

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

January 17-18, 2013 – Washington, DC

Summary Report

The Secretary's Tribal Advisory Committee (STAC) Meeting was held on January 17-18, 2013, in Washington, DC. The meeting provided an opportunity for the STAC to hear updates on the Department of Health and Human Services (HHS) budget; human service issues; Indian Health Service (IHS); Tribal State relations; Tribal Consultation; Affordable Care Act (ACA); Intradepartmental Council on Native American Affairs (ICNAA); and staff and operating divisions' work on Indian issues and initiatives. The STAC also prepared for a discussion on its priorities with HHS Secretary Kathleen Sebelius; met with the Secretary; addressed business items; and discussed its next steps. The meeting was facilitated by the STAC's Chairman Ken Lucero; and the STAC was afforded numerous opportunities to engage with HHS leadership, program staff, and agency heads throughout the meeting.

Members Present: Jefferson Keel, Ken Lucero, Roberta Bisbee, Roger Trudell, Gloria O'Neill, Gary Hayes, Stacy Dixon, Cheryl Frye-Cromwell, Rex Lee Jim, Marshall Gover, Herman Honanie, Chester Antone, and Cathy Abramson. (Quorum Met)
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Action Items:

1. In response to Roberta Bisbee's request for any list(s) on potential impacts to IHS or Indian-specific programs due to sequestration, Liz DeVoss said the data could be provided once more information was available.
2. In response to Roberta Bisbee's request for any list(s) on potential impacts to IHS or Indian-specific programs due to sequestration, Yvette Roubideaux said that handouts from the previous year's budget formulation process (which contain information on all the Indian budgets within each operating division) could be used as a starting point.
3. In response to Roberta Bisbee's request for any list(s) on potential impacts to IHS or Indian-specific programs due to sequestration, Paul Dioguardi suggested that a combination of Liz DeVoss and Yvette Roubideaux's responses could be done—"We could distill down the last OMB [Office of Management and Budget] guidance and resend the breakdown we did last year. That would give a sense of which programs are under which agency and which account...I think we can provide some information that may guide you."
4. Per Gloria O'Neill's request, Bryan Samuels agreed to provide a copy of the August 2012, guidance on Tribal State relationships.

5. Per Gary Hayes' question about when the committee of Tribal leaders referenced in the Tribal Law and Order Act (TLOA) to review Tribal Action Plans (TAPs) would be assembled, Mirtha Beadle agreed to talk with Sheila Cooper and Rod Robinson and provide an update. She also agreed to find out who will be the focal point and where the money will come from to establish the Tribal Action Committee.
6. Alexis Ahlstrom agreed to provide written responses to the following questions posed by Gloria O'Neill:
 - For a Federally-facilitated Exchange (FFE), what is the plan to ensure consultation with Tribes?
 - What are the internal deadlines for the implementation plan to be realized?
 - Will Centers for Medicare & Medicaid Services (CMS) provide Tribes with a list of FFE contacts?
7. Per Rex Lee Jim's inquiry about the Navajo Nation operating its own Navigator program and being considered one geographical area, regardless of State boundaries, to participate in the Exchange, Alexis Ahlstrom agreed to check with the Office of General Counsel. (Geoff Roth indicated that the Exchanges have to be based in the State; he said a written response could be provided, if appropriate).
8. Cara Kelly agreed to follow-up with Lisa Wilson regarding Chester Antone's request (per the Insurance Exchange Workgroup and the Inter Tribal Council of Arizona) that CMS consult with the Arizona Tribes on the FFE.
9. Gloria O'Neill agreed to update George Sheldon via email regarding the progress of the final Report to Congress on 477, expressing concern that the report may not reflect a joint effort between the Tribes and Federal agencies.
10. Marcia Brand agreed to follow-up with Roger Trudell regarding any supplemental funding to the Healthy Start grant for the Great Plains region.
11. George Sheldon agreed to follow-up with responses to the following questions posed by Roberta Bisbee:
 - Do you have any recommendations for Tribes for meeting the in-kind match?
 - Is the Model Tribal System (MTS) fully funded by the Office of Child Support Enforcement (OCSE) or do the Tribes provide a match or cost share?
 - Who is responsible for installing the MTS?
 - Who is responsible for the upgrades once the program is installed?
 - Regarding conversions, how are financial records added to the MTS in an accurate manner? What information technology (IT) functions are required to host the MTS database?
12. Aryana Khalid agreed to a phone consultation on the FFE with Michigan Tribes, per Cathy Abramson's request.

13. Per Ken Lucero's request, Aryana Khalid agreed to follow-up with Lisa Smith regarding concerns that she is not getting back to Tribes when they present various requests.
14. Per Rex Lee Jim's request, Aryana Khalid agreed to review the recent CMS rule that limits the Navajo Nation's authority to only 638 organizations (to inspect and certify health care providers in terms of meeting the State standards). He also requested a meeting to discuss the issue.
15. Cathy Abramson indicated that she would give her list of concerns regarding grant funding to Secretary Sebelius.
16. Cynthia LaCounte agreed to provide Roberta Bisbee with information on how to connect with State contacts.
17. Mirtha Beadle agreed to provide information to Cathy Abramson on crystal meth-related funding that will be in the Secretary's budget.
18. Geoff Roth agreed to talk to the Center for Consumer Information and Insurance Oversight (CCIIO) about the possibility of Tribes working with the Federal sites if the Tribe gets funding for the Navigator program.
19. Alexis Ahlstrom agreed to work with Geoff Roth to identify examples of entities that Direct Service Tribes might be affiliated with that will be eligible for Navigator grants.
20. Delight Satter agreed to provide Cathy Abramson with information on the number of Tribes that applied for Public Health Associate Program (PHAP) positions and how many got them.

DAY 1

(January 17, 2013)

Welcome and Meeting Logistics

The first day of the STAC meeting began with Chairman Ken Lucero welcoming the group and inviting Chester Antone, Council Member, Tohono O'odham Nation, to give the opening invocation. Paul Dioguardi, Director, Office of Intergovernmental and External Affairs (IEA), immediately noted the importance of President Obama's second term, specifically as it relates to the STAC and its priorities over the next 4 years. He cautioned, however, that fiscal concerns would need to be considered. After personally thanking the STAC for its work, Mr. Dioguardi cited the following items as things that needed to be addressed during the meeting: review of the STAC National Report; election of new STAC Chair and Vice Chair; re-opening of STAC member seats; and a recommendation on the HHS National Budget Consultation dates. It was agreed that Chairman Lucero would continue to serve for the current meeting and members would hold a caucus later in the day to elect a new Chairman.

Roll Call

The following STAC members were present during the Roll Call: Jefferson Keel, Ken Lucero, Roberta Bisbee, Roger Trudell, Gloria O'Neill, Gary Hayes, Stacy Dixon, Cheryl Frye-Cromwell, Rex Lee Jim, Marshall Gover, Herman Honanie, Chester Antone, and Cathy Abramson. With 13 members, the quorum was met.

