IHS Self-Governance Advisory Committee (TSGAC)

Meeting Minutes

February 21-22, 2024

Embassy Suites

900 10th Street NW
Washington, DC, 20001

WEDNESDAY, FEBRUARY 21

Attendance:

A quorum was established for the TSGAC meeting.

Committee Business:

- The December 2023 meeting minutes were approved.

Discussion with IHS and GAO regarding GAO's High-Risk Designation of HIS
Roselyn Tso, Director, IHS
Michelle Boylan, Deputy Director for Quality Health Care and Enterprise Risk Management, IHS
Gene Dodaro, Comptroller General, Government Accountability Office

Comptroller General Dodaro began the discussion by providing an overview of the GAO's High-Risk List. The purpose of the list is to get Congress and the administration's attention to long-standing issues. The GAO added the federal efforts to serve Tribes and their members to the high-risk list in 2017. There are five criteria for being removed from the list. One is to have sustained leadership commitment. The second criterion is to have an action plan that deals with the root causes of the problem. The third criterion is capacity. The fourth criterion is monitoring to make sure there are some interim milestones and timeframes. The fifth criterion is actually demonstrating progress.

The GAO updates the ratings on each of the high-risk areas at the beginning of each Congress. The Indian Health Service has met the leadership commitment and partially met the other four criteria. There are thirty-seven areas on the high-risk list now, and a common misconception is that if you just address the recommendations that the GAO made to get off the list, that is not the case anywhere.

The GAO received some feedback that some people were saying, "Well, we're not gonna give you more money because you're on the high-risk list." The Comptroller General of the United States said that addressing capacity is critical to getting off the high-risk list. Part of building capacity is ensuring that the administration asks for the resources that are needed. For the GAO, not having capacity is an important issue; however, the GAO has to assure Congress that

the underlying root causes, the management, the oversight structure, and the communications issues are resolved.

Tribal Leader Question: How does Executive Order 14112 play into the role of the high-risk list that you have at the GAO in terms of improvement?

Federal Response: We are in the legislative branch of the government and independent of the executive branch of the government, but we will take a look at that as it relates to the high-risk list.

Tribal Leader Questions: What is at risk regarding the high-risk part of it? None of the Tribes can have that kind of risk in providing our health care. We fought too hard to get to where we are now. And I feel like you are kind of attacking us (the Tribes) too – is kind of the underlying message that I get. How do you ensure that that's really not the case?

Federal Response: It is very important how we communicate things. First of all, I would say that you are not alone. We are not picking on you. We have the veterans health care service on the high-risk list. We have the HHS leadership and coordination of public health emergencies on a high-risk list and the oversight of medical products safety. Healthcare costs are rising faster than the rate of inflation. The cost of health care is the main driver of the government's deficit and debt issues. We are an equal opportunity identifier of areas that need attention by the government.

Looking at it from our standpoint, it did not seem to us that all of you were very satisfied with the agency's support of your operations. Maybe that has changed. I know Director Tso deserves a lot of credit, and we have given her credit.

Tribal Leader Comment/Questions: I want to underscore what the chairman said in regard to the concern that we do not want Congress to use this as justification to reduce or limit new IHS funding. Are there any benefits to being on the list? Are there any programs with funding to help the IHS get off the list?

Federal Response: No grant program has been established. The main thing that I suggest is to use the list as a reason to ask for additional resources. That is why I mentioned earlier that we engage the OMB. Many agencies have come to ask the OMB, but that request has not been passed forward to Congress.

THURSDAY, FEBRUARY 22

Office of Tribal Self-Governance (OTSG) Update

Jennifer Cooper, Director, OTSG, IHS

To date, the OTSG has entered into 112 compacts with Tribes and tribal organizations, as well as 139 funding agreements. In FY 2023, the OTSG has transferred over $2.8 billion in funds through

funding agreements. In 1994, the OTSG had fourteen Tribes and fourteen funding agreements. Today, they have 139. The targeted start date for the review of Self-Governance Planning and Negotiation Cooperative Agreements is April 2024.

The OTSG has been engaged in providing training opportunities for those interested in learning more about the Indian Self-Determination and Education Assistance Act (ISDEAA). In the 2023 OTSG work plan, expanding ISDEAA training was a major priority. Fifty-four percent of IHS funding is transferred through Title I and Title V.

One of the OTSG's main responsibilities is submitting reports to Congress on the IHS self-governance program, which is mandated by Title V. The process consists of preparing a report for consultation, tribal consultation on the report, finalizing the report, and submission of the report. The OTSG is reviewing comments and finalizing the report for FY 2016 – 2017. The OTSG is also in the initial stages of preparing the FY 2018 – 2019 report for consultation. As the OTSG prepares to initiate the FY 2020 – 2021 report process, they are looking for success stories from Tribes.

