focus of the discussion to behavioral health funding. Former RADM Michael Weahkee decided to encourage the IHS to distribute behavioral health funds through a grant mechanism. TSGAC continues to ask the IHS to reconsider this approach and instead utilize an ISDEAA mechanism to distribute funds.

Director Tso responded by asking, "how would you think that we would handle the grants that have been awarded? Do we wait out that period and then consider the decision?"

In response, Chairman Allen suggested the formation of a workgroup to determine the implications of transitioning into a formula-based distribution method.

Director Tso emphasized the importance of reporting to Congress stories of the successes and how the Tribes are utilizing resources and talked about sharing stories of the effective utilization of ISDEAA agreements.

Melanie Fourkiller mentioned the several discussions that arose throughout the day regarding data. She highlighted that Tribes produce data, and findings are reported to the Tribal Council. There is an intended shift away from federal monitoring, oversight, and administration. She also reminded the group of the delicate balance of what a Tribe chooses to do at the tribal level versus telling a national story. She also recognized the importance of telling the national story and its importance to appropriations and oversight. However, telling the national story needs to be done in the context of Self-Governance. It is important to remember that this funding is not a Title I contract or a grant, and those data elements are intended to be negotiated because the accountability shifts to the Tribes.

**Telehealth**

Chairman Allen shifted the discussion to telehealth and the pandemic-related OMB exemptions. The Chairman then asked if the next approach would include going back to what OMB thinks is normal. Tribes would like the exemptions to be permanent.

Director Tso responded by reassuring the group that the IHS is working to protect telehealth and maintain funding as it currently is because they are critical to Indian Country.

**Long-term care**

The next area of concern presented to Director Tso pertained to long-term care. For many Tribes, many members/citizens are elderly (55 or older). Tribes are experiencing an increase in need associated with care for aging members. Specifically, there is a need for increased resources to provide assisted living and to treat behavioral health issues (e.g., dementia, Alzheimer's). Chairman Allen asked Director Tso to remember the need when engaging with SAMHSA – Administration for Community Living (ACL).

**SDPI Grantees**

Chairman Allen shared TSGAC's request that current recipients be held harmless while we look for funding for new recipients.

Director Tso assured the group that the IHS is working on the issue and hopes to have a formal response soon.

**Tribal Veteran Services Office (VSO)**

Tribes need resources to establish Tribal VSOs.

Director Tso informed the group that a VSO was established on the lands of the Navajo Nation. She also stated, "if they can do it there, they should be able to do it anywhere." She mentioned that the IHS needs to look at what was created for the Navajo Nation and figure out how to replicate it across Indian Country.

**Closing Remarks**

In closing, Director Tso highlighted the increase in inter and intra-agency collaboration that she has witnessed. She remains hopeful for the next two years and foresees many positive changes because of a supportive administration. However, she reminded the group that the IHS can not do it without Tribal partners.