HHS Budget Updates

Liz DeVoss, Office of the Assistant Secretary for Financial Resources (ASFR), provided the STAC with updates on the HHS budget. Remarking that fiscal matters of the nation were an obvious concern, she focused her comments on the “Fiscal Cliff” deal; the debt ceiling; sequestration; the 2013 budget; and the 2014 budget. Notable items included the following:

- On January 1, 2013, the House of Representatives and the Senate passed the American Taxpayers Relief Act of 2012 — modifying the Budget Control Act of 2011.
 - Reduced discretionary spending caps for 2013, and 2014.
 - Altered the Joint Select Committee [on Deficit Reduction] sequester due to take place in early January.
 - Provided extensions to many HHS programs, including the reauthorization of the Special Diabetes Program for Indians (SDPI).
 - Spending levels for 2013, and 2014, are now lower.
 - The sequester has been lowered and postponed until March 2013.
- The debt ceiling has been hit, but the U.S. Department of the Treasury can make payments until mid February/early March 2013. (Will be waiting on guidance from the OMB on how to operate programs.)
- We now have a continuing resolution (CR) through the end of March 2013.
- The American Taxpayers Relief Act of 2012 reduced the amount needed to sequester by a couple of percentage points and delayed sequestration until March 2013. (OMB has asked for plans to achieve reductions across agencies and programs.)
- All of government is likely to have full-year CR.
- The 2014 budget has been delayed. (The baseline for the fiscal year has not been set and the timeframe for presenting the budget has not been set.)

In closing, Ms. DeVoss said, “This year, more than others, the budget process is up in the air.” In light of the budget constraints, she emphasized the need for quality information, compelling data, explanations on the use of funds, and performance information to show impact.

Following Ms. DeVoss’ presentation, the floor was opened for questions. Comments, questions, and answers are denoted below and throughout the document by “C,” “Q,” and “A,” respectively.

Q: (Jefferson Keel) Will the IHS budget be excluded from sequestration?

A: (Liz DeVoss) At this point it has not been exempted from sequestration.

Q: (Gloria O'Neill) Do you have a listing of all the programs within the Department that are considered mandatory or that would be exempt?

A: (Liz DeVoss) OMB released a report in the fall that goes through each account, across government, to show the impact of sequestration. It wouldn't be at the program level, but that report is available.

Q: (Herman Honanie) I'm concerned about how much of the IHS budget will be reduced; any thoughts on that?

A: (Liz DeVoss) We don't have the specific amounts the IHS budget would be reduced at this time. Per the documents that OMB produced, it would be reduced similarly as other discretionary programs on the non-security side (with the exception of the SDPI).

C: (Yvette Roubideaux) The exemption for IHS to only have a 2 percent cut was left out of the budget. We would have the same cut of 8.2 percent that everyone else has. OMB is looking at the recent "Fiscal Cliff" deal to see the impacts and what the actual percent will be. We are welcoming Tribal input on the sequestration issue and the impact to you. I'm anxious to see the IHS Budget Formulation Committee's recommendations. It's clear the impacts will be serious. If sequestration happens, the soonest it will happen is March 2, 2013; but it will probably take a few weeks thereafter to figure out what to do. OMB will give us the guidance on how to implement the sequestration. If we have any discretion, obviously we will look at the Tribal comments we receive.

C: (Cathy Abramson) Any percentage in reductions will greatly hurt our programs. Whatever can be done to lower the percentage would help.

Q: (Roger Trudell) At the last meeting a question was raised regarding if line items could be prioritized within IHS. Is that going to be possible?

A: (Liz DeVoss) That is something we are awaiting guidance on from OMB.

C: (Roberta Bisbee) Any list(s) on impacts to IHS or Indian-specific programs would be helpful. The matrix showing funding opportunities through HHS was provided when we requested it. It would be helpful for HHS to provide a forecast of what the impact on Indian programs would look like, e.g., what the operating divisions are looking at for those reductions; and Tribal programs and IHS program impacts.

C: (Liz DeVoss) At this point the information that we have that is most available is the impact by account. Without OMB guidance, it would be difficult to say what the specific impact on programs targeted to Tribes would be. We do have that list of programs [you referenced], but we don't have the new percentage. I'm not sure we have all the information to provide what you are looking for in terms of making it helpful; but I think it's something we can look at providing when we get more information.

C: (Yvette Roubideaux) From last year's budget formulation process there were handouts that had information on all the Indian budgets within each operating division. In the absence of new information, maybe that would be a good start. Maybe we could dig that up from last year's meeting.

C: (Paul Dioguardi) Maybe a combination of the two—we could distill down the last OMB guidance and resend the breakdown we did last year. That would give a sense of which programs are under which agency and which account. Ultimately, the best we have to go on is

that it is indiscriminate across the board. As I've said before, the sequestration was not something that was ever meant to be implemented; yet, here we are still staring in the face of it. I think we can provide some information that may guide you. It would be helpful to get your feedback to raise awareness among policy makers on the effects the cuts would have. The Administration's position is that sequestration should not go into effect.

C: (Roberta Bisbee) For the record, I wouldn't support any reductions; but if they happen I want to be prepared. It's about being proactive, rather than being reactive.

C: (Gary Hayes) We always talk about unmet need. For our Tribe, we looked at the base budget and the unmet need. We have a \$1.3 million shortfall, so any reductions will have significant impact on the services we provide. We haven't really communicated the impacts that would occur. The purpose of IHS, when it was created, was to provide quality health care to our communities. We need to look at the unmet need and focus on the impact reductions will have on us. We need to have testimonies to communicate to congressional leaders. This is especially important for rural areas. IHS Direct Service Tribes are doing a better job connecting with us, but we need more transparency in terms of giving us specific data.

C: (Gloria O'Neill) Yesterday we lost a great friend in Secretary Salazar. Over the last several years he has tried to hold the BIA [Bureau of Indian Affairs] budgets harmless. We know cuts are coming and they will be devastating in our communities. We need to look at how all the cuts combined will impact people's lives and communities. In our caucus, maybe we can talk about how we help Secretary Sebelius be the best advocate for Tribal programs. I've been hearing that there will be 2-4 percent cuts, so I'm using a 4-5 percent number in my preparations. In terms of the Department, it will be most important as we receive these cuts across the board in formula programs to open up programs to Tribes and Tribal communities. My organization submitted four discretionary grants during the last grant cycle and didn't get one. We looked at the ACF [Administration for Children and Families], and within 11 of the grant programs, we looked at who received them. There were 89 grants made and not one Tribe or Tribal organization received these grants.

C: (Yvette Roubideaux) I want to assure you that even though there will be a new Secretary of the Interior, Assistant Secretary Washburn is great. He called me on Friday and we pledged to be in communication and to communicate with Tribes and help Indian communities.

C: (Gary Hayes) Nadine, congratulations on your appointment. BIA has asked us to come up with three priorities and look at five programs that we want to reduce. I hope we don't emulate that plan. Tribal leaders don't want to see any reduction in Tribal programs. I hope we can maintain our current budget level.

C: (Jefferson Keel) We need to talk to congressmen and senators about holding all Indian programs harmless, not just IHS programs. You can take \$1 million from a larger agency and they don't realize it until the end of the year; but if you take it from IHS we feel it the first day because someone won't get served. We'll feel it because we can't hire personnel to see them. When we talk about allocations within agencies, if Indian programs were funded at 100 percent we wouldn't feel the budget cuts as much, but some areas are only funded at 45 percent of the

need. Congress is not looking at Indian programs right now; it's not at a high level of priority. We have to ask them to hold Indian programs harmless.

