

**Department of Health and Human Services
Secretary's Tribal Advisory Committee Meeting
Washington, DC**

September 17-18, 2014

Executive Summary Report

Paul Dioguardi opened the third Secretary's Tribal Advisory Committee (STAC) meeting of 2014, officially the first meeting under the auspices of the new Department of Health and Human Services (HHS) Secretary Sylvia Burwell. Secretary Burwell was in the midst of the confirmation process during the STAC meeting in June. Although STAC members had requested a meeting during the summer, the Secretary's first 100 days in office included a busy schedule of internal meetings and briefings. After becoming familiar with the Department and setting priorities, Secretary Burwell is ready to engage with important partners and stakeholders outside of the Department. The Secretary reviewed the STAC's priorities established for this year to prepare for a robust conversation.

Mr. Dioguardi discussed a few housekeeping items, noting that the next meeting will occur December 4-5, 2014. HHS staff will soon begin the conversation about dates for four quarterly meetings in 2015. Mr. Dioguardi added that STAC Chair Rex Lee Jim could not attend the September STAC meeting so STAC Vice Chair Brian Cladoosby would lead the discussion.

Members Present for Roll Call: Cathy Abramson (Bemidji Area), Ron Allen (Portland Area), Chester Antone (Tucson Area), Tino Batt (Portland Area-Alternate), Dana Buckles (Billings Area-Alternate), Cheryl Frye-Cromwell (Nashville Area), Larry Curley (Navajo Area-Alternate), Marshall Gover (Oklahoma Area), Gary Hayes (Albuquerque Area - Alternate), Ken Lucero (Albuquerque Area), Arlan Melendez (Phoenix Area), Andy Teuber (Alaska Area-Alternate) Roger Trudell (Great Plains Area), and Aaron Payment, William Micklin, Jefferson Keel, Stephen Kutz, Robert McGhee and Brian Cladoosby (National At-Large Members). (Quorum Met)

Action Items

Office of Management and Budget (OMB)

- STAC members should receive a copy of OMB's Tribal Consultation Policy.
- STAC members requested answers to their questions in written form.

Administration for Children and Families (ACF)

- Department should work on the tribal allowance for construction, which is minimal if not insufficient.
- HHS should ask the states if they consulted with the tribes in the development of the 5-Year Child and Family Service Plans required for state funding in relation to Indian Child Welfare consultation and compliance.
- As part of holding states accountable to their 5-year plans, there needs to be a greater focus on data collection to form a baseline that can document evidence and support decisions that are made with respect to states' cooperation and collaboration with tribes.

Center for Consumer Information and Insurance Oversight (CCIIO)

- HHS should increase the level of support to conduct policy development around why tribal members' enrollment in the Affordable Care Act (ACA) is so low after one year.

Intradepartmental Council on Native American Affairs (ICNAA)

- Update STAC Website.
- Review minutes from other tribal advisory committees below STAC to see if the actions of those groups are consistent with the STAC.

Indian Health Service

- Discuss getting Congress to authorize Indian Health Service (IHS) as a 501(c)(3) nonprofit to seek foundation funding for the Resource and Patient Management System (RPMS) and other issues.
- The IT department of IHS will provide a written response to the statement about RPMS read into the record by Arlan Melendez.

Indian Health Service Discussion

Dr. Yvette Roubideaux, Director, Indian Health Service

After a round of introductions, STAC members moved into a discussion regarding the Indian Health Service (IHS) budget. Budget issues have grown even more complex due to the way the appropriations language is written, said Dr. Roubideaux. IHS received a \$304 million increase that, according to the congressional language, should go toward Purchasing Referred Care, the staffing amount for new construction and to fully fund contract support costs (CSC). The administration is committed to fully funding CSC for 2014, and it is in the president's budget for 2015.

Congress, however, removed the "not to exceed" language for CSC, which meant it removed the overall appropriations cap on CSC. As a result, Congress is in the untenable position of fully funding CSC even if that effort reduces other budget priorities, said Dr. Roubideaux. Contract

support costs sit in the services appropriation, so if the amount or need for CSC is greater than what is available, then by law IHS must reduce the rest of the budget in the services appropriation.

