**DOI Self-Governance Advisory Committee (SGAC)**

**Meeting Summary**

**December 11 - 12, 2023**

**Embassy Suites**

900 10th Street NW

Washington, D.C., 20001

**Monday, December 11**

**Attendance:**

A quorum was established for the SGAC meeting.

**Committee Business:**

* The August 2023 meeting minutes were approved.
* Nomination from the Quinault Indian Nation for Tyson Johnston to serve as a member of the SGAC - motion to approve by Wampanoag, second by Ak-Chin, motion approved
* Meeting dates for 2024:
	+ February 20th – 21st
	+ July 24th – 25th
	+ December 17th – 18th
	+ Motion made by Tolowa Dee-ni' Nation to approve meeting dates; second by Ak-Chin, motion approved.

**GAO Discussion Workforce Capacity Challenges Faced by Indian Affairs Bureaus and Offices**

***Anna Maria Ortiz, Director, Natural Resources & Environment, U.S. GAO***

***Lisa VanArsdale, Assistant Director, Natural Resources& Environment, U.S. GAO***

***Michelle Wong, Analyst, U.S. GAO***

The GAO is an independent, nonpartisan agency within the legislative branch. GAO advises Congress about how to make the federal government more efficient, effective, ethical, equitable, and responsive. The GAO conducts reviews of federal agencies and programs, including those that serve Tribes, their citizens, and descendants. **The GAO does not audit or review Tribal Nations' programs or activities.**

The GAO team sought to gain tribal leader perspectives for use in the GAO's review of capacity and workforce planning at Indian Affairs.

***Office of Self-Governance (OSG) Update***

***Matt Kallappa, NWFO Manager, OSG***

Rose Petoskey has transferred from her role at DOI and accepted a position at the White House as a Senior Advisor to the White House Office of Intergovernmental Affairs and Director of Tribal Affairs for the Biden-Harris Administration.

In F.Y. 2024, the OSG has received and obligated approximately $811,437,430 in F.Y. 2022 funding to Self-Governance Tribes/Consortia. So far, in F.Y. 2024, the OSG has received approximately $796,824,604 in F.Y. 2023 funding and $343,953,414 in F.Y. 2024 funding.

The OSG has not yet received F.Y. 2024 CSC funding for distribution. Indian Affairs has requested excepted apportionment for CSC. The date that apportionment is expected to be available is pending.

Tribes are requested to email all correspondence and documentation regarding Self-Governance Contract Support, including CSC Data, to the following email address: OSG-CSC@bia.gov.

**Self-Governance ATOs**

Auto-signatures on ATOs were implemented at the end of September 2023. Signed reprints of ATOs are available for 2023, 2022, and various 2021 ATOs. A new message tab on the Login page was implemented in November 2023. A new message notice will automatically display until a Tribal User views the pending message(s).

If a Tribe/Consortium is awaiting an ATO, please get in touch with Doug Dan by email at -Douglas.Dan@bia.gov, or upon request, OSG Finance can provide FBMS and SGDB print screens which display data useful to support the drawdown of available amounts ASAP.

Lance Fisher (Lance.Fisher@bia.gov) can assist with Tribal/Consortium issues with ASAP or ID.me registration.

**Tribal Leader Comment:** There were three Tribes under a pilot program in the climate resilience grant from the Consolidated Appropriations Act and the Bipartisan Infrastructure Law. We are now looking at implementation, working with the agency on our spending plan, and moving forward with our process. Quinault's concerns are as we move forward to identify what projects are related to the spend plan, a lot of them are construction related, how are we going to make sure we are maintaining the highest form of tribal flexibilities so we can ensure that the Tribe's priorities and vision are not hindered by any rulemaking or federal policy that will make it more difficult to implement our spend plan priorities?

**Federal Response:** Those participating in the PROGRESS Act negotiated rulemaking know that construction is one of the major pieces we still need to work on. For OSG and Indian Affairs, it's less a matter of policy than ensuring we comply with the legislation.

The previous version of Title IV did not have an extensive construction component; the PROGRESS Act does. That is part of what has been challenging to work through. The funds have been identified as available for TCR projects, especially for village relocation, and the Assistant Secretary is pushing to get those funds out as best they can. The TCR Office has identified recipients, but to comply with the PROGRESS Act, we need to know precisely what will be constructed and when. So, until the spend plans are completed and we can identify what the specific construction will be, we can not proceed.