C: (Liz DeVoss) The discussion has been rich and I think Secretary Sebelius does make IHS and Indian programs a priority in the budget process. When it comes to sequester, we have very little power to say, "Hold IHS or Tribal programs harmless." Working with those programs and IHS to minimize the impact should a reduction happen is what would be most helpful. The Secretary can't control this.

C: (Ken Lucero) I think Gloria was right in saying we need to help the Secretary be a better advocate for Tribes. Roberta, your idea of being proactive is a good idea. Maybe we do need to plan for what programs can take a budget hit.

National Budget Formulation Meeting

Chairman Lucero asked to hear the group's thoughts on the timing of the National Budget Formulation meeting.

C: (Yvette Roubideaux) The IHS Budget Formulation Workgroup meets February 15-17, 2013. The HHS Budget Consultation is scheduled for the first week in March. The IHS Budget Formulation Co-Chairs requested that the HHS Budget Consultation be moved back because the President's budget is not likely to be out by the time of the national meeting. They want to ensure that meaningful recommendations can be made to the Secretary. Some of the co-signers of the request letter are here, so maybe they want to share their thoughts.

C: (Cathy Abramson) I'm Chair of the NIHB [National Indian Health Board] and we wrote a letter requesting that the meeting be moved back.

C: (Rex Lee Jim) We are asking that the meeting be moved to the end of March or early April. We believe we make informed decisions and to do that we need access to accurate information. We want to move it back with the hope that we will have the President's budget in place before then.

C: (Jefferson Keel) I respectfully disagree. We are talking about the 2015 budget. We may not even know the effects of the sequestration until the end of the year. I think we should go ahead and do the meeting. To move the date back another month wouldn't do us any good. If there is another CR, things would be further delayed. We are talking about prioritizing the budget. We should be on the record to do a follow-up sometime in the summer when the data is completed. Maybe a follow-up meeting could occur in Indian Country.

Q: (Roberta Bisbee) I was sent a letter dated January 14, 2013, from the NPAIHB [Northwest Portland Area Indian Health Board] requesting that the meeting be postponed; it was also sent to Secretary Sebelius. NPAIHB is supporting the request that the meeting be postponed. Do you get more participation in connection with the NCAI [National Congress of American Indians] meeting?

A: (Lillian Sparks) Participation has grown tremendously over the years and when they first started they were not held in conjunction with NCAI or any other meeting. I can say that if another national meeting is held at the same time it does tend to lead to more participation.

C: (Yvette Roubideaux) Historically this was timed to be with NCAI, although it has occurred at different times. What happens is Tribes give testimony, but a half day is for the IHS Budget Formulation Committee presentation. The Secretary's Budget Council comes in to hear the recommendations. HHS would start its budget formulation in May/June for 2015. The placement of the HHS Budget Consultation in March is ahead of the work that's done on the HHS budget in May/June. We would want to have it before we make our decisions. You'd have to think about if the IHS budget formulation presentation needs to occur at the HHS Consultation. We potentially could have two meetings, but we have to think that through.

C: (Ken Lucero) Then it sounds like the IHS Budget Formulation meeting is fluid, as long as it happens before the end of May/June. With the HHS meeting, I don't know how important it is to have hard numbers. The last presentation given by the IHS Budget Formulation Committee was a needs-based presentation. We didn't stick to the IHS budget. If we take that approach, does it really matter if there is no President's budget released? I feel like the sooner we can get Tribal leaders here in Washington, D.C., to advocate to Congress, the better.

C: (Jefferson Keel) We have regional consultations throughout the year; we could do a follow-up meeting during one of those.

C: (Roberta Bisbee) I can support postponing the IHS Budget Formulation Committee meeting (no later than May), but we should have the HHS Budget Consultation in March.

C: (Yvette Roubideaux) A hallmark of the HHS Consultation is Tribes' presentation to the HHS Budget Committee. If there is not presentation of the IHS budget, which also makes recommendations to HHS at that meeting, then we would have to do it at another meeting. We wouldn't be able to travel the HHS Budget Committee to the regional meetings. If there is no presentation to the HHS Budget Committee and no presentation on the IHS budget formulation recommendations (which include HHS budget recommendations), what would be the purpose of the session? The technical people need the baseline numbers to come up with the budget recommendations.

C: (Rex Lee Jim) The HHS meeting is scheduled for March 6-8, 2013. We ask for the delay because our meeting on the IHS budget formulation only gives us 2 weeks to make recommendations. We were hoping to get another week or so.

C: (Lillian Sparks) The consensus recommendations are for just one of nine operating divisions for HHS (and that is IHS). Several other operating divisions look forward to receiving the information to facilitate their recommendations in May during their internal budget sessions. ACF needs as much time as possible. We have nine different programs/nine different line items that we have to look at.

C: (Cathy Abramson) I would like to keep it together because more Tribal leaders are getting involved. Our Tribal Chairman is coming this time, whenever it will be.

C: (Gary Hayes) We have to be flexible. We don't know what 2015 will look like. I think in March we should meet and talk about 2014. A lot of Tribes don't have resources to come, so they attend because they come to NCAI. I think there will need to be a follow-up meeting in April.

Chairman Lucero asked who wanted to keep the HHS Budget Consultation date the same. Seven members wanted to retain the original date and five wanted to change it. He said the issue would have to be discussed again, later in the meeting.

Human Service Issues Discussion

Bryan Samuels, Commissioner, Administration on Children, Youth and Families (ACYF), ACF; Cynthia LaCounte, Director, Office of American Indian, Alaskan Native and Native Hawaiian Programs, Administration on Aging (AoA), Administration for Community Living (ACL); and Mirtha Beadle, Deputy Administrator, Substance Abuse and Mental Health Services Administration (SAMHSA) updated the STAC on human services issues. Commissioner Samuels began the presentation, first commenting on the number of Tribes moving towards IV-E authority. Specifically, he said the first Tribe was approved in the last fiscal year to operate its own program and seven other Tribes are moving in that direction (with five additional planning grants awarded last September). He acknowledged ongoing concerns around the Indian Child Welfare Act (ICWA) and States' failure to meet their obligations. To that end, he said ACF released guidance around Tribal State relationships in August 2012; and he said he anticipated further guidance coming in this fiscal year on Federal obligations and authority, as well as Federal expectations of States in working with Tribes. Lastly, related to the CFSRs [Child and Family Services Reviews], Commissioner Samuels said Round 2 of the CFSRs was completed and it is being revised before it goes into regulation and goes out for comment. He acknowledged Tribes' recommendations related to the CFSR, specifically those related to how it can be used to strengthen oversight and ensure greater compliance with the ICWA; but he cautioned that there were large methodological problems with using the 65 cases as the primary vehicle for holding States accountable. To that end, he said they would be looking at a variety of ways of framing the CFSR without relying exclusively on the 65 case review process to identify concerns and to hold States accountable. Furthermore, he said it is questionable if one can save the 65 case review process for Round 3, and therefore they will have to take a hard look at re-framing the issue.