In May, IHS reduced the budget by \$10 million. However, the amount has fluctuated due to regular adjustments and changes in indirect rates. What's more, tribes came in to renegotiate CSC, which increased the obligation and need in FY2014 to \$48 million as of August 22. IHS recently sent a letter to notify Congress of its plan to reprogram funding to cover that increase to fully fund CSC.

IHS hopes that final total will come down as staff finalize negotiations and reconcile amounts. Even so, contract support costs are variable and costs can change over time. In fact, last week an additional \$5 million to \$6 million was put on the table by a tribe, which sets the total above \$48 million. The number could go up again, and without any limit on CSC in the services appropriation, IHS is under obligation by a Supreme Court decision and Congress' instruction to take that funding out of the rest of the budget.

Typically IHS would have used funding at the end of the year for renovations and provider contracts. Rather than focusing on blaming, Dr. Roubideaux encouraged tribes to understand the problem and concentrate on working with IHS to fix it. IHS wants to support full funding of CSC as well as the rest of the budget with the Direct Service Tribes. No one wants full funding of CSC to come at any expense to the rest of the budget.

Dr. Roubideaux noted that IHS could not have known about the \$48 million sooner because tribes have the right to come in for renegotiation of contract support costs through the end of the year. So IHS could get additional need through September 30.

To reduce the impact on the rest of the budget, IHS will take the funding out of headquarters first and then take the funding out of the areas. However, funding will most likely have to come out of the service units as well, although IHS will try to minimize that impact.

If the appropriation continues without any limit on CSC within the services appropriation, this problem will occur every year. IHS has posed several recommendations to the Obama Administration, including getting money from Congress for the \$48 million or seeking an anomaly to pay it back. The administration has not made a decision yet. This first continuing resolution (CR) was meant to be a clean CR, said Dr. Roubideaux, so there is minimal chance of getting anything in that. There is still time, however, to get something into the final appropriation for 2015 or a full year continuing resolution.

Moving on to other issues, Dr. Roubideaux noted these points:

- The Tribal Budget Formulation Workgroup and the Tribal Self-Governance Advisory Committee have organized an IHS Budget Summit for October 13-14 in Washington, DC.

- Although the House and the Senate marked up a budget for IHS that was similar to the President's budget, it is likely that a continuing resolution will go through until December 11.
- IHS has completed listening sessions in all 12 IHS areas and plans to focus on better communication and follow-up at headquarters as well as at the area and local levels.
- IHS is now presenting its budget to OMB for 2016. Staff members continue to work on improving consultation, operations, finances and more. Overall IHS continues to seek more funding and make improvements.

Substance Abuse and Mental Health Services Administration (SAMHSA)

Pam Hyde, Administrator

SAMHSA has streamlined and consolidated some of its work to provide more effective assistance to tribes. Ms. Hyde gave these updates:

- SAMHSA announced in August the creation of the Office of Tribal Affairs and Policy (OTAP). Under the direction of Mirtha Beadle, OTAP will serve as an entry point of information on tribal services available within SAMHSA. The Office of Indian Alcohol and Substance Abuse is now located within OTAP.
- SAMHSA seeks a new director for the Office of Indian Alcohol and Substance Abuse. Interested candidates should contact Ms. Beadle.
- In 2014, SAMHSA received \$5 million for a new tribal behavioral health grant program called Native Connections. This program seeks to reduce the impact of substance abuse and mental illness on American Indian/Alaska Native (AI/AN) communities through a public health approach. The grant will focus on the tribes with the highest rates of suicide during a 10-year period. SAMHSA will soon announce the 20 tribes that will receive grant awards of up to \$200,000 for five years.

SAMHSA has expanded its technical assistance on workforce-related matters through its National AI/AN Tribal Addiction Technology Transfer Center. Comprehensive and focused technical assistance is also being provided through the SAMHSA Tribal Training and Technical Assistance Center.

