

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

September 11-12, 2012 – Washington, DC

Executive Summary Report

The Secretary's Tribal Advisory Committee (STAC) Meeting was held on September 11-12, 2012, in Washington, DC. The meeting provided an opportunity for the STAC to receive updates on the Health and Human Services (HHS) budget, Intradepartmental Council on Native American Affairs (ICNAA) activities, Affordable Care Act (ACA), human service programs, and Tribal State relations; prepare for and meet with HHS Secretary Kathleen Sebelius; hear from HHS staff and operating divisions about their work on American Indian and Alaska Native issues and initiatives; discuss contract support costs; and plan its next steps. The meeting was facilitated by the STAC's Chairman, Ken Lucero, who was assisted by Co-Chair Steven Ortiz. Throughout the meeting, the STAC was afforded numerous opportunities to engage with HHS leaders, program staff, and agency heads to raise concerns, solicit input, and provide recommendations on issues relevant to Indian Country.

A quorum was met each day of the meeting. Members present during the roll call on the first day included the following: Ken Lucero, Roberta Bisbee, Robert McGhee, Roger Trudell, Gloria O'Neill, Andy Teuber, Jr., Gary Hayes, Richard Luarkie, Cathy Abramson, Stacy Dixon, Cheryl Frye-Cromwell, Rex Lee Jim, Steven Ortiz, Herman Honanie, Ron Allen, and Chester Antone. The following members were present during the roll call on the second day: Jefferson Keel, Ken Lucero, Roberta Bisbee, Robert McGhee, Roger Trudell, Gloria O'Neill, Andy Teuber, Jr., Gary Hayes, Cathy Abramson, Stacy Dixon, Cheryl Frye-Cromwell, Rex Lee Jim, Steven Ortiz, Herman Honanie, Ron Allen, and Chester Antone.

As the meeting transpired, the following action items were recorded:

- Commissioner Lillian Sparks will have Sue Clain or Sean McCarville distribute an update to the STAC regarding the status of the grants matrix to the STAC after the meeting.
- Mayra Alvarez will communicate with the Centers for Disease Control and Prevention (CDC) to recommend using professional health educators to train local Tribal staff/individuals to implement best practices.
- Dr. Yvette Roubideaux will follow-up on who has co-pay responsibility if a Native veteran seeks services at the U.S. Department of Veterans Affairs (VA).
- Cindy Mann will ask Lisa Wilson to follow-up with Cathy Abramson to help her with an upcoming meeting on November 7-8, 2012, with the United Tribes of Michigan, Tribal leaders, health directors, and insurance staff regarding Michigan's decision to go with a Federal Exchange.
- Shannon Rudisill will coordinate with Jim Henry to follow-up to see if there are any issues with Tribes being able to flexibly use dollars under the 477 program (related to child care).

- Shannon Rudisill will coordinate with Mary Sperry to follow-up on the issue of Tribes renting or leasing space from Federal agencies.
- Secretary Kathleen Sebelius will broach with the President the idea of having an Executive Order that captures the STAC in the HHS [structure] and includes a mission that all Departments should have a similar committee to the STAC.
- The STAC needs to compile two or three items it thinks the Secretary should highlight in her next letter to State Governors.
- Secretary Kathleen Sebelius' team will follow-up on the status of the grants matrix and the Special Diabetes Program for Indians (SDPI) report to Congress to have them available for Tribes as soon as possible.
- Secretary Kathleen Sebelius will work with Dr. Yvette Roubideaux to follow-up on what is delaying the opening of an adult alcohol treatment facility in Winnebago, Nebraska that has been ready for 3 years.
- Dr. Yvette Roubideaux will follow-up on the request to have an official name change for the Aberdeen Area to the Great Plains Region.
- Dr. Yvette Roubideaux needs to schedule a Tribal Consultation on the Catastrophic Health Emergency Fund (CHEF).
- Dr. Yvette Roubideaux will have her team work with the Aberdeen Area to get them involved with the National Health Service Corps (NHSC) program.
- The STAC will provide one or two people to work with George Sheldon over the next quarter to address strategies for dealing with States' non-compliance with the Indian Child Welfare Act (ICWA).
- The STAC will provide stories to support claims of States' non-compliance with the ICWA to George Sheldon.
- Teresa Nino will provide Stacey Ecoffey with call-in information for upcoming regional stakeholder engagements.
- On its agenda in December 2012, the STAC will address the issue of training on trust responsibility for Tribal and State leaders. (Cathy Abramson can provide an agenda used by Tribes in Michigan.)
- On its agenda in December 2012, the STAC will discuss its role moving forward.
- Cheryl Frye-Cromwell volunteered to sit on the State Tribal workgroup.
- Chairman Ken Lucero will review recommendations offered related to the Federal Roundtable session and the meeting agenda and have a call with the STAC to see if changes need to be made.
- Paul Dioguardi (and his team) will think about how to best extract tasks from the minutes, segregated by Federal and Tribal responsibility, and try to come up with a format for disseminating that information.