Q: (Gary Hayes) Looking at ICWA and BIA, our program falls under social services. Have they been notified to be part of this? They are enforcement [mechanism] at the Tribal level for ensuring that assessments and the right protocols are set and followed. When we had our meeting with our State, [it was mentioned that] no one has come to talk to them about ICWA. BIA is the one that is supposed to protect Tribal sovereignty and the trust responsibility. Have they been engaged with you?

A: (Bryan Samuels) In terms of Tribal members and the community being able to make comments on the CFSR, there was a robust response. Tribes did weigh-in on problems related to the CFSR, as well weighed-in on what they believed to be the corrections related to that. Because it's a regulatory process, Tribes will be able to comment again on the proposed changes. On the issue related to BIA, we have an ongoing conversation with them around ICWA. The

way the process works, first we have to gain agreement and consensus within HHS before we can engage sister agencies in consultation. That would be a logical next step, but until I have approval from the Department and the Secretary it will be difficult to have detailed conversations with the BIA about the comments or suggestions they might have. By the time the regulation sees the light of day it will reflect the Department and BIA's input.

C: (Gary Hayes) We are talking about changing regulation, so I'm concerned when you say BIA won't be engaged at the beginning of the process. We don't have the luxury of time on our side. I'm hoping we can expedite that relationship or have an agreement to get their input and get the process moving forward.

C: (Bryan Samuels) Honestly, ICWA is an important component of the CFSR process, but the CFSR process is much larger than ICWA. Until we have departmental agreement on all of the components related to the CFSR, our ability to go out to the BIA and get their input is limited. That's the way the process works within the Federal government.

C: (Gary Hayes) My concern is that we are hearing that Congress wants to change the law. We are asking for cooperation between the Federal government and Tribes to ensure that doesn't happen. Tribes should be able to set up the rules and regulations to monitor programs. ICWA was designed to protect Tribes and their citizens.

C: (Bryan Samuels) I hear and respect what you're saying, but I have to work within the system as it exists. To your concern about Congress taking action prior to us completing the regulatory process and whether we'll have an opportunity to weigh-in, it is common practice that Congress would allow the Administration and the Department to weigh-in on any proposed legislation. I have not seen any proposals.

C: (Gary Hayes) Maybe we need to ask the Secretary to weigh-in on this with a letter to States on relationships with Tribes. Many States use their own laws to enforce child protection.

C: (Bryan Samuels) I think you are talking about two issues that may not fit well together. Concerning State Tribal relationships, we are committed to providing further guidance to States and Tribes about what their obligations are under ICWA and what we expect of them. The Secretary is committed to doing that. That guidance doesn't require the same level of review as the change in the CFSR. That is a separate issue and it has a separate process. So we will be moving on two tracks: issuing guidance on ICWA; and re-writing the performance standards under the CFSR—which will go through a parallel process of departmental review and then other Federal agencies before going out for public comment.

Q: (Gary Hayes) How are you doing that with the States, Colorado specifically? Do you get with the Director? How do you deal with the States?

A: (Bryan Samuels) Related to ICWA we provided some guidance to States back in August about Federal expectations, and State Tribal relationships. We will provide further guidance in the current year around the Federal requirements and expectations that are related to the consultation of Tribes for the purposes of proper implementation of ICWA. That will go out to everybody, including States and Tribes. On an annual basis, States have to submit plans that describe how they will meet their obligations under ICWA. We will review those annual plans to make sure they reflect our guidance.

C: (Gary Hayes) We just had our Colorado Commission on Indian Affairs meeting last month and this issue came up. They had no idea. You are saying you passed information out in August, but as of last month they knew nothing and were looking to us for answers.

C: (Bryan Samuels) If there are any instances where you think there is a “disconnect,” please share those names or situations with me so we can get on those. We will make contact with all of the parties so that everyone knows what their obligation is. The guidance is global. I can’t assure you that it gets to everybody, but it’s intended for everybody.

Q: (Gary Hayes) Regarding the 65 cases, do you have a breakdown of States?

A: (Bryan Samuels) All States have to go through the process. We have a summary of how each of the States performed. The way the Child and Family Services Review happens, it includes all of the States going through the process and we do an onsite visit. When we are onsite, we randomly select 65 child welfare cases and we do a review of them. So, the 65 cases are done in every State and territory.

Q: (Gary Hayes) So, you are not talking about Tribal cases?

A: (Bryan Samuels) We do a random review of 65 cases, some of which will be Tribal cases. Part of the review is to see if there are ICWA related issues and we document them and require the State to address them.

Q: (Gloria O’Neill) I’m grateful the Secretary is taking this issue up within her authority. We’ve had a couple of teleconferences with George Sheldon and others. We are preparing a draft letter to the Secretary as a result of this work. We will share the letter with all of you when we caucus so we can make any suggested changes. Bryan, as I’m trying to understand the process, I thought you said that before you submit the CFSR and the regulations to the BIA that it has to complete its process of going through the departmental review and also out to the States. Is that true?

A: (Bryan Samuels) That is not true.

Q: (Gloria O’Neill) So, you are just talking about completing the internal process and then sending it to the BIA?

A: (Bryan Samuels) Right.

Q: (Gloria O’Neill) In the spirit of true partnership, I’m wondering if the STAC can be part of the process and make recommendations to the Secretary before the information goes to the BIA?

A: (Bryan Samuels) It probably makes sense to formulate a request and put it in front of the Secretary. The logic is certainly there. Her office will have to look at if it is an option. I see no downside to having folks weigh-in before the document leaves the Department. Lawyers may have to determine if that can actually be done, but we would support your input when and where it is appropriate.

Q: (Gloria O’Neill) Can you give us a copy of the August 2012 guidance that you released to States?

A: (Bryan Samuels) Yes.

Q: (Gloria O'Neill) Are you engaging the Office of the General Counsel (OGC) to see how far reaching the powers of the Department are as it relates to ICWA? Do you feel like the Department, as you go through your review, is willing to be bold?

A: (Bryan Samuels) I think it would be inappropriate for me to comment on whether the Department is prepared to be bold; I'll let the Secretary's office do that. I can tell you we have had an ongoing conversation with the OGC about where our authority is and the limits of our authority. We continue to have that conversation. OGC would be a critical component of any of the guidance we would provide.

C: (Roberta Bisbee) You mentioned five planning grants were awarded in September; initially our staff heard 80 Tribes expressed interest in applying for the planning grant to receive funding for their IV-E programs. It was reported that 12 have applied, but now I hear 5. We are requesting a study to see why Tribes aren't applying for this funding. Tribes don't have upfront money to fund the program and don't have the infrastructure to setup many of the requirements of the program. Additional money is needed to build the infrastructure. Waivers would make it easier for Tribes to set up their IV-E program. A detailed project plan showing the steps to setting up a program would be beneficial. We request that Tribes be allowed to phase-in parts of the program, as States were given years and millions of dollars to set up programs. Tribes should be afforded the same. States should be required to provide T/A [technical assistance] to Tribes attempting to setup their own programs. Software should be provided to meet the IT requirements of the program; funding for equipment and software is needed. A sample Policy and Procedure Handbook would help Tribes expedite setting up their programs. Samples of Tribal codes and court orders necessary to meet the requirements would be helpful. Training for Tribal judges for the program is needed. Tribes need training related to the financial aspects specific to the program. And more information is needed regarding matching requirements. These are the recommendations we have regarding the IV-E.