**Tuesday, December 12**

**Challenges with the 105(l) Lease Program & How to Use the ISDEAA 105(l) Lease Program to Leverage USDA Loans**

***Judith Wilson, Director, Office of Facilities, Property and Safety Management***

***Rudy Soto, Deputy Assistant Secretary, Office of the Assistant Secretary for Congressional Relations, USDA***

***Tedd Buelow, Tribal Relations Team Lead, Strategic Engagement Division – Innovation Center, Rural Development, USDA***

**Judith Wilson**

The Secretaries of the DOI and HHS are mandated to enter into a 105(l) agreement when requested by a Tribe. 105(l) leases support facility costs for contracted and compacted Programs, Functions, Services, or Activities (PSFAs). 105(l) leases are actually not traditional leases. They are facility cost agreements that compensate the Tribes for facility operational expenses associated with using their facility to administer (ISDEAA) contracted/compacted services.

The 2024 funding request continues Indian Affairs' proposal to reclassify the program, to meet legal requirements for Tribes, from discretionary to mandatory funding. Contract support costs, 105(l) leases, and construction have grown from 12% of the budget in 2013 to 24% of the 2024 President's Budget.

There is no standard application to participate in the 105(l) lease program. Interested entities should contact Indian Affairs at ISDEAA105L@BIA.GOV. A lease proposal should confirm the following:

* The Tribe holds title to, a leasehold interest in, or a trust interest in the facility;
* The Tribe is using the facility to administer an approved ISDEAA PFSA;
* List the PSFAs administered in each facility;
* The type of compensation the Tribe is seeking;
* The address for each facility and
* Identify the Tribe's accounting system, fiscal or calendar year.

For additional guidance, please refer to the published guidebook at <https://www.bia.gov/as-ia/ofpsm/brpl/105lp>.

**Tedd Buelow**

The USDA Rural Development has forty-seven state offices staffed by federal employees. The USDA offers the Community Facilities Direct Loan & Grant Program that can be used with or without 105(l) leases. It's a long-term (up to 40 years), low-interest-rate loan program. The guaranteed loan works through commercial lenders. The program is not supposed to displace commercial credit, and there is a test for credit requirements in their programs. So, if a commercial lender is willing to participate, and you have a good relationship with the lender, we can do guaranteed loans. The Direct Loan Program is where a lender will not provide a loan. The USDA underwrites the loans and is excited to underwrite them when there is 105(l) lease revenue behind them. There is plenty of flexibility when determining if a project is eligible.

**Tribal Leader Question:** Is there a restriction in terms of eligibility regarding what is considered "rural?"

**Federal Response:** It is different for all of our programs. So, if you are not considered rural for Water & Waste (the most restrictive program, 10,000 people or less), you might be considered rural for business or community facilities programs. For the Community Facilities Program, the facility has to be in an area of 20,000 people or less. That's either in a city or if you are next to a metropolitan statistical area. However, if you are a Tribe, we can also make an exception. We have gotten to use a process a couple of times where we can look at the population of your reservation.

**Labor Force Report – Biennial Report on Tribal Data**

***Patrick Carey, Assistant Commissioner, Office of Current Employment Analysis, Bureau of Labor Statistics, Department of Labor***

***Vernon Brundage Jr., Technical Lead Economist, AIPLFR, Office of Employment and Unemployment Statistics, Bureau of Labor Statistics, Department of Labor***

***Veronica Lane, Chief Data Officer, Office of the Assistant Secretary – Indian Affairs***

***Dee Alexander, Tribal Affairs Coordinator, Office of Congressional and Intergovernmental Affairs, U.S. Census Bureau (invited)***

**Vernon Brundage Jr.**

Employment status data from the CPS (monthly survey of around 60,000 households) were put into monthly and quarterly production for AI/AN alone, effective with the release of January 2022 data on February 4, 2022. Previously, annual average estimates were only published by BLS in the "Labor force characteristics by race and ethnicity" report. These new monthly and quarterly data were backfilled to 2000.

Challenges to be resolved regarding future AIPLFRs include definitional issues, population and labor force data elements, scope (needs to be broadened), data quality/data source, content and format, and tribal participation and trust.