- The SAMHSA American Indian/Alaska Native Team (SAIANT), which meets every month, is working on a tribal communications strategy, a streamlined application process for tribes, and data collection issues that have been identified by tribes.
- SAMHSA offers funding opportunities that support integrated home and community-based services and support for children and youth. Tribes can participate in Circles of Care, a three-year discretionary grant program that goes to tribes, tribal organizations, urban Indian programs and tribal colleges.
- In response to concerns raised by tribal leaders, SAMHSA's Regional Administrators are working with the Office of Tribal Governmental Relations (OTGR) within the Department of Veterans Affairs to address issues faced by AI/AN veterans.
- SAMHSA held a policy academy that included four tribes focused on diverting justice-involved youth to community settings.
- OTAP is leading an effort to revamp SAMHSA's project officer training to educate staff on working with tribal governments and assist them in more effectively carrying out their

work with tribes. SAMHSA staff will test a new training curriculum in early October. Curriculum modules will cover:

- the historical and contemporary government-to-government relationship,
 - state and tribal relationships,
 - grants management,
 - high-risk grantee management,
 - data gathering in tribal communities, and
 - cultural considerations.
- As a means of strengthening its work with tribal nations, SAMHSA executives visited tribes in Alaska, Washington, and Montana to learn first-hand about their behavioral health issues and challenges. Among the issues that continue to be raised are the substantial differences between discretionary grant processes and IHS's processes and considerations for awarding funds to tribes. To further the understanding of its Executive Leadership Team, SAMHSA will work with IHS to provide training on IHS financing.
 - Ms. Hyde clarified details about the institutions for mental diseases (IMD) exclusion in youth residential treatment centers. SAMHSA does not control this provision but frequently encounters concerns with the exclusion when working with tribes. SAMHSA will work with the Centers for Medicare and Medicaid Services and IHS to address questions and opportunities, and assist tribes.

Office of Management and Budget

Julian Harris, Associate Director for Health Programs, Office of Management and Budget, Executive Office of the President

Norris Cochran, Deputy Assistant Secretary for Budget

This session gave STAC members a long-awaited opportunity to hear from OMB and understand the issues that often seem to hinder urgent tribal budget concerns.

Mr. Cochran noted that the current fiscal year ends this month. All eyes will then turn to what is happening in FY2015. There are no discussions of a shutdown. The mandatory sequester remains in place. The discretionary sequester is off the table for 2015. Mr. Cochran expected Congress to pass a continuing resolution to keep the government funded basically at last year's levels October 1 through December 11.

Mr. Harris reiterated the administration's desire to honor commitments to Indian Country. Tribes have faced numerous challenges during the past six years; indeed, sequestration has been a particularly bad policy that has had a detrimental impact on tribes. Further, the full range of decisions in Washington continue to affect day-to-day services and programs on the ground.

OMB has advocated for higher funding caps for discretionary spending and seeks to work with Congress on that issue in looking toward the upcoming budget. Mr. Harris's remarks also included these points:

- Since 2009 the administration has proposed increases of more than \$3 billion in funding. Mr. Harris's team has focused on how to strengthen funding in the Indian Health Service.

- In fiscal year 2009, the IHS discretionary budget was \$3.3 billion. OMB's proposal in the 2015 budget was for \$4.6 billion. This \$1.3 billion increase reflects the commitment to improving lives in Indian Country.
- OMB has hosted the Tribal Nations Conferences over the past number of years. The 2013 conference included 12 cabinet members and key officials from several federal agencies.
- The White House Council on Native American Affairs has played an invaluable role in helping OMB hear from the tribes about how the federal government can strengthen its partnership and commitments.
- OMB staff members are aware that contract support costs are a great concern and understand it is a complex, challenging issue. OMB remains committed to working with tribes and with Congress and appreciates input from STAC members.
- IHS has had to redirect \$48 million to pay additional contract support costs in 2014, so those dollars must come from the 2014 appropriations and has resulted in reductions in services. If Congress honors the 2015 budget, there will be some relief on the services side.

