

Agenda

IHS Tribal Self-Governance Advisory Committee (TSGAC)

December 13-14, 2023

Location: Embassy Suites, 900 10th St NW, Washington, DC 20001

ZOOM Information

<https://us02web.zoom.us/j/83198229977?pwd=cCtBbDARNm1BQnJqMVJ2NEFIZm9udz09>

Meeting ID: 831 9822 9977

Passcode: 331597

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WEDNESDAY, DECEMBER 13, 2023

8:00-9:00: Tribal Caucus

9:00- 9:30: Roll Call & Introductions

9:30-9:35: Opening Prayer

9:35-9:45: TSGAC Committee Business

- August 2023 minutes
- Ysleta del Sur Nomination
- Area processes for nominations

9:45 – 10:05: Opening Remarks

Chris Anotubby, Lt. Governor, Chickasaw Nation and TSGAC Chair

Roselyn Tso, Director, Indian Health Service (IHS)

10:05 – 10:45: Deputy Director for Intergovernmental Affairs (DDIGA) Update

Stacey Ecoffey, DDIGA, IHS

- Update on Tribal Consultation Activities
- Indian Self-Determination and Education Assistance Act (ISDEAA) Activities

10:45 – 10:50: Office of Tribal Self-Governance (OTSG) Update

Jennifer Cooper, Director, OTSG, IHS

10:50-11:15: Discussion with IHS and OMB

Topics for discussion include:

- Excluding ARPA SLRF Money from Indirect Cost Rate Negotiations- 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.
- Status of Indian Healthcare Improvement Act Fund (IHCIF), CSC and 105(l) Funds- IHCIF, CSC and 105(l) were not included as advance appropriations; therefore, the IHS distributed pro-rata amount based on term of the CR (12%). The IHS reported that since there is an

indefinite discretionary appropriation for CSC and 105(l), that it was requesting approval from OMB to allocate the entire CSC amount needed on the advanced appropriations line items, and the 105(l) amounts.

Jillian Curtis, Director, OFA, IHS

Elizabeth Carr, Tribal Advisor to the Director, Office of Management and Budget, Executive Office of the President

11:15-12:00: IHS Budget Related Discussions

Topics for discussion include:

- Unobligated Funds and Balances- An IHS DTLL dated June 30, 2023, explained that the Fiscal Responsibility Act (FRA) helped to protect certain COVID-19 funds, but also reported that the IHS lost access to \$419 million that it was holding for direct service Tribes. This discussion will focus on the status of additional unobligated funds, and what steps are being taken to distribute the funds to ensure that additional funds are not returned to Treasury.
- Mandatory Funding Workgroup - The IHS Mandatory Funding Workgroup is to identify key questions and topics where additional analysis is necessary to bolster current and future mandatory funding proposals. The IHS will discuss these efforts with TSGAC.
- CSC Workgroup Update -The CSC workgroup gives information and advice to the IHS to provide for a uniform and equitable system of determining, paying, and reconciling CSC funds for new, expanded, and ongoing ISDEAA contracts and compacts. The IHS will discuss with TSGAC the status of the CSC workgroup.
- FY 24 Appropriations and Possible Sequestration- FY 2024 marked the first time the IHS received advanced appropriations. The IHS will provide an update on how quickly FY 2024 funds were distributed, identify what went well and what can be improved on for the future. In addition, if Congress does not pass a full appropriations law by January 1, 2024, there could be a possible sequestration. The IHS will provide the latest updates regarding the FY 2024 appropriations.
- Status of Guidance and Portal for reporting use of Coronavirus Response & Relief Supplemental Appropriations Act (CRRSAA) Funds- Tribal recipients must provide an updated testing plan and quarterly report on commitments, obligations, and use of CRRSAA funds. OFA is to release interim guidance related to these requirements while they continue to develop a reporting system. The IHS will provide an update on the status of the CRRSAA guidance and portal.
- Section 105(l) Policy- Tribal Nations have asked if there will be a Section 105 (l) lease policy and suggested that the IHS involve Tribes when developing this policy. The IHS expects to hold a consultation by the end of this year and will provide an update on its status and seek feedback from TSGAC.