**Tribal Leader Question:** Because Indian Country is so complex with the 12 regions we use with the BIA, how do you cross reference Alaska vs. Oklahoma, Oklahoma vs. Great Lakes, etc.?

**Federal Response (Patrick Carey):** The survey design is broken up by sampling units (pieces of geography), and some of the more urban areas, because most of the population is in these areas, will always be in the sample. Then we have other sampling units that aren't included in this that are part of the sample (secondary sampling units), but they are included in these statistics. They would include areas in Alaska and those in the contiguous 48 states, but because they are not what we consider primary sampling units, sometimes an area would be sampled and another area at another point in time. These are based on counties. Tribal areas within counties would be subject to possibly being in the sample if selected randomly.

**DOI-BIA Budget Update & TIBC Budget Process (Ranking Tool), Office of Self-Governance Funding Tables Listed in Green Book**

***Jeannine Brooks, Deputy Director, Office of Budget and Performance Management***

***Matt Vogel, Policy Lead Appropriations and Federal Budget, NCAI***

**Jeannine Brooks**

The federal government continues to operate under a continuing resolution (C.R.) through February 2, 2024. The OMB has approved I.A.'s request to provide 100% TPA base and law enforcement funding to F.Y. Tribes under CR1. The OMB approved the request to provide 100% of the TPA base and law enforcement funding for C.Y. Tribe under CR2. If a debt ceiling agreement is not reached, a 1% automatic reduction will be triggered and could result in the need to claw back exception apportionment funding.

The proposed F.Y. 2025 budget request was sent to the OMB on September 11, 2023. The OMB will conduct pass back and appeals in early December. I.A. continues to prep the Greenbook for publication, typically in February but sometimes later.

Concerning the F.Y. 2026 budget formulation process, the tribal priority ranking tool is bi-year, so I.A. will use the F.Y. 2025 National Ranking to inform F.Y. 2026 priorities. I.A. will accept an updated tribal priority ranking if a Tribe has changed its F.Y. 2025 submission.

**Tribal Representative Comment:** Your office has probably heard from my Nation in relation to the pay cost data request. You mentioned that your office tries to pay respect to a four-week lead time when requesting information. Frankly, that was not the experience at all on the ground. I'm sure you are aware of that. To that end, the administrative burden that it creates on Tribes is unacceptable. This is an administrative burden that your office bears, not necessarily the Tribes, because the federal government and its agencies bear the responsibility of the trust responsibility. I believe it should be your office that sends out reminders in a regular fashion – starting in October.

**Federal Response:** I agree**.** I think we couldbetter explainwhy we need that FTE information, and we can put something together to explain that. FTE is not the number of employees that you have. It is based on the number of work hours in a year. That does not necessarily translate into the number of employees, but I can see that is still a concern. We ask this because that is how we, as the federal government, report out and request funding based on the number of FTEs.

**Matt Vogel**

Mr. Vogel provided an overview of the federal and TIBC budget formulation processes. The TIBC budget formulation process is intended to provide the following improvements:

* Increased empowerment;
* Streamlining of the process for reduced labor input;
* Greater transparency and reduced subjectivity, and
* Flexibility to allow Tribal Representatives to respond to unique needs across the 12 BIA regions.

The TIBC and Indian Affairs (I.A.) work together each year to distribute a Priority Ranking Tool to Tribal Nations that asks every Tribal Nation in every I.A. region to submit their highest priority programs.

**Legislative Update**

***Jordan Romero-Villanueva, Hobbs Straus Dean, and Walker***

The Senate Committee on Indian Affairs does not expect to have any comprehensive legislation relating to Indian Country this Congress. One bill discussed often at committee hearings is the Parity for Tribal Law Enforcement Act. The Native American Veterans Charter Act will provide a congressional charter for the National American Indian Veterans (non-profit/nonpartisan group). This bill has been attached to the NDAA and survived the House-Senate conference.

Unfortunately, NAHASDA was in the NDAA as an amendment but was taken out due to the House-Senate conference. Supporters of NAHASDA are attempting to find another legislative vehicle, such as the appropriations bills. The Head Start Expansion and Improvement Act has been included in the House and Senate versions of the HHS bills for appropriations; however, movement is at a standstill as Congress discusses the topline numbers.