The first day of the STAC meeting began with Paul Dioguardi, Director, Office of Intergovernmental and External Affairs (IEA), welcoming the group and inviting Roger Trudell, Chairman, Santee Sioux Nation, to provide the opening blessing. Mr. Dioguardi announced that the STAC's official website was online [<http://www.hhs.gov/iea/tribal/aboutstac/index.html>]; noted that work on the STAC Annual Report was underway; and commented that the Secretary would be soliciting feedback on the HHS Tribal Consultation Policy soon. Following Mr. Dioguardi's remarks, Gloria O'Neill, President and CEO, Cook Inlet Tribal Council, requested that the issue of

settling contract support costs within the Indian Health Service (IHS) be added to the meeting agenda.

Norris Cochran, Deputy Assistant Secretary for Budget, Office of Budget, provided an update on the HHS budget. He reminded the STAC that the President's budget was sent to Congress in February 2012. He said the House of Representatives marked up the bill and funded the IHS above the President's request, with additional money going to contract support costs. As the Senate has yet to mark up the bill, Mr. Cochran said no action is expected before the new fiscal year. He noted that the House filed a 6-month continuing resolution bill, which he said is likely to be passed. Regarding the issue of sequestration, Mr. Cochran said Congress passed a separate bill, the Sequestration Transparency Act, requiring the Office of Management and Budget (OMB) to submit a report on what the sequestration will look like and how it will be executed. Finally, Mr. Cochran said the Supreme Court upheld the ACA, but States will decide if they want to participate in the Medicaid expansion; and regarding contract support costs, the Court said that the fact that Congress writes in a cap to the appropriations bill doesn't constitute a limit to what the Federal government is obliged to pay for contract support costs.

Lillian Sparks, Commissioner, Administration for Native Americans, provided an update on the Intradepartmental Council on Native American Affairs (ICNAA). She said subgroups have been meeting since the last STAC meeting, noting that the grants matrix to identify grants available to Tribes is currently being vetted by the General Counsel. She said a Tribal perspective paper has been developed regarding Tribal self-governance, adding that it is not clear which programs the workgroup wishes to push forward.

Following Commissioner Sparks' presentation, Dr. Roubideaux reiterated the importance of the ICNAA's work related to Tribes' access to grants; and she welcomed the STAC's input on how the agency can do Tribal self-governance outside of IHS and other programs. Chairman Lucero echoed the complexity of the issue, saying the Departmental and Tribal perspectives differ regarding which programs should be considered for expansion. Recognizing that some legislative and statutory issues will likely have to change for the initiative to move forward, he said the two sides were able to compromise on the programs they could accept moving forward with.

In discussing the issue of contract support costs, Dr. Roubideaux informed the STAC that the Administration is officially reviewing the Supreme Court's *Salazar vs. Ramah* decision and the Department of Justice is taking the lead on how to proceed. To that end, she said she was not at liberty to speak for the Department of Justice or the Administration, as the official position is "the matter is under review." Notwithstanding, Dr. Roubideaux indicated that IHS respected the Court's decision and was working on a plan to move forward. She proudly announced that IHS lawyers talked with Tribal lawyers and negotiated new language that incorporates the Supreme Court's decision that both sides agree on. With the looming question of how to pay contract support costs and address other budget priorities, Dr. Roubideaux said she would be interested in hearing thoughts and recommendations from the Tribes and the STAC. She also commented that the IHS Budget Formulation meeting would be a great time to think creatively about how to handle the issue in a way that respects the Court's decision.

Mayra Alvarez, Director of Public Health Policy, Office of Health Reform; and Cindy Mann, CMS Deputy Director and Director, Center for Medicaid and CHIP Services, joined the meeting to serve as presenters, along with Dr. Roubideaux, to update the STAC on the Affordable Care Act. Ms. Alvarez started the session, sharing various updates. Notably, she discussed recent announcements concerning new grants to support consumer assistance programs; consumer savings on health insurance premiums; expanded coverage for women's preventive services; savings for seniors on prescription drug gap costs; and anti-fraud initiatives, among other items. She said information provided during her presentation is available on the <http://www.healthcare.gov/> website; and information and updates continue to be provided via the Internal Affairs monthly calls and IHS Director's blog.