Jillian Curtis, Director, OFA, IHS

12:00-1:30: Lunch / Executive lunch

1:30-2:15: Intradepartmental Council on Native American Affairs (ICNAA) Update/TSGAC Priorities

Topics for discussion include:

- EMS/Ambulance Services- Tribal Nations operate ambulance services that provide vital services to our communities. Rural areas especially rely on ambulance services to provide lifesaving services. These programs are not funded, and scarce third-party revenue only pays for a portion of the services. TSGAC will discuss with ICNAA what it can do to help ensure funds are made available for these vital services.
- Long-term Care- Tribal Nations are concerned that the IHS does not provide resources specifically for elder care. The Administration for Community Living provides some resources, such as best practices and workshops but those resources are inadequate to address the issues facing our elders such as Alzheimer's, Parkinson's, cancer, and more. Tribal Nations want to discuss with ICNAA opportunities for funding culturally appropriate care for our aging populations.
- Self-Governance Expansion- The expansion of Tribal Self-Governance authority to HHS programs in agencies outside of the IHS is a long-standing priority for TSGAC. TSGAC wants to discuss with ICNAA its efforts to support this important Tribal priority.

Michelle Suave, Executive Director, ICNAA

2:15-2:30: Opioid Settlement

Geoff Strommer, Partner, Hobbs, Straus, Dean, and Walker, LLP

2:30-3:00: Advisory Committee Updates Impacting TSGAC

HHS STAC Update

- Update on the Tribal Leader Meeting with the HHS Secretary on Expansion of Self-Governance Authority in HHS
- Key Priorities/Issues

Chris Anoatubby, Lt. Governor, Chickasaw Nation

Devin Delrow, U.S. Department of Health and Human Services

ACF TAC Update

- Priorities of the ACF TAC related to Self-Governance

Jennifer Webster, Councilmember, Oneida Nation

Kasie Nichols, Self-Governance Director, Citizen Potawatomi Nation

3:00-3:15: Break

3:15-3:45: Medication Update

This discussion will provide an update on medication shortages such as antibiotics that treat syphilis (bicillin) as well as updates on the new COVID vaccine.

Dr. Loretta Christensen, Chief Medical Officer, IHS (invited)

3:45-4:15: IHS Produce Prescription Pilot Program (P4)- The aim of P4 is to demonstrate and evaluate the impact of produce prescription programs on Native people and their families. The overall goal is to improve health care outcomes by reducing food insecurity and improving overall dietary health by increasing consumption of fruits, vegetables, and traditional foods. The IHS awarded a total of \$2.5 million in funding to help decrease food insecurity in Native communities. The IHS and Chippewa Cree Tribe will discuss their experiences with P4.

Laurie Harvey, Chippewa Cree Tribe

Misha Pete, Chippewa Cree Tribe

Loni Taylor, Councilmember, Chippewa Cree Tribe

Carmen Licavoli Hardin, Director, Division of Diabetes Treatment and Prevention, IHS

4:15-4:45: National Tribal Opioid Summit Overview- The Northwest Portland Area Indian Health Board hosted the National Tribal Opioid Summit this summer which addressed the opioid and fentanyl crisis throughout Indian Country. This discussion will provide an overview of the summit and policy recommendations resulting from the Summit.

Nickolaus Lewis, Councilmember, Lummi Nation

Laura Platero, Northwest Portland Area Indian Health Board

4:45-5:00: ACA/IHCIA Project Discussion – TSGAC has received funding from the IHS to continue providing Webinars/Trainings, Policy Analysis and Technical Assistance on the Affordable Care Act (ACA)/Indian Health Care Improvement Act (IHCIA) for Self-Governance Tribes. As the TSGAC moves forward with planning for the current Project Year, this discussion will provide an opportunity to engage TSGAC on recommended priorities and topics for FY2024.

Cyndi Ferguson, ACA/IHCIA Project Lead, SENSE Incorporated

Elliott Milhollin, Partner, Hobbs, Straus, Dean and Walker, LLP

Betsy Barron, ACA/IHCIA Project Intern

THURSDAY, DECEMBER 14, 2023

8:30- 9:00: Tribal Caucus

9:00-9:05: Opening Prayer

9:05-9:30: VA/IHS Reimbursement Update

This discussion with the Veteran's Affairs Department and the IHS will focus on the VA/IHS Reimbursement agreement. The VA began consulting six months ago and will provide an update on the consultations.