The OTSG is always looking to improve communication with Tribes, tribal organizations, and all tribal partners, so interested parties are encouraged to sign up for the bi-weekly tribal and urban update email.

Tribal Leader Question: How are the staffing levels at the OTSG?

Federal Response: We currently have our slots filled, but we are looking to expand our staff. The OTSG's workload has increased over the years, and this has been an area of growth, so we need additional staff.

Tribal Leader Question: How many FTEs do you have?

Federal Response: We have thirteen.

Tribal Leader Question: How many Tribes are in self-governance?

Federal Response: There are 139 funding agreements covering over 380 Tribes.

<u>Discussion on Implementation of Executive Order 14112</u>
Elizabeth Molle-Carr, Tribal Advisor to the Director, Office of Management & Budget
Elizabeth Hidalgo Reese, Senior Policy Advisor for Native Affairs, White House Domestic Policy Council
Anthony Morgan Rodman, Executive Director, White House Council on Native America Affairs

Executive Order 14112 is, at its core, something that comes from India. The programs are important, and the funding is incredibly necessary, and the administration has been hearing for a long time that there are a lot of things that they could do better when it comes to getting funding to Tribes, making it easier, making it more accessible, and making it less burdensome for Tribes to navigate all of the application processes.

The administration contemplates that they will learn a lot from agencies to try to figure out what it is that they could do better. The findings will be compiled in a report with recommendations about what other changes might be necessary to fully embrace the next era of tribal self-determination.

VA/IHS Reimbursement Update

Clay Ward, Acting Director for the Office of Tribal Government Relations, U.S. Department of Veterans Affairs
Hillary Peabody, Deputy Assistant Under Secretary for Health Integrated Veteran Care, Veterans Health Administration
Benjamin Smith, Deputy Director, IHS

Hillary Peabody provided an overview of the reimbursement agreements and their changes. They updated the Indian Health Service agreement in December, and they announced that at the White House Summit in December. They completed that, and then they turned their focus to updating the base template for the reimbursement agreement with the Tribes. A lot of time was spent with the IHS trying to get some changes to that agreement, and it seemed to make sense. Some of the key additions to the draft include purchase referred to care, contracted travel for those who are eligible, and some changes to include telemedicine and long-term care, as well as home health and DME.

They are asking for feedback on the dear tribal leader letter within the next 30 days – sometime in late March.

The federal partners have also been working on a draft agreement for the tribal partners in Alaska. What is particularly unique about that agreement is there are two different parts that allow for reimbursement for both Alaska Native veterans receiving care from the THP as well as veterans who are not Native.

Tribal Leader Question: What are the expectations around timing and implementation?

Federal Response: We can move pretty quickly on this. From an infrastructure standpoint, there is not a whole lot to do. I am hoping some folks have taken a look at the agreement that we put into place with the Indian Health Service. This one looks a lot like that. There is no reason that we can't immediately execute those once we get past our comment period. I think it's realistic that we could receive and pay claims before the summer.

Health IT Modernization Discussion

Mitch Thornbrugh, Chief Information Officer, IHS

The IHS selected General Dynamics Information Technology, Inc. (GDIT) to build, configure, and maintain the new IHS enterprise EHR solution that uses Oracle Health technology. The project is in the "buy & build" phase of the timeline (2022 – 2024). They have actually moved into the

build phase, where they awarded the abovementioned contract to a vendor. The next phase, which will take place in 2025 and beyond, will be the "train, deploy, operate" phase.

The Lifecycle Cost Estimate (LCCE) for all Tribal, Urban, and federal sites is $4.5 - $6.2 billion over ten years for implementation, operation, and maintenance. The Fiscal Year 2024 President's Budget Request includes $913M and $1.1B per year for FY 2025 through FY 2029 for IHS IT modernization.

Budget Update
Julian Curtis, Director, Office of Finance and Accounting, IHS

The FY 2026 National Tribal Budget Formulation Work Session was held February 13-14, 2024. This session is used to develop a national set of Tribal budget recommendations. The workgroup recommended a total funding level of $63 billion. The top five priorities identified were hospitals & health clinics, purchased/referred care, mental health, Indian Health Care Improvement Fund, and alcohol & substance abuse.