Q: (Roger Trudell) ICWA is a real problem in North Dakota, South Dakota, Nebraska, and Iowa. Has there been any progress, especially in Lake Woodberry County? There is a substantial Tribal population there and not much cooperation with ICWA. What has been done to-date?

A: (Bryan Samuels) At the Federal level, unless a concern is raised about a specific jurisdiction, we wouldn't have any immediate way to know that issues are there. I would say that if you have any particular concerns within your community or State, making that information available to us is the best way for us to know if fixes need to be made. I can take that information from you today or whenever you have it available. The STAC can also make that information available to us and we can respond to it.

Q: (Roberta Bisbee) In Indian child welfare, currently the money follows the child. Why is this the case? This encourages States to remove the child from Indian homes. Some Tribes have BIA programs that do not assist parents in working with the State to have their child come home. Parents have to navigate a broken system and wait months or years to see their child. In 2009, the Idaho disproportionality index was 6.6; Washington was 6.9; and Minnesota was 11.6. Comparisons of disproportionality by State show Native American children are overrepresented in foster care at a rate of 2.2 times their rate in the general population. Twenty-one States have overrepresentation. When States don't work with Tribes, it's scary for us. We've lost three kids

to the State system since 2010, in my Tribe. Trying to get them back is difficult. I hope the issue of disproportionality is also evaluated.

A: (Bryan Samuels) About disproportionality, in many respects it provides a point of leverage where one can impact disproportionality for Native children. It's unfortunate, but disproportionality has been involved in child welfare from almost day one. A number of racial and ethnic groups experience disproportionality, but in most instances disproportionality on a national level is going in the right direction. We've made a little progress, but certainly more progress needs to be made for all children and families of color.

C: (Roberta Bisbee) Our focus is on Indian child welfare specifically; that's why I'm raising this as a concern.

C: (Jefferson Keel) The NICWA [National Indian Child Welfare Association] conference is coming up in Tulsa. This is the type of discussion we need to have there, but we need the Federal representatives there. I'd just add that we are focused on Indian child welfare because it's a Federal law, not a State law.

C: (Bryan Samuels) Yes, and I agree that we ought to use it to the fullest extent possible.

C: (Gloria O'Neill) Cook Inlet Tribal Council did a review around all ACF's Children's Bureau 2012 discretionary grant awards and in 11 major categories 89 grants were given and not one awarded to a Tribal organization or a Tribe. There are probably several reasons for this. I know the discretionary dollars are getting more and more competitive. One of the STAC's priorities is to make the discretionary grants more accessible to Tribal communities. As we move forward into the [President's] second term, hopefully we can work in partnership to really make some headway. I'd like to give you a copy of this memo and I'll give a copy to George. I would appreciate your review of this, as it will be important to our communities moving forward.

C: (Bryan Samuels) I welcome the opportunity to see the analysis and to go back and look at the discretionary grant process that I'm responsible for to ensure when we can do something differently that meets the needs of Native communities that we do that.

C: (Gloria O'Neill) I had a separate meeting with Mark Greenburg yesterday on 477-related topics and we talked broadly about discretionary grant dollars. He said he wanted to look at the criteria, because that's an area where you can still meet your objectives within the agency while ensuring that Tribes and Tribal organizations can actually compete for the dollars.

C: (Bryan Samuels) We would benefit from having any additional information about where performance seems to be lacking. We'll have to think about where there are opportunities to change language or change the criteria to accurately reflect what we are looking for. I think the issue of matching requirements needs to be a larger conversation. I do think the requirement to produce that match represents a barrier that is difficult for most Tribes to overcome.

Ms. LaCounte focused her discussion on Title VI— which was added to the Older Americans Act of 1978 by amendment to serve Tribal and Alaska Native elders and revised to include Native Hawaiians (in 1990). Ms. LaCounte explained that the program is funded at just over \$33 million for nutrition services; family caregiver support; transportation; and in-home care and services. Funding comes from the central office to the Tribes, without State involvement. She also indicated that they are moving quickly into long-term services and support and bringing Title VI in as a component of the in-home and home- and community-based long-term services

and support [effort]. She noted that many Tribes provide Tribal funding to assist with the programs and MOUs [Memorandums of Understanding] are established with other agencies to meet the needs of Indian elders. Remarking that Title III provides services to States (similar to those of Title VI), Ms. LaCounte said she is often asked why States don't provide services to Tribes. She said Title VI was intended to be comparable to Title III, which it isn't because of the level of funding the program has. Prior to Title VI being added, there was an inclusion that said Title III serves everybody. Therefore, she said Indian seniors are included in State counts and States receive funding to provide services to them [under Title III]. States submit a 3-year plan for funding (and Tribes submit a 3-year application) and she gets to review the plans and can therefore have an impact if they are not targeting Tribal seniors. Through monitoring, she said they can start assuring that some of those Title III dollars are going to really reach Indian seniors. Similarly, she said they are focusing on moving more services into Indian Country via existing AoA programs that have not previously filtered down to Tribes, e.g., the Ombudsman program. She said AoA is looking at, under the Senior Medicare Control Program, long-term care insurance abuse; and she discussed four resource centers funded by AoA, including the National Indigenous Elder Justice Initiative (NIEJI). Finally, Ms. LaCounte noted that AoA is developing a manual for States and area agencies on how to work with Indians; developing an opposite guide for senior programs on how to work with States; and will begin focusing on finding and serving persons with disabilities. Regarding the latter, she encouraged Tribal involvement with State Disability Councils and potential representation on the President's Council on Disabilities.

Q: (Roberta Bisbee) At the last meeting we worked with Jefferson on a letter of support for the Older Americans Act, because it's up for reauthorization. I don't know if we got that letter out to the Tribes or not. Twenty-one percent of my Tribe's population is 55 years old or older. Will needs assessment data you referenced be able to be used to support the case for having need? Is it being analyzed for Tribes to be able to use it for lobbying efforts to get more funding?

A: (Cynthia LaCounte) Yes, the University of North Dakota is pulling the information together and if anyone wants it they should contact me or Twyla directly. Because this is a direct fund program, it's a Tribal program, we don't ask for a lot of reporting under Title VI. It's a good thing for Tribes, but not a good thing for us when we are looking at things like reauthorization. I know the dollar amount you get from us, the number of seniors served overall, the number of meals provided, number of rides given, number of caregiver clients, etc. I know numbers, but I know nothing about results from that information. The University of North Dakota has needs information. Your clinical director is going to be able to give you their unit counts and information on what they've provided; otherwise, the information would be local or through IHS.

C: (Herman Honanie) Thanks for acknowledging our Ombudsman program because I feel it has been very successful. We have been pursuing programs to keep our elders at home and yesterday we had a grand opening of a respite care center on Hopi.

Q: (Roberta Bisbee) When a State submits its State plan, will there be a notification sent to Tribes indicating that the State plan has been submitted?

A: (Cynthia LaCounte) I've asked the question at AoA of if we can require a State to go through formal consultation with Tribes. At this point we can't. The State does hold public hearings and is required to notify all of its constituents and stakeholders. I recommend to States that they

notify Tribes and seek to have a public hearing in Indian Country. We also want to make sure that States have Tribal members on their State Advisory Council on Aging. I can get you information on how to connect with the State contacts.