**Discussion with Assistant Secretary, Indian Affairs, DOI**

***Katherine Isom-Clause, Deputy Assistant Secretary – Indian Affairs, DOI***

**Tribal Leader Question:** What efforts will you and Assistant Secretary Newland make regarding the implementation of E.O. 141112? How will it enhance or complement E.O. 13175?

**Federal Response:** Executive orders are always big conceptual ideas, and it is our job within the agencies to implement them. Whenever issues arise, we will look to this as a framework for thinking about how we approach funding questions with Tribes. As much as we can implement it moving forward, we will. We will further develop a strategy over the next year. Your point about having it at the OMB level is crucial because it makes the entire federal government responsible. Of course, DOI, Indian Affairs, we always take vital roles in Indian issues. So, I am sure Secretary Newland will be helping shepherd this regarding how it is implemented.

**Tribal Leader Comment:** When you guys group up and start talking with all the key players regarding implementation strategies, we hope that you engage Tribal Nations.

**Federal Comment:** Adding one more point to the unmet need ask, Principal Deputy Secretary Garriot has been one of the champions for getting that data because, as you know, he comes from an economic development background, and he has found that having that data helps with our congressional budget, philanthropic efforts, and expanding the network with public-private partnerships.

**Tribal Leader Comment:** It seems to us that the BLS does not have the resources to do the job assigned to them. The data is critical. The definition and classification of the unmet need are critical in improving the welfare of Tribes and improving the government-to-government relationship through trust responsibility. We are searching for the resources necessary to do this work, and Tribes are uniquely positioned to if they had the resources to provide this information.

**Tribal Leader Comment:** Different regions had different experiences regarding the annual pay cost report outreach. The regions received the outreach call on different dates. It made it challenging for many – like last-minute outreach. There should be consistency when they reach out to the regions. The outreach roster needs to be more extensive because, typically, it might be the CFO, the finance officer, or the planner who will be able to provide the salary data.

**Tribal Representative Comment:** This morning, we discussed the budget and data request creep – especially regarding pay cost. We have a few additional information requests that are currently voluntary but are expected to shift to a mandatory requirement at a later date. We generally have concerns about new mandatory data requests, and we ask that we get top-down pressure to limit that.

**Tribal Leader Comment:** We have been trying hard to change some of the terms on references that we use. For years, we have been using the term unmet need. Although it is a need in Indian Country, it is actually the United States' obligation, so we have been using the term unmet obligation. Regarding the pay cost data requests, the intrusive nature of what is being asked of us is concerning. The total salaries are what is needed, whether they are part-time or full-time. Where they work is irrelevant.

**Tribal Leader Comment:** Self-governance Tribes in our compacts and funding agreements should receive annual increases when authorized under the appropriation act. There are areas where we do not receive it, so we have issues where it is not working. For example, self-governance Tribes were excluded from the Tribal Management Development program funding increases and the BIA RFPs for competitive funding with anti-self-governance language. We think the BIA violated the congressional intent on some natural resources general increases for self-governance.

**Federal Response:** We agree that self-governance Tribes should not be systematically excluded. We are aware of that, and we are prepared to commit to having a conversation about the issue. All Tribes should receive their due consideration irrespective of the statutory or funding vehicle.

**Tribal Representative Comment:** Concerning the TMD program, self-governance Tribes have been unfairly excluded from receiving their share of TMDP payments for more than a decade. Also, in 2023, there was a $3 million congressional general increase for this, but because the self-governance Tribes haven't been included in the Greenbook PMDT funding table, we have been excluded. Ten years ago, Assistant Secretary Washburn assured me that would never happen again; however, it happened again - including in 2023.

**Climate Change**

**Tribal Leader Comment:** We want to make sure that when you are issuing grants, you consider how grants limit the flexibility of Tribes to respond to the needs of those they serve.

**Tribal Leader Comment:** This is a pilot project, so there is a need moving forward for these resources to continue to be available for Indian Country. The legislative intent was to maintain as much tribal flexibility as possible.

**Federal Response:** That is one of the areas that the executive order should be attempting to address. This is exceptionally place-based and will vary based on which Tribe is implementing it and where it is implemented. I agree and want to ensure the message is carried through in its implementation.