Regarding the FY 2024 appropriations, the House and Senate have agreed on government-wide funding totals that are consistent with the budget caps in the Fiscal Responsibility Act (FRA). The budget cap for non-defense discretionary spending is essentially flat with the FY 2023 enacted. Media reports indicate that the Interior Appropriations Subcommittees may be working on an FY 2024 funding level that is -4% below the FY 2023 level. The FY 2024 Senate bill for the Interior Appropriations Subcommittee is 3% below the FY 2023 level. The Senate bill rescinds $350M in unobligated American Rescue Plan Act funding to meet that total.

The IHS is taking action to address misconceptions and reduce unobligated balances. IHS unobligated balances stay "on the books" longer because the agency provides direct health care. Approximately 75% of IHS unobligated balances are for project-based activities that obligate over a longer period of time and care that is referred outside the IHS.

Tribal Leader Question: Has the exception apportionment for the line items that were not included in advance appropriations been approved?

Federal Response: Yes. The program that the exception apportionment would be relevant to is the Indian Health Care Improvement Fund, which has been approved.

Tribal Leader Question: If CSC was included and acts as if it is part of the exception apportionment, then it is paid based on what the direct is in the exception apportionment, or is it prorated?

Federal Response: CSC is not an exception apportionment. It is an apportionment for our indefinite discretionary appropriation, and it allows us to pay the full annual amount for CSC for any tribal health program funding agreements that come up during the period of the CR. Before March 8, we can fully fund you. After March 8, Congress has to do something.

Discuss IHS Priorities for the Remainder of the Administration
Captain John Rael, Director, Office of Resources Access and Partnerships (ORAP), IHS
Captain Joe Bryant, CEO Clinton Service Unit, IHS

Purchased/referred care (PRC) carryover and PRC authorization and payment continue to be top priorities for the IHS. PRC carryover has been reduced by 16% from 2022 to 2023 and 31% from 2023 to 2024.

The ORAP is implementing a PRC metrics reporting tool. A spending plan is being implemented within the metrics reporting tool. They have determined that the recommended carryover is 10-25%. They provide weekly updates to senior leadership and area directors. Ongoing communication with CEOs during monthly NCCEO calls continues to be a priority. They are going to continue to focus on areas/service units (SUs) with a high recurring base.

The PRC's medical priorities consist of providing more preventative care and covering things that have not been previously covered. Unlike the previous plan, this plan is less hierarchical and favors preventing disease over treatment. The new plan is more holistic, balanced, outcome-oriented, and consistent. Implementation of the plan began on January 1, 2024.

Tribal Representative Comment: I want to restate the PRC workgroup recommendation. The PRC workgroup has recommended that we spend less than 10% of the balances to deal with outstanding PRC claims that are being adjudicated. If we can't spend the balance of that money, it should be redistributed through the PRC program increase formula.

Tribal Representative Question: Is there an expected timeline for when there will be action as far as the $25,000 down to the $19,000 for the Catastrophic Health Emergency Fund (CHEF) claims?

Federal Response: We would expect it within this year.

Wrap-Up Discussion with the IHS Director
Roselyn Tso, Director, IHS

Tribal Leader Comment: A couple of areas that we have not really discussed, and you can provide a little detail on, are recruitment and retention efforts, CHAP, and maybe some of the facility announcements.

Director Tso: With regards to behavioral health, as I alluded to, this is something that I have heard very loudly and clearly from the Tribes with regard to grants**.** I do have a document that was put back at the top of my email this morning, and I expect to decide here very quickly with regard to how we move forward with behavioral health. What I will say, though, is that the

executive order that we talked about at the IHS should and needs to fall in line with that. We need to set an example for the rest of the HHS and the federal government.

Concerning our recruitment and retention efforts, this is just an area where I think we all struggle across the country for staff and resources. What we are seeing, as we just talked about PRC having twelve IHS regions doing twelve things, is that it is pretty nonfunctional. It does not even really tell me where we are or how good we are. We know what good looks like, and we know what we want to accomplish, but there are so many areas of HR that we need to dig into – just like we are doing with PRC. We are working internally to streamline our process, and we are working to make sure that if we are advertising for a pharmacist, we are not doing it in twelve different ways.

We are in the fifth year of joint venture at the IHS, so Congress has said that between three and five years, the IHS should be requesting applications from Tribes for joint venture. We intend to do that in 2024.

In regard to CHAP, at this point, we do not have a national structure standing up yet to be able to be that certifying board. Also, think about this: if we have twelve different boards that are going to certify twelve different ways, that is scary to me. Maybe we can build it under one, or maybe we can use regions. The quickest way that I could get Portland moving forward was to bundle it under the Alaska model because, again, they have an incredible amount of expertise that we are still trying to get here at the IHS.