C: (Rex Lee Jim) On Navajo we have about 629 elders [that live] off Navajo. If we bring them back, with all the money associated [with them], we could support a 200-person bed [facility] and 4 nursing homes. We ask for assistance from your office on how to make that happen. We especially need funding for long-term care. We are attempting to build Seniors Centers next to Head Start programs, Early Childhood Development programs, so elders can engage in storytelling and pass down skills and language. A barrier for us is that No Child Left Behind requires certification in certain areas. We know our elders are qualified to be teachers, so we need assistance in getting that language changed so they can help pass on our traditional language.

For her portion of the presentation, Ms. Beadle first provided the STAC with background information on the TLOA. She focused her discussion on SAMHSA's responsibility in addressing the substance abuse problem among AI/ANs, including coordination of resources to develop and implement TAPs—comprehensive plans to coordinate available resources and programs to combat alcohol and substance abuse and associated social ramifications created by the abuse. She noted the creation of the Office of Indian Alcohol and Substance Abuse (OIASA) to work with Federal agencies and departments, stating that it oversees efforts through the Indian Alcohol and Substance Abuse Interdepartmental Coordinating Committee (IASA)—which is tasked with overseeing timely implementation of TLOA requirements. For Tribes that develop a TAP, she said the TLOA ensures a coordinated Federal response is ready to assist them. Ms. Beadle indicated that TAP guidelines are available on SAMHSA's website and newsletters have been developed. Among the other updates she provided included informing the STAC that an inventory of Federal substance abuse prevention activity resources has been compiled; and an annual report outlining work of all the Federal agencies collaborating on the TLOA has an anticipated release date of March 2013.

Q: (Cathy Abramson) Our Tribe is working on a TAP. Once plans are developed, that doesn't mean funding will be available. Is that correct?

A: (Mirtha Beadle) We've been talking about how we can incentivize and support the development of TAPs. They are not inexpensive propositions, as resources are needed to develop them. The other part of the conversation is about how we identify ways to connect the TAPs to different funding streams. We are looking at how we can do that in a way that is helpful to Tribes.

C: (Roberta Bisbee) One of the recommendations that I have to the Coordinating committee, in light of the need for money for mental health services, is to address barriers to recruiting and retention of professional staff. We haven't been able to retain a lot of our specialists in the substance abuse/mental health area. Training and/or additional training is needed for all areas of clinic services. Substance use disorder treatment facilities are needed in all areas where Indian health clinics operate, particularly for adolescent youth. Services are not readily available, so people have to travel miles for in-patient services or treatment. And adequate funds are needed to help Tribes provide adequate in-house substance abuse disorder treatments. These are just some recommendations to the committee.

C: (Mirtha Beadle) I will share those recommendations with the committee. As an aside, we have been looking at how to get Tribes more access to funds to provide services to their community. One of the programs we've mentioned before is the Behavioral Health Tribal Prevention Grant Program. For the current budget, we requested \$40 million. We don't know if we'll get those funds. These funds would not have a lot of strings attached. So, for example, if you wanted to address the issue of health professionals then you could. It is not a competitive program. Any Tribe that applies will get some funding.

Q: (Gloria O'Neill) As a result of the tragic school shooting in Connecticut, what I've heard come out of the Secretary's office is that there will be a lot more emphasis placed on mental health prevention. Do you have any idea of what can we expect?

A: (Mirtha Beadle) There are targeted programs that address mental health. Administrator Hyde has been very deliberate in saying that while we are talking about mental health it doesn't exclude substance abuse. One of the areas is supporting the development of additional workforce/health care professions to address the needs of youth. There is also an effort to support what we call "mental health first aid." The intent of it is to support improving the recognition of signs of problems youth may be having. Also, there is a very deliberate effort to have a national dialogue on mental health being considered.

C: (Roberta Bisbee) I would encourage Tribes to get a copy of the letter of support for the \$40 million grant that was previously prepared by NCAI to assist with them in their lobbying efforts.

Q: (Gary Hayes) Regarding the TAPs, there is supposed to be a committee of Tribal leaders coming together in various regions, when will that happen?

A: (Mirtha Beadle) I actually don't know, but I will find out for you.

Q: (Gary Hayes) Who is going to be the focal point and where is that money coming from to establish the Tribal Action Committee?

A: (Mirtha Beadle) We'll find out for you.

Q: (Cathy Abramson) Just a reminder that Crystal Meth and Suicide Prevention funding expires on December 30, 2013. I hope it continues and is reflected in the Secretary's budget. Do you have information on this?

A: (Mirtha Beadle) I don't know, but there have been a few meth-related funding opportunities over time. Where they are and what will be in the budget I don't know. It's something we can find out. I'll mention as well that Dr. Gracia's office supported work on meth as well. We'll have to give you the specific information on the programs that may continue.

C: (Herman Honanie) Substance abuse is a big concern and if there is funding for us to apply for then we will do so. I spoke recently to a senior class at high school and asked how many had tried drugs. Almost a third of the class raised their hand. I told them there are programs and resources available to help; and it takes courage to admit you may have a problem. Tribal leaders have a big role in addressing this problem.

C: (Mirtha Beadle) Hopefully, as we begin to unfold the efforts under this new national focus on mental health, there might be programs to support that.

Indian Health Service Issues Discussion

Yvette Roubideaux, Director, IHS, began her presentation by following-up on issues raised at the last STAC meeting:

1. U.S. Department of Veterans Affairs (VA) – the VA IHS National Reimbursement Agreement was signed on December 5, 2012. The agreement is for Federal sites; Tribally-managed sites can use it or negotiate their own terms with the VA. The outpatient all-inclusive rate is included in the agreement and the agreement is for direct care services provided at the facility for veterans who are eligible for both VA and IHS. Services the veteran is eligible for on the VA side will be reimbursed. If IHS is providing the services directly and the VA is reimbursing IHS, then the veteran does not need to pay a co-pay. Ten sites will start the process and more will be added later. This year they hope to negotiate a reimbursement agreement with the VA on referred care/contract health. Also, the VA has agreed to increased Tribal involvement regarding coordination of care.
2. Contract Support Costs – Last week a letter was sent to Tribes on contract support costs. The courts have ruled against class actions for IHS, so we will have to get creative if we want to do a group settlement. Past claims are being settled. Lawyers are meeting today to see how claims might be settled more efficiently; and a firm has been hired to figure out how to get the claims done faster. If [Tribal] lawyers are going to propose solutions, Tribal leaders really need to be involved to ensure they are okay with that.
3. SDPI – SDPI got reauthorized. The Report to Congress is on the IHS website.
4. Contract Health Service (CHS)/Catastrophic Health Emergency Fund (CHEF) – The CHS workgroup will be asked to move forward on the issue of whether to lower the threshold for the emergency fund.
5. Aberdeen Area – The Winnebago Drug Dependency Unit (DDU) opened on October 1, 2012. Tribes need to confirm the name change from the Aberdeen Area to the Great Plains.

