

**IHS Tribal Self-Governance Program Information Review Workgroup  
Discussion Items for TSGAC  
December 2015**

The IHS Tribal Self-Governance Program Information Review Workgroup (Workgroup) met on December 3, 2015 to review policy letters, memos, and recommendations regarding the Indian Health Service (IHS) Tribal Self-Governance Program. The following notes, discussion items and recommendations are a result of the meeting.

**Items for TSGAC Discussion and Action**

- **IHS Office of Tribal Self-Governance Office Reorganization.**

During the Demonstration Project and just after permanent authorization of the Tribal Self-Governance Program, the TSGAC made many recommendations regarding the roles and responsibilities of the Office of Tribal Self-Governance (OTSG). The following are items the Workgroup believes are critical for discussion.

Questions for TSGAC:

- Should OTSG have a greater role throughout the negotiation process?
- Should the OTSG Director exercise its full authority budget authority to execute the payment process?

- **Formalizing the role, responsibility and expectation for Agency Lead Negotiators.**

The Workgroup discussed many of the cross cutting issues Tribes experience during negotiations. The Workgroup believes that many of the inconsistencies may be eased by formalizing the role of the Agency Lead Negotiators (ALN).

Questions for TSGAC:

- Should the ALN position be a formal position, including a formal job description, performance measurements, and direct reporting structure?
- Is there a recommendation to IHS regarding how ALNs should be hired, trained, and where they should be positioned within the IHS?
- Should the ALN's be part of the OTSG staff to ensure consistency across the Areas and to allow for better direction and oversight?

Workgroup Recommendations:

- Clarify role and expectations for the ALN and formulate new roles.
  - ALNs should be able to articulate any IHS retained services included in a Funding Agreement.
  - Include recommendation regarding timely responses as a performance measurement for the position.
  - Provision of documents at minimum amount of time in advance of negotiations
    - Share documents 120 days prior to a new funding year for Multi-year Funding Agreement or an updated/expired Funding Agreement

- Suggested timeline for new Tribes entering Self-Governance, specifically document sharing directly after Tribal inquiry.
    - Finalize a teaching curriculum for ALNs.
- **Include Office of Environmental Health and Engineering funding in the recurring budget.**  
Tribes initially recommended that recurring OEHE funding should be eligible for Tribes' base budgets, however, to date IHS has not acted on this recommendation.
  - Does TSGAC want to continue to recommend OEHE be part of the recurring base?
  - Ask IHS: Why hasn't Title V implementation of base budget occurred for OEHE? {25 USC 458aaa-4(g)} {42 CFR Section 137.120-124}
- **Develop and codify definitions that are used, but not specified in regulation or statute.**  
There are a few terms that are used regularly in Self-Governance negotiations, funding agreements, and discussions. However, some of these terms do not have standard definitions and may lead to confusion in negotiations.
  - Retained Tribal shares
  - Buy-back
  - Residual
- **Formalize TSGAC as an IHS Advisory Committee.**  
The TSGAC is formally recognized in the Title V regulations. However, the Workgroup recognizes there is concern about changing the current operating nature of the Committee. As Administrations change and Self-Governance history grows, a brief, published Charter in the Indian Health Manual may be useful to ensure its continued success and on-going advisory role across changing Administrations.
  - Would TSGAC like to submit a charter for inclusion in the Indian Health Manual?
  - Should the charter reference existing protocols?

### **Recommended Actions**

- **Ask IHS to share documents to share regularly and publicly to the extent possible.**
  - Headquarters Tables 1-3 should be routinely provided in a timely and efficient manner.
  - Annually update information regarding Headquarters and Area residuals and PSFAs manuals.
  - Headquarters PSFA Manual and Area PSFA Manual should be available publicly.
  - Make the Joint Allocation Methodologies document public.
  - Determination of Tribal Share Distribution Formula.
  - What is the process for Tribes to question or appeal the formulas and process for determining Tribal Shares and Residual?
- **Ask IHS Areas without a PSFA Manual to develop and publish manuals online.**
- **Update IHS Functions and Authorities to reflect changes in law.**
  - OTSG

- Payment process authority.
- Self-Governance negotiations.
- Include responsibility over area in addition to Headquarters shares.
- Update Office of Tribal Programs or Human Resources to reflect IHCIA provisions.