For her part of the presentation, Dr. Roubideaux gave an update on the reauthorization of the Indian Health Care Improvement Act (IHCIA) and its implementation, noting that the IHS is also doing some ACA activities. Among the highlights of her presentation included the following: distribution of Dear Tribal Leaders letters concerning health facilities construction, contract health services, and the Urban Confer Policy; compilation of input from the consultation on long-term care; start of the Navajo Medicaid Feasibility Study; start of the Modular Facilities Construction Feasibility Study; publication of table that summarizes all consultation letters to-date, grouped by topic, and outcomes; availability of American Indian/Alaska Native (AI/AN)-specific PowerPoint on the benefits of the ACA; and pending completion of the national agreement pertaining to the VA's reimbursement to IHS for services.

Lisa Wilson joined the discussion, saying the Center for Consumer Information and Insurance Oversight (CCIIO) is committed to working with AI/ANs to ensure the special protections that were built into the ACA are afforded to them. Ms. Wilson said 13 governors have sent declaration letters saying they are building their own Exchanges in their State; and she confirmed that CCIIO intends to conduct Tribal consultation on the Federally-facilitated Exchange (FFE).

Finally, Ms. Mann informed the STAC that a consultation was held on the streamlined application and said they can still submit comments. She reminded the group that the Supreme Court decision upheld the ACA, with the exception of the adult expansion, saying States couldn't be penalized for not expanding Medicaid to include low-income adults that are not already covered. She said States do not have an immediate deadline to decide on the Medicaid expansion. Concerning Section 11-15 waivers, she said Tribal consultations in New Mexico and Kansas were found not to meet the requirements of the Medicaid law. The waiver proposals were withdrawn and additional consultations were held. Ms. Mann indicated that both States have recently resubmitted their waivers and the consultation process on them now shifts to the Federal level. She said comments will be received through the special waiver transparency website and meetings and phone conversations can also be setup to provide comments.

Commissioner Sparks introduced speakers Jeannie Chaffin, Director, Office of Community Services (OCS), and Shannon Rudisill, Director, Office of Child Care, who assisted her with the human service program update. The Commissioner reminded the STAC that outside of IHS, the majority of funds that go to Tribes come from the Administration for Children and Families (ACF). Ms. Rudisill briefed the STAC on the Tribal Child Care program. She informed the group that the program has 260 Tribal grantees, and because many of the grantees represent a consortium, over 500

Tribes are touched by the Child Care Development Fund (CCDF). With up to a 2% set-aside for Tribes, Ms. Rudisill said \$100 million goes to Tribes (allocated by formula). In terms of quality and learning, Ms. Rudisill convincingly argued that the program can be a school readiness program as well as a work program; and she advocated for using Tribal CCDF as a vehicle for Native cultural and language preservation and developing intergenerational partnerships. As part of her presentation, she also discussed campaigns and partnerships of interest.

Ms. Chaffin said the OCS portfolio comprises six different Federal funds, a mix of competitive and block grant funds. The history of many of the programs, she said, were born out of the Economic Opportunity Act—which brought a lot of resources to Tribal communities back in the 60’s. She said OCS is looking at how to commemorate the upcoming 50th anniversary of the Act. She discussed two block grant programs that go directly to Tribes: the Low Income Home Energy Assistance Program (LIHEAP) and Community Services Block Grant (CSBG). Ms. Chaffin also touched on other discretionary, competitive programs: Assets for Independence (AFI), Community Economic Development (CED), and the Rural Facilities.

And, for her part, Commissioner Sparks stated that the Administration for Native Americans (ANA) would be having a call on Tuesday, September 18, from 4pm to 6pm EST to focus on its Social Economic Development Strategies (SEDS) categories. She said for the last couple of years ANA has been doing a special initiative on Tribal governance under its SEDS program. For FY 2013, she said ANA wants to focus on a special initiative for economic development/jobs. Now in the process of developing what that opportunity announcement will look like, she welcomed feedback from the STAC. She said the ANA has also reached out to the Department of Interior, Bureau of Indian Affairs, Department of Energy, U.S. Department of Agriculture, the Small Business Administration, and the Department of Treasury to identify gaps, see where other funding opportunities related to economic development exist, and potentially share funds across Federal agencies. Finally, Commissioner Sparks indicated that the ANA has \$13.8 million going out in language preservation grants (including 18 new grants and 42 continuation grants); and is in the process of completing awards for its SEDS grant.