Other items/updates included:

- IHS is looking forward to Tribal input as it considers its priorities for the second term.
- A listening session will be held on Tuesday, January 23, 2013, on the draft Urban Confer Policy.
- The Facilities Advisory Board (FAB) will convene soon.
- Directors Award nominations will be due by February 15, 2013.
- Given the fiscal constraints, Tribal leaders should feel free to schedule a Tribal delegation meeting to have their issues dealt with or arrange to discuss issues by phone.
- A Tribal Consultation Summit will be scheduled for April or May 2013.

Q: (Gloria O'Neill) What is the IHS and VA's plan to get the word out to veterans about this new benefit?

A: (Yvette Roubideaux) One could argue that the reimbursement agreement is not really a new benefit. The agreement provides care that the veteran was already eligible for; so the veteran can already go to IHS, it's just that the VA is paying for those services. The VA is promoting this agreement as increased access for veterans. There is a difference in Alaska, as I think their agreement is including non-Indian veterans. Overall, we've been announcing the agreement has been signed. It's up to the local community to get the message out, but we can take recommendations on this.

C: (Gloria O'Neill) In some cases they get increased care and quality of care when they come to our facilities.

C: (Yvette Roubideaux) We think we have more culturally competent care and better quality of care, yes; but the reimbursement really doesn't impact them. I think when we get the referred care thing done, that will really benefit the veteran.

Q: (Gloria O'Neill) I would say that in Alaska the veterans would have more comprehensive care if they go to an IHS facility, so that should be part of the messaging. Additionally, how is IHS working to ensure that all facilities are leveraging this reimbursement?

A: (Yvette Roubideaux) On the Federal side we are phasing it in; for the first 6 months it will be 10 facilities. After that we will implement the reimbursement in as many facilities as we can, as quickly as we can. The timeframe really depends on the VA's ability to handle the volume of the reimbursements. They will get a small cut of the reimbursement rate to hire new people. On the Tribal side, it's as fast as the VA negotiates those agreements with our sites. Some VA's are fabulous and some are horrible. The same could be said for our system too. For that reason, the messaging will likely have to be localized; but I agree that messaging will be really important.

C: (Cathy Abramson) Previously you talked about Tribes needing to work on their business plans. With the ACA and VA changes, it's all leading to us needing to work in partnership in local communities and to have a marketing plan.

C: (Yvette Roubideaux) The business plan for our facilities [will be important] to make sure patients stay with us once they all have insurance. We are convening Federal and Tribal experts for an ACA workgroup to see what local sites need to think about in terms of a business plan for 2014. The outcome of the business plan will be to ensure that our numbers don't go down; and ensuring that our collections remain the same or increase. They are putting together a template for facilities; it is due by the end of the month.

Q: (Roberta Bisbee) What 10 Federal sites will you start with?

A: (Yvette Roubideaux) They were chosen based on the readiness of the VA and IHS to do the billing. The Federal sites are: Warm Springs Service Unit (Portland Area); Blackfeet (Billings Area); Pawnee (Oklahoma Area); Chinle (Navajo Area); Sells (Tucson Area); White Earth (Bemidji); and Wagner, Eagle Butte, Sisseton, and Rapid City (Aberdeen Area). The VA would have a list of Tribal sites that are already up and going.

C: (Herman Honanie) Hopi and [our local] VA are more than willing to start. Maybe the billing is a problem. I'll have to find out; because I was told we are ready to go.

C: (Yvette Roubideaux) Hopi was on the original list; I can't remember why they didn't make the final list.

C: (Marshall Gover) So many times our veterans have been hesitant to go to the VA because of the paperwork and fear of being refused. Working with the VA, we are getting more veterans enrolled in the VA and getting their benefits. It's working well to have them come to IHS to get treated.

Q: (Gary Hayes) With troops coming back home, we've had an incident where the individual was seen by a behavioral health specialist at IHS and was then referred to the VA. The VA had some questions about whether to take the referral or not. This needs to be clear. If an individual is seen by the IHS and referred to the VA, will it be accepted? The Tribe ended up paying for the bill on behalf of the veteran. I hope cases like this can be sorted out. Will the VA be able to reimburse the Tribe?

A: (Yvette Roubideaux) We will be negotiating referred care with the VA next. It's different in every facility, depending on available resources. The VA feels like they have special expertise for some of the mental health issues, so they want to make sure the veteran goes to the VA for that type of care. We will need your help to help us sort out what should be the instances where the veteran should go to IHS versus when they would go to the VA; and if we refer them would the VA pay? We will consult with Tribes formally on this.

C: (Gary Hayes) We are also talking about physical health referrals, not just mental health. I do want to mention, working with the Colorado International Guard and the Army, the issue of access to electronic medical records came up.

Q: (Roberta Bisbee) I have some questions from Ron Allen. What assurance is there that Tribal sites will be reimbursed at the all-inclusive rates? There is concern about Tribes' ability to determine what a veteran is qualified for at the VA, as those are the only services they are eligible to bill for.

A: (Yvette Roubideaux) There is a provision in the Federal agreement that Tribes can use this agreement, so let us know if you get push back on this from the VA. In terms of who is eligible for what, the local IHS and the VA have to share eligibility information. We've been offering training in partnership with the VA for both IHS and Tribal sites and business offices on VA eligibility.

C: (Gloria O'Neill) Contract support costs warrant further discussion, so I hope we can bring this back up this afternoon.

Tribal Caucus

The STAC meeting was closed to the public to allow the committee to caucus. When the meeting reconvened, it was announced that Gary Hayes was elected the new Chairman of the STAC; and Ken Lucero will serve as the Co-Chair.

ACA Update

Alexis Ahlstrom, CCIIO, CMS; Cara Kelly, CCIIO, CMS; Lane Terwilliger, Technical Director, Division of Waivers and Demonstrations, Center for Medicaid, CHIP, and Survey Certification, CMS; and Mayra Alvarez, Director of Public Health Policy, Office of Health Reform, served as co-presenters to update the STAC on the ACA. Ms. Ahlstrom began the presentation by highlight CCIIO's recent activities regarding implementation of the Exchanges. She said 20 States submitted applications to operate either a State-based Exchange or State Partnership, noting that the deadline for operating a State Partnership Exchange is February 15, 2013. Twelve applications have been conditionally approved and eight are under review. In States that do not have a State-based Exchange or State Partnership Exchange, those States will have a FFE. She said 49 States, the District of Columbia, and 4 territories received grants to plan their Marketplaces; and 34 States and the District of Columbia received grants to build them. Open enrollment is set to begin October 1, 2013. She discussed various proposed rules, e.g., eligibility determinations, market rules regulation; and Ms. Kelly discussed the essential health benefits and actuarial standards rules, noting that the comment periods for both rules ended on December 26, 2012. Ms. Kelly also addressed guidances that have been released related to State Partnership Exchanges, describing two types of partnership: plan management and consumer assistance/in-person assistor. She said comments on the Partnership guidance are being accepted at ffecomments@cms.hhs.gov.

Q: (Gloria O'Neill) For a FFE, what is the plan to ensure consultation with Tribes? What are the internal deadlines for the implementation plan to be realized? Will CMS provide Tribes with a list of FFE contacts?

A: (Cara Kelly) With State-based Exchanges, Tribal Consultation will be covered by the States' blueprint and each State has a State officer who is responsible for tracking that State's progress in terms of implementing the Exchange.