Administration for Children and Families

Mark Greenberg, Acting Assistant Secretary

ACF presented these updates:

- ACF developed two grant announcements for its Early Head Start/Child Care Partnerships. This opportunity brings the Early Head Start standards, philosophy and quality to more eligible infants and toddlers. The nationwide general grant announcement has already closed. A separate announcement for AI/ANs will close at the beginning of October. ACF will award in total \$500 million.
- A reauthorization of the Child Care and Development Block Grant is long overdue. Staff now see action for the first time since 1996. The House passed a bill earlier in September. The next step is Senate action, but both worked closely on the process together, which should result in quick action on consistent language. The up to 2 percent set-aside for tribal child care will now become a floor. So it will now be at least 2 percent.
- The Peer Learning and Leadership Network, a technical assistance project within the Office of Child Care, has blossomed during the past six months. Network participants have been working in cohorts on such skills as articulating goals of early childhood programs or doing community projects. Notable results include a public awareness campaign about tribal child care. Posters and information will go out to help tribes promote child care within their communities. The Office of Child Care will seek participants for the next cohort in a few months.
- Four tribes that receive Head Start, child care and home visiting grants were able to participate in a small funding opportunity to promote cross-collaborative work. For more than a year, ACF has been working on this project with the Choctaw Nation of Oklahoma, White Earth Band of Chippewa Indians, San Felipe Pueblo and the Confederated Tribes of Salish and Kootenai. Among other issues, the tribes are looking at shared data and intake systems. ACF seeks STAC input on how to build on that program.
- The Office of Planning, Research and Evaluation in ACF now has a Tribal Early Childhood Research Center that coordinates steering committees from tribal child care,

Tribal Head Start and tribal home visiting. Administrators who run those programs within the tribes meet with the center quarterly to offer advice on research activities.

Center for Consumer Information and Insurance Oversight (CCIIO)

Lisa Wilson, Senior Advisor

CCIIO continues to take stock and assess results as the country heads into health insurance open enrollment, which begins November 15. The deadline for plan selection this year is December 15. During the summer, staff members made changes and announcements to help with continuity of care and coverage in the federal Marketplaces. Consumers, including tribal members, should go back and reconsider their coverage for next year as premium subsidies change. State-based Marketplaces should follow similar processes.

Ms. Wilson also highlighted these points:

- Keven Counihan is the new permanent director of CCIIO.
- CCIIO recently announced \$60 million in Navigator grants to give consumers in-person assistance with health coverage options. This should be especially useful for urban Indians, who can walk into a Navigator site and expect culturally competent service. About six tribal entities will serve as Navigators.
- CCIIO has sent out notices regarding data-matching issues. These issues tend to apply to those who had problems documenting their citizenship or immigration requirements. Staff members also have sent out notices regarding annual income. Anyone with an outstanding data-matching issue can still submit documentation.

Health Resources and Services Administration (HRSA)

Mary Wakefield, Administrator

HRSA's Tribal Consultation held on September 8 in Albuquerque, NM raised a number of issues, including these:

- Tribes requested better coordination around career development efforts for and with tribal colleges and universities.
- Staff members may pilot a regional conference on workforce issues. A successful pilot could lead to replicated efforts within HRSA's 10 regions across the country. These conferences would help HRSA deploy information and gather feedback.
- As HRSA sends money to nontribal grantees for workforce programs, staff members should encourage those successful grantees, where it makes sense, to work with tribal organizations within a region or a state.
- Similarly, Ms. Wakefield will communicate with HRSA grantees across HRSA's portfolio of programs, encouraging recipients of HRSA funds to reach out to tribal entities, urban Indian communities and so on to build linkages. Regional offices will participate in this process as well.
- HRSA's Bureau of Health Workforce, which oversees scholarship programs, seeks ways to ensure those programs also are open to talented students who may have lower grade point averages.

