**SGAC Talking Points and Tribal Action Items**

**February 20-21, 2024**

1. **SG Tribes not receiving programmatic increases** – SG Tribes are repeatedly missing out on programmatic increases. This has been a long-standing issue for the past 30 years that has been raised numerous times in various venues but has yet to be addressed. Concrete steps must be taken to address it.

Tribal Action Items:

* Modernize OSG and Indian Affairs IT Systems - A modernization effort is needed to upgrade the Self-Governance Data Base (SGDB) and other IT systems across Indian Affairs. Request that AS-IA come up with a plan, identify an individual to lead this effort and provide a timeline for upgrades to be implemented.
* Educate Indian Affairs Staff on 638 Contracting v. Self-Governance Compacting – A number of staff within Indian Affairs do not understand there is a difference between 638 contracting and SG compacting and SG Tribes are missing out on funding opportunities that are available to other Tribes. (Language in competitive grant NOFOs are using the term “638 Tribe” in the eligibility criteria)
* Greenbook Funding Tables must include Self-Governance Tribes – Bureaus/Offices across Indian Affairs must know which SG Tribes operate programs under their purview and the base amounts for each program line that can be used in calculating the distribution formula when Congress appropriates programmatic increases. This information must be available to these offices/bureaus in a timely manner and incorporated into the Greenbook. Time is of the essence to address this issue before the next iteration of the Greenbook is finalized and published.
* Consolidated Tribal Government Program (CTGP) and Aid to Tribal Government Program Lines are not included in distribution of Programmatic Increases – Many SG Tribes were encouraged to combine various contracted/compacted TPA programs with similar and compatible objectives into one program line, but Indian Affairs Offices/Bureaus are penalizing SG Tribes who opted to do so by determining these Tribes ineligible for programmatic increases. Unless there is a clear statutory directive to the contrary, all Tribes should receive their share of any programmatic increase if they contract/compact the program. It is Indian Affairs responsibility to identify all the program lines that Tribes have rolled up into CTGP and Aid to Tribal Government and ensure these Tribes receive any programmatic increases they are entitled to receive.

1. **Indian Affairs Specific Issues**

* **AS-IA Prioritize Attendance at SGAC Tri-Annual Meetings** – The SGAC was formally sanctioned by the AS-IA and serves as the primary forum for SG Tribal leadership to engage on a government-to-government basis with the AS-IA. Tribal leaders prioritize these meetings because they view the opportunity to engage with AS-IA as holding sgnificant value. The SGAC meetings serve as an excellent opportunity for AS-IA to enlist the assistance of Tribal leadership to support Indian Affairs endeavors, provide advice on policy and process refinements needed to advance initiatives, and influence decisions to achieve goals of mutual interest.

Tribal Action items:

* Prioritize AS-IA and Senior Staff Attendance at Tri-Annual Meetings for the Full Day and a Half –The SGAC meetings prove invaluable to solidifying the government-to-government relationship and give true meaning to the Administration’s goal to promote the next era of Self-Determination/Self-Governance. We strongly urge our Federal partners to elevate these meetings on your list of priorities and attend the entire day and a half meeting.
* Create an Automated Centralized System for Reports and Budget Forms – An automized centralized data system for the submission of reports and budget forms would allow Tribes to input data into the system once saving administrative time and costs associated with having to complete multiple reports that are often seeking similar data. Adequate notice of at least 30 days, if not more, must be provided to Tribes concerning data calls and submission deadlines so that Tribes can plan accordingly and coordinate with other Tribal staff whose input may be needed to complete the Report. It would also be helpful to include a complete list of all of the required reports and submission deadlines on the automated system.
* Educational Training for Indian Affairs Staff on Retained Duties to Self-Governance Tribes and the Difference Between 638 Contracting and Self-Governance Compacting – Educational training must be provided to Indian Affairs staff about their retained duties and responsibilities to SG Tribes. Staff also need to be trained regarding the difference between 638 contracting and SG compacting because the terminology “638 Tribes” is often used by staff referring to both despite the distinction.
* **Office of Self-Governance Capacity and/or Other Issues –** Workforce capacity, succession planning, technological upgrades, administrative processes, and timely payments all need to be addressed.