Q: (Gloria O'Neill) Are you saying the State has the authority or responsibility to engage in consultation?

A: (Cara Kelly) I'm sorry; that's my understanding, but I'm not an expert on that.

C: (Geoff Roth) If they took the establishment money, they do; other than that there is not a requirement for the State.

C: (Cara Kelly) In State Partnership Exchanges, and FFEs, we will be responsible for managing that process. The State will be included, but it's something HHS will lead.

C: (Alexis Ahlstrom) Those are great questions. I don't have the answers, but we can get back to you.

Q: (Gloria O'Neill) Can you provide written responses to the STAC members?

A: (Alexis Ahlstrom) Yes.

Q: (Cathy Abramson) Last week I was at a Health Directors meeting for Michigan and State representatives were there. Michigan is not doing a State-based Exchange. They are saying that they know nothing. So, who do we contact so we can get going?

A: (Alexis Ahlstrom) Lisa Wilson will be your point-of-contact at CCIIO.

C: (Cathy Abramson) I made this request at the last STAC meeting and I have not heard from her.

C: (Chester Antone) November 28, 2012, Arizona's governor said the State would not be doing a State-based Exchange. Prior to that announcement, Arizona Tribes had a working group that was established under one of the grants the State had. We were working towards a State-based Exchange and had come up with a Tribal Consultation Policy that was strictly based on a State-based insurance Exchange. Governor Brewer said Don Hughes, the Health Care Policy Advisor, will be the primary contact for HHS issues; as well as Tom Battalack (sp) of the Arizona Health Care Cost Containment System (for the eligibility side). On Monday and Tuesday of last week, we had a meeting to discuss how to move forward. The workgroup was at a loss in terms of what to do regarding having a FFE. The Insurance Exchange Workgroup and the Inter Tribal Council of Arizona asks CMS to consult with the Arizona Tribes. We are asking today for a contact that we can work with to set up the consultation so we might get the FFE moving. Next month would be a good time for a consultation, if possible.

Q: (Rex Lee Jim) Since Arizona will do a FFE (and Utah and New Mexico will not), how will HHS handle the Navigator program for the Navajo Nation, since it spans all of these States? The Navajo Nation is interested in operating its own Navigator program and requests funds to do so. Is there anything in the law that prevents the Navajo Nation from being considered one geographical area, regardless of State boundaries, so it can participate in the FFE rather than three different programs for the same population?

A: (Alexis Ahlstrom) Navigators will be funded to help individuals understand and enroll in a health plan. We are going to release more information/guidance shortly about the Navigator program. It will be in a draft format, so people can give feedback. Secondly, shortly after that, we will be providing the grants opportunity. The statute does indicate a State-based Exchange program, not a regional one; but we should confirm with our General Counsel on that.

C: (Geoff Roth) The Exchanges have to be based in the State. They can provide you a written response on that if that is appropriate.

Q: (Roger Trudell) Is there an update on Nebraska and South Dakota?

A: (Cara Kelly) States do have more time to declare to be a State Partnership Exchange, so that option is still on the table. I don't know about South Dakota, but I understand that Nebraska won't be doing a State-based Exchange at this time.

A: (Alexis Ahlstrom) South Dakota has not been conditionally approved to be a State-based Exchange or a Partnership; so it will be a FFE.

Q: (Jefferson Keel) What about Oklahoma?

A: (Alexis Ahlstrom) Oklahoma is expected to be a FFE.

Q: (Gary Hayes) My Tribe is under direct service of IHS. Is IHS going to be eligible to apply for Navigator grants on behalf of the Tribe?

A: (Alexis Ahlstrom) No, I don't believe so.

Q: (Gary Hayes) How would our Tribe be able to get a Navigator?

A: (Geoff Roth) As a Tribe, you could apply separate from IHS.

C: (Gary Hayes) But we are under direct service. IHS, at our clinical level, said it's their responsibility. I think there is a "disconnect" at the local level.

Q: (Marshall Gover) IHS is responsible for all of our care as a Direct Service Tribe, so how does that work?

A: (Geoff Roth) In States where programs are funded, there will be a responsibility for the AI/AN population—regardless of who gets funded to do it. Tribes will be eligible to apply and do the Navigator program. The Federal sites will not be able to apply for that money specifically, as far as I know. I thank you for bringing this up. I will talk to CCIIO about the possibility of Tribes working with the Federal sites if the Tribe gets the money.

C: (Marshall Gover) As a Direct Service Tribe we don't get the funding; we are a Federal site. The Tribe right next to us might get the funding.

C: (Ken Lucero) Mr. Gover, you can look at it like any other program that you can apply for through the State. In Colorado, it will be a State-based Exchange. It will be run by the State of Colorado or a private enterprise. So, the Tribe will contract with them to do enrollment and Navigator services. You will get a contract through the State, similar to housing and food assistance programs.

Q: (Marshall Gover) Didn't you say the State of Oklahoma was expected to be a FFE?

A: (Alexis Ahlstrom) The deadline is February 15th; but yes, it's indicating that it will be a FFE. I think we need to work with Geoff to identify example entities that you might be affiliated with that will be eligible for Navigator grants, so we have a clear path for you.

C: (Geoff Roth) We can also think about how we've done outreach and enrollment from CMS in the past, i.e., how IHS has interacted with those efforts.

Q: (Cathy Abramson) You said grants will be provided for the Navigator program; is there a set-aside for Tribes?

A: (Alexis Ahlstrom) No.

Q: (Cathy Abramson). You mentioned the issue of Tribes' eligibility. This is a time when Tribes need help and my concern is Tribes won't get the funding. So, how can a Tribe not be eligible or how can you be eligible?

A: (Alexis Ahlstrom) The statute lays out some requirements of eligibility and we will be putting out further guidance. These funds are not only available to Tribes.

Q: (Cathy Abramson) So are you saying somebody else could be getting funding to enroll us?

A: (Alexis Ahlstrom) Yes.

Q: (Cheryl Frye-Cromwell) I'm from Massachusetts and we just had a meeting with the Commonwealth Health Insurance Connector Authority. The Regional Director was there. Our Tribe got a grant 5 years ago from the Executive Office of Health and Human Services to enroll Tribal members into the MassHealth program. Currently we have over 850 Tribal members that are insured. We have two enrollment specialists; and we are part of the virtual gateway. Two years ago that funding was taken away and the Tribe picked up the costs to keep those enrollment specialists. Would we be able to apply for Navigator funds? Massachusetts will be a State-based Exchange. Will they get the money to enroll our Tribal members or is it something that we can continue to do?

A: (Cara Kelly) Each entity will need to look at the funding opportunity that is available in their State and see if they meet the criteria.

A: (Alexis Ahlstrom) In your case, because it's a State-based Exchange, Massachusetts will set the criteria.

C: (Cara Kelly) Remember, Navigators will be required to assist anyone that approaches them. They can't turn anybody away.

C: (Mayra Alvarez) I just want to highlight that the Navigator program is not the only entryway into the Marketplace. HHS is looking at outreach and enrollment as a responsibility for all of us. We plan on training IHS facility staff to understand the Marketplace, know the enrollment process, and understand the options available so they can help people enroll.

Q: (Chester Antone) Who will take the message on our request to consult?

A: (Cara Kelly) We will follow-