VA rep
IHS rep

9:30-10:15: Office of Environmental Health and Engineering (OEHE) Update

- Update on the Bipartisan Infrastructure Law (BIL)- The BIL provided \$3.5 billion over five years for the IHS Sanitation Facilities Construction (SFC) Program (\$700 million/year). Previous discussions included TSGAC requesting IHS to find a way to allocate or reallocate other funds to help offset tribal administrative costs associated with SFC projects.
- Healthcare Facilities Construction Priority System (HFCPS) Update- The HFCPS program is funded based on an IHS-wide list of priorities for construction projects. The HFCPS ranks proposals using factors reflecting the total amount of space needed, age and condition of the existing health care facility, if any, degree of isolation of the population to be served in the proposed health care facility, and availability of alternate health care resources. The remaining health care facilities projects on the HFCPS list, including those partially funded, total approximately \$3.2 billion as of January 2022. Recent updates to the HFCPS legacy list of projects estimates that it will cost over \$7.3 billion to complete these projects. This is an increase close to \$4 billion over last year's estimates on the HFCPS five year spend plan. At an average appropriation rate of \$280 million per year, it will now take approximately 25 years to complete the legacy projects. Moreover, the recent FY 2021 Facilities Report to Congress estimates over a \$21 billion backlog of facilities needs in Indian Country. TSGAC seeks to discuss opportunities and IHS' efforts to address facilities needs in Indian Country.
- Joint Venture Construction Program (JVCP) Discussion- The JVCP authorizes IHS to enter into agreements with Tribes that construct their own health care facilities. The Tribe provides the resources for the construction of its health care facility. IHS health care facility construction appropriations are used to equip the health care facility. Tribes requested that the IHS Joint Venture Construction Program restructure the current application cycle so that it is recurring and open for applications on a regular cycle (1, 2, or 3 years) for planning purposes. The IHS intended to have the JVCP cycle run every 3-5 years, but funding uncertainties related to staffing costs prevented the IHS from guaranteeing a regular cycle. The IHS will discuss with TSGAC its efforts to develop a regular recurring JVCP application process/cycle.

IHS rep

10:15-11:30: Discussion with IHS Director

Topics for discussion include:

- Recruitment/ Retention Issues- TSGAC previously requested the IHS to increase student loan repayment amounts. This would align with what other agencies offer and could make the IHS recruitment and retention efforts more competitive. In addition, the requirement that clinical work must be at least 80% is eliminating clinical leadership and people from the program. This percentage should be decreased.
- Behavioral Health grants- TSGAC understands that the IHS did not want to interrupt current grant cycles, but TSGAC again believes these any grants not statutorily required to be competitive should be formula based. IHS had concerns that if these grants moved to formula based that Tribes would receive very little funding. TSGAC wants to continue this conversation.

- GAO High Risk List Update – this discussion will focus on the status of IHS removal from the GAO High Risk List.
- Special Diabetes Program for Indians (SDPI) Update- this discussion will focus on carryover grant funds being recouped from Tribes.
- Pharmacy Benefits Manager Issue- Pharmacy benefit managers (PBMs) play a major role in pharmacy services by acting as intermediaries between pharmacies, plan sponsors, pharmaceutical manufacturers, and drug wholesalers. PBMs provide five key functions: formulary design, utilization management, price negotiation, pharmacy network formation, and mail order pharmacy services. Tribal facilities across the country are getting hit with steep discounts in their reimbursements from PBMs based on tribes' ability to access drugs at discount rates under programs like the 340B program and VA prime vendor and due to Part D Direct and Indirect Remuneration (DIR) fees. This discussion will focus on efforts to ensure that all PBMs pay Tribes correctly.
- HIT Modernization Update - this discussion will focus on Health IT Modernization efforts and provide a timeframe for what Tribes can expect in the coming year.
- National CHAP Expansion Update- On October 31, 2023, the IHS issued a notice of a new system of records for the CHAP. The purpose of this new system of records is to hold and process records related to Federal certification of CHAP providers, who are approved by the National CHAP Certification Board.
- *Other topics identified during the meeting*

*Lt. Governor Chris Anoatubby, Chickasaw Nation and TSGAC Chair
Roselyn Tso, Director, Indian Health Service (IHS)*

11:45-12:00: TSGAC Technical Workgroup Meeting