Intradepartmental Council on Native American Affairs (ICNAA)

Dr. Yvette Roubideaux, Vice Chair

Paul Dioguardi, Director, Office of Intergovernmental and External Affairs and ICNAA
Executive Director

ICNAA is the workhorse of the STAC, said Dr. Roubideaux. STAC members make recommendations, and the ICNAA is made up of all the Operating Divisions heads and staff who take those recommendations and implement them into policy. During the past several years, ICNAA has accomplished several goals in these three areas:

- **HHS grants data:** This area includes training HHS staff to better understand tribes, and giving tribes opportunities to assist with that training.
 - Staff members are developing a tribal web page that would provide a one-stop shop for tribes to search and apply for grants and get valuable tools.
 - HHS also seeks to recruit and increase the number of grant reviewers who are either tribal members or have tribal experience.
 - The agency also must consider how often to update the grants matrix while assessing continued barriers to eligibility.
- **Consultation policy related to the state section of the policy:** HHS hopes a tribal-state relations workgroup can examine way to mandate tribal consultation by states. Staff also are considering other strategies to improve state-tribal relationships. Further, uniform HHS training materials for states on tribal consultation can create a level playing field of information.
- **Self-Governance Expansion:** The last communication from HHS encouraged tribes to talk to their contacts within ACF, Administration for Community Living, and SAMHSA to discuss possible ways of moving forward with tribal self-governance in individual Operating Divisions. HHS hasn't cut off discussions on tribal self-governance; instead, staff members are recommending a next step.

Secretary's Tribal Advisory Committee Meeting

Thursday, September 18

The second day of the Secretary's Tribal Advisory Committee meeting opened with a prayer from Chester Antone and a review of the previous day. Members highlighted a number points brought to their attention during the first day's session, including:

- Contract support costs,
- RPMS,
- Rules for grants funding,
- Indian Child Welfare Act compliance, and
- Efforts to increase support to address the low Native enrollment in the ACA.

Mr. Payment noted that tribes have more work to do in educating others about the federal government's trust responsibility. Something is lost in the translation when tribes are talking about trust obligation and yet must still apply for competitive grants with outcomes and

objectives they must meet to get the federal government to fulfill what it is already obligated to do.

Arlan Melendez read into the record a statement about RPMS on behalf of the Nevada Area. Because the support for RPMS is expected to diminish over time, tribes need to know how IHS plans to address issues with the outdated system. Mr. Melendez covered these points in his statement:

- Tribes depend on the RPMS clinical application to directly support the highest quality patient care available. These applications collect all patient-related information gathered in various patient encounters and keep them in one central data system.
- In addressing issues with RPMS, the Reno-Sparks Indian Colony had to turn to the Information Technology (IT) staff at IHS headquarters, where only one person could provide the necessary lab configuration to fix the problem, and she was already booked out three months working with other tribes across the nation.
- There is significant concern in the validity of accurate data in the RPMS system overall. The Reno-Sparks Tribe has lost providers, both contracted and direct tribal hire, due to the complexity and frustration of the system.
- Billing through the RPMS system creates significant concern due to the lack of training, system problems and inaccurate and sometimes unknown area within the billing components of the system. The Reno-Sparks Tribal Health Center has lost thousands of dollars in revenue due to system issues within the billing components. The Tribe now uses a commercial billing package.

CMS: Center for Medicaid and CHIP Services

Elliot Fishman, Director, Children and Adults Health Programs Group

Kitty Marx, Director, Tribal Affairs Group, CMS

The biggest headline in Mr. Fishman's overview was the implementation of Medicaid eligibility expansion, the implementation of the Marketplaces and the increase in insurance coverage that has gone with both of those parallel expansions. He provided these highlights:

- Although there has been dramatic growth on both the Medicaid side and the Marketplace side nationally, CMS staff members haven't seen similarly dramatic reductions in the number of uninsured Native Americans. Some of that has to do with enrollment where it is available. Yet another factor is which states have expanded Medicaid.
- Of the 350,000 uninsured AI/ANs who fall in the Medicaid category, half of them live in states that have not yet expanded Medicaid.
- A new round of outreach grants are available to support enrollment into Medicaid and the Children's Health Insurance Program (CHIP) in AI/AN communities. That solicitation, which went out in the spring, offers \$4 million in grant funds. These grants serve as the most targeted tool for supporting Medicaid enrollment.
- CMS seeks input on the effectiveness of its Tribal Consultation Policy, which has been in effect since November 2011. Federal staff also want feedback on the state/tribal consultation process.