Tribal Action Items:

* Address Capacity and/or Other Issues that Restrict OSG from Implementing Duties of Equal Importance to the PROGRESS Act– Completing PROGRESS Act Negotiated Rulemaking and Publishing a Final Rule before the Administration’s first term ends is a priority of Self-Governance Tribes. However, the prioritization of the PROGRESS Act seems to be at the expense of other duties and obligations of equal importance. Concrete action must be taken to identify and address capacity and/or other issues impeding OSG from implementing all fiduciary responsibilities to Tribes.
* Hire an OSG Deputy Director – We are pleased to hear that OSG is taking steps to hire a Deputy Director. It is urgent that Indian Affairs prioritize hiring a Deputy Director for OSG who can oversee operational implementation of the Director’s decisions and assume a leadership role in the Director’s absence as well as serve as a second Authorizing Official and to carry out other duties and responsibilities needed.
* Implement Technological Upgrades to SGDB – The SGDB should be easily accessible, user friendly, and contain all of the information needed for Tribes and other IA Offices/Bureau’s to make informed decisions. Tribes want to engage with OSG and the Department to provide recommendations on steps that need to be taken to upgrade the SGDB system. Time is of the essence to implement these upgrades.
* Authority to Obligate Forms Must Be Provided to Tribes Simultaneously with Funding – Many Tribes internal controls prohibit them from drawing down programmatic funds without a signed Authority to Obligate form. These forms are not provided to Tribes simultaneously with their funding and it creates confusion regarding the purpose of the funds received and imposes cumbersome administrative challenges on Tribes by forcing them to constantly contact OSG to identify the funds as well as reconcile funding documents.
* Timely Payments – The funding process is too convoluted and is causing funding delays that continue to burden SG Tribes. Steps need to be taken to streamline the process and address the issues that are impeding timely distribution.
* **Director of the Bureau of Indian Affairs and Deputy Director Field Operations** – SG Tribes have a number of concerns warranting the Director of the BIA and Deputy Director of Field Operation’s attention. Their attendance at the SG Tri-Annual meetings would be beneficial so they can hear firsthand the issues and any Tribal recommendations to address them.

Tribal Action Items:

* Communication/Coordination Issues at the Regional Level Must be Addressed – There continues to be significant issues surrounding communication and coordination between Regional Offices and other IA Offices/Bureaus. Self-Governance Tribes are being negatively impacted by the breakdown in communication including missing out on programmatic increases and other funding opportunities. Accountability measures should be adopted to ensure compliance.
* Credentialing Awarding Officials Across Indian Affairs – Tribes continue to raise concerns about the lack of certified Awarding Officials across Indian Affairs. These Officials play a crucial role in the funding distribution process as well as the administration of contracts and grants. We understand Indian Affairs has taken certain steps to speed up the credentialing process, but Tribes would like a status update on the number of vacant positions to be filled and whether additional policy changes and/or actions can be taken to get more AOs certified.
* Improve Regional Office Communication with Self-Governance Tribes and Train Staff on their Retained Responsibilities and Duties – There are still communication issues that need to be addressed concerning Regional Office communication with Self-Governance Tribes regarding budget formulation and other matters. Regional staff also need additional education and training on their retained duties and responsibilities to Self-Governance Tribes.

1. **Budget Priorities of Self-Governance Tribes:**

Tribal Action Items:

* Hold Tribes Harmless from Sequestration and Budgetary Rescissions **–** We are encouraged that Indian Affairs is doing what they can to ensure that TPA Programs and base budgets are held harmless from sequestration and budgetary rescissions**.** We need to continue to work together to hold all Tribal programs harmless from any potential future cuts.
* Advanced Appropriations for BIA/BIE- We understand that Indian Affairs is trying to hold the line to ensure Tribal programs are held harmless from any budgetary rescissions that are being proposed but at the same time we have to continue to advocate for advanced appropriations for BIA/BIE.
* Mandatory Funding for CSC and 105(l) – We need to continue to work together and collect the data needed to support our request for mandatory funding for CSC and 105(l) so that programmatic funds are not further eroded to address these growing obligations.
* Timely Requests for Contract Support Cost Funding from Treasury – The Department has the authority to request additional funding from Treasury out of the Indefinite Appropriations Account for payment of CSC. These requests for funding should be made instantaneously and not delayed. Some Tribes have been fronting the money to cover these delayed CSC payments to the tune of millions of dollars.
* Paycosts – Self-Governance Tribes are only required to self-certify their salary number to satisfy the data call for paycosts however the Regions continue to ask for detailed information that SG Tribes are not required to provide. Clear instructions need to be conveyed to the Regions by Central Office regarding the data SG Tribes are required to submit and consistent timelines need to be adopted to allow Tribes advanced notice and time to gather the data. A communication mechanism needs to be in place to ensure the proper Tribal staff are informed. Tribes also need to engage with the Bureau on any future mandatory data requirements and make funding contingent on the submission of this data.