In preparation for the STAC’s meeting with HHS Secretary Kathleen Sebelius the following day, Chairman Lucero requested feedback from the group on the issues that should be raised. The following items were offered:

1. Request for a follow-up letter to State Governors, possibly issued after the election, on Tribal consultation;
2. Request for comment and/or clarification on the OMB policy to have meetings held at Federal buildings;
3. Ask what options are being considered for States that don’t comply with the ICWA, and consider withholding Title IV-E funds from States that don’t comply;
4. Request status on the SDPI report to Congress;
5. Request to expedite the completion of the matrix of grants for Tribes and have it be an ongoing activity;
6. Ask what is being done to institutionalize the STAC; and
7. Ask how the Department intends to work Tribes moving forward to ensure that full contract support costs are paid.

The second day of the STAC meeting opened with Chairman Lucero inviting Councilman Antone to provide the opening prayer. Following the invocation, Chairman Lucero reviewed the agenda for the day and recapped the priorities to be presented to the Secretary.

Joined by her Chief of Staff Sally Howard, Secretary Sebelius greeted the STAC and thanked her leadership team, Chairman Lucero, and the STAC for their work. Commenting that her recent visit to Indian Country in South Dakota provided her with additional perspective on facilities, staffing, travel and related issues, Secretary Sebelius reflected on the importance of the unique government-to-government relationship the Federal government has with Tribes. Turning to the issue of Medicaid waivers, she asked if Tribal leaders had seen any improvements in relationships in Kansas and New Mexico. Chairman Ortiz said relationships in Kansas have taken a turn for the better; but Chairman Lucero said there is still work to be done in New Mexico, noting that direct Tribal consultation with the Centers for Medicare and Medicaid Services (CMS) is being considered. In response, the Secretary reaffirmed her commitment and willingness to use her authority to address the issue. Before hearing the STAC's priorities, the Secretary also stated that a letter would be sent to them asking for their input on the HHS Tribal Consultation Policy, saying it should be continuously evaluated. She also encouraged the continuation of less formal, ongoing discussion with individual agencies and her office (through the IEA) for issues that can be easily resolved without formal consultation. Before leaving the meeting, Secretary Sebelius thanked the STAC again for its work and assured everyone that she and the President are firmly committed to responding to the needs of Indian Country. To that end, she encouraged the STAC to continue to provide input and advice to her leadership team.

For the Federal Roundtable session, Chairman Lucero invited Federal representatives to give highlights of staff and operating divisions' work on American Indian and Alaska Native issues and initiatives. Presenters for the session included: Pam Hyde, Administrator, Substance Abuse and Mental Health Services Administration; Yvette Roubideaux, Director, Indian Health Service; George Sheldon, Acting Assistant Secretary, Administration for Children and Families; Mary Wakefield, Administrator, Health Resources and Services Administration; Lawrence Tabak, Deputy Director, National Institutes of Health; Edwin Walker, Deputy Assistant Secretary, Administration for Community Living; Nadine Gracia, Acting Deputy Assistant Secretary, Office of Minority Health; Teresa Nino, Director, Office of Public Engagement, Centers for Medicare & Medicaid Services; and Delight Satter, Associate Director, Tribal Support, Office for State, Tribal, Local, and Territorial Support, Centers for Disease Control and Prevention.

For the last session, Commissioner Sparks gave a Tribal State update. She summarized workgroup meetings that were held in New Mexico and Maine. She noted that the workgroup wants to focus on: Tribal Consultation Policy, in terms of data collection and data sharing from States; CMS activities in engaging States in consultation with Tribes on Exchanges; ICWA and what can be done to facilitate better Tribal State relationships around child welfare issues; and focusing on what HHS can do to help foster those conversations, e.g., information to share with States and other ACF programs. She acknowledged that there hasn't been much guidance or understanding on what Federal program officials can do to make sure that States and Tribes are working together concerning administration of HHS programs, in particular the ones the States do on behalf of the Tribes. The STAC was provided with a flash drive that contained State profiles listing various

Tribal contacts in every State, as well as a PowerPoint presentation used by regions when talking to States about Tribal State relations.

Before ending the meeting, Chairman Lucero asked the STAC to share its feelings about the roundtable discussion and provide recommendations on how to do it better. After Ms. O'Neill thanked Chairman Lucero and HHS leadership for their direction, and Mr. Dioguardi thanked the STAC for a productive meeting, the meeting closed with Councilman Antone giving the closing prayer. The next STAC meeting is scheduled for December 2012. Details on the meeting, including questions and answer sessions and the Secretary's responses to the STAC's priorities, are included in the full meeting summary report, under separate cover.