HHS Federal Member Roundtable Discussion

With a focus on 2014 priorities and questions on the written reports provided by Operating Divisions leaders, STAC members covered these points during the roundtable discussion:

- **RPMS:** The IT department of IHS will provide a written response to the statement read into the record by Arlan Melendez. The Information Systems Advisory Committee, (ISAC) made up of tribal representatives, has made a number of recommendations that IHS seeks to implement. The root of all problems with RPMS is the lack of resources, particularly in this difficult funding climate, said Dr. Roubideaux. Further, tribal shares don't cover all the support needed for technical assistance. The cost for the Veterans Administration to switch to a new system would have been more than \$200 million. The VA has the same architecture that IHS has for RPMS.
- **Elder Care:** Senior assistance programs and the health care of elders are big issues. Diabetes remains a concern in tribal communities. Although the aging population represents about 10 percent of the population, they use 80 percent of the Medicare medical costs that go to tribes, said Mr. Curley. Further, tribal health today requires data entry personnel, computer experts and other professionals to meet the needs of a changing field. Tribes also saw tremendously negative effects on aging services programs during the FY13 sequester. Older Americans Act programs lost more than \$100 million.
- **ACF:** A notice of proposed rule making in relation to the child welfare data system will soon be available. This effort will provide opportunities for weighing in on additional areas that federal staff should think about in regard to data collection. In the area of TANF, federal staff members are waiting to hear from Congress about reauthorization. If funding remains available, ACF will continue to provide TANF symposiums. Staff members also are waiting for a report based on the review of state plans that came in a few months ago. That document will further the understanding of state compliance with ICWA and the nature of consultation.
- **CDC:** Among its activities, this agency has embarked on a voluntary accreditation program available to all state, local, territorial and tribal health departments. CDC will use this process to identify areas and opportunities for improvement that affect the implementation of prevention programs.

CDC also has initiated a tribal support data management system to ensure that staff members know all the resources that tribes are using for public health in Indian Country. This system tracks direct as well as indirect funding and monitors progress as well as impact over time. In its trial phase, the management system is not accessible outside of CDC but staff members continue to discuss which information should be available for sharing. HHS is developing a website to help tribes keep track of this and other emerging programs.

Secretary Sylvia Burwell

On her 100th day in office, new HHS Secretary Sylvia Burwell presided over her first discussion session with STAC members, offering brief opening remarks before listening to reports on such issues as Indian child welfare, the ACA and the government-to-government relationship.

From working with Walmart to provide food and education to assisting the Bill and Melinda Gates Foundation in bringing technology to the Navajo region, Secretary Burwell has worked closely with AI/AN communities. Most recently at the OMB, Secretary Burwell made the financial and budget issues of Indian Country a top priority.

In preparing to engage with tribes in the areas of health, education and child well-being, Secretary Burwell noted a brief window of time in which to work. During the next two years, four months and two days, the Secretary plans to focus deeply on delivering results so that she and the STAC can have measurable success in tribal communities.

In her response to the tribal reports, Secretary Burwell said:

- Regarding Medicaid, there is not a week since I have been here that I have probably not met with a governor to try to move that Medicaid expansion ball forward. Voices and examples in communities are important, but it is something that I am deeply focused on.
- Because I am proximate to budget issues, I know we are going to be sailing into a situation in FY16. So hopefully we will get a budget for this year. But '16 is going to be difficult. That is why this planning and working through -- and understanding which of the problems we can make the most progress on, and on which timeframe, is important. We are going to have to work together because the situation will be tight, and the appetite for changing things to mandatory, the appetite for some of the longer-term solutions, is going to be hard.
- What we need to do is think about which of these problems we can try and be creative in, especially the issue of creating some form of predictably for you as you are trying to manage your health care.
- The importance of discretionary funding in our nation, and that gets to the IT issue, having sat at OMB, what gets cut every time is any investment in infrastructure. In tight funding times, that is what gets cut.
- Thank you all. I hope this is the beginning of a number of conversations but not just conversations. I know we need to resolve issues. On the ones we can, let's work to move forward. And on the ones where we can't, let's be honest and talk about why we can't and figure out if there are ways to move beyond the barriers.

Whereupon, the STAC meeting adjourned at 4:20 p.m.