1. **Contract Support Costs –** The Contract Support Costs Consultations have ended, and Tribes are eager to know next steps in the process including the timelines, role of the CSC workgroup and next steps.

Tribal Action items:

* The CSC Workgroup Serves a Vital Role - Tribal leadership strongly desires for the CSC workgroup to be actively engaged in the next steps regarding the CSC policy. We strongly urge the Department to provide Tribes a timeline for aggregating comments, issuing a report, and engaging with the CSC workgroup to review the Report and develop final recommendations.

1. **Executive Order 14112 Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination** – The mission and goal of the Executive Order to promote the next era of Self-Determination and Self-Governance is very important to Tribes. Tribes have a vested interest in ensuring that steps are taken to address structural impediments and other issues that have limited the full potential of Self-Governance and Tribal Self-Sufficiency.

Tribal Action Items:

*Expansion of Self-Governance Across the Federal Government* - Endorse the expansion of Self-Governance across the Federal government and take concrete steps to achieve this goal by engaging with your Federal counterparts and educating them on the benefits of empowering Tribes to exercise Self-Governance.

*Develop a Legal Mechanism to Allow Funding from Different Agencies to Flow Through Contracts and Compacts* - Establish an inter-departmental MOU that allows government-wide funding to flow through Self-Determination contracts and Self-Governance compacts.

*Adopt and Implement the Recommendations of the U.S. Commission on Civil Rights Reports* – The U.S. Commission on Civil Rights issued two Reports: “A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country” and “Broken Promises: Continuing Federal Funding Shortfall for Native Americans. The Recommendations outlined in these two reports should be implemented.

*Conduct an Unfulfilled Federal Obligations Assessment and Fully Fund Tribal Programs and Services* – A thorough analysis of unfulfilled Federal obligations for Indian country must be conducted and a plan of action on how to achieve full funding must be developed and implemented. Full funding of Tribal programs and services must include Contract Support Costs.

*Dismantle Structural Barriers to Funding* – Conduct a thorough review of regulatory policies and processes that impede the funding process to include updating computer systems and agency processes that delay funding disbursements to Tribes.

*Provide Advanced Appropriations/Mandatory Funding for Tribal Programs and Services* – Tribal programs and services are mandatory obligations and should be funded as such by working with Congress to transfer Indian programs and services from the discretionary to the mandatory side of the budget. In the interim, advanced appropriations must be provided for all Federal programs for Indian country.

*Provide Direct Base Funding to Tribes* – Grant funding does not align with the trust and treaty obligations. Funding for Indian country must be in the form of formula funded base dollars that pass directly to Indian country through Self-Determination contracts and Self-Governance compacts.

*Reduce Administrative Burdens and Increase Funding Flexibility* – Administrative burdens take a variety of forms to include competitive grants, overly burdensome regulatory and reporting requirements, restrictions on the ability to combine and use Federal funds, Federal match requirements, laws and policies that impede Tribal access to funding and resources, and other policies that dictate the form, use, and application of Federal resources at the Tribal level. Eliminate these regulatory barriers and increase funding flexibility for Tribes.

*Tribal Tax Parity* – Tribal tax parity is a key component of acquiring the resources Indian Country needs to address the unfulfilled Federal obligations.

*Timely Implementation Solidified in Regulations* – Time is of the essence to get these measures in place and to take concrete steps to implement them before the end of the Biden-Harris Administration. We also want to ensure that any measures that are adopted will be solidified in regulations and carry-over into future Administrations.

*Continue to Engage with Tribes* – Consistent and meaningful engagement with Tribes must continue to gather more information on actions that can be taken to respect, honor, and uphold the government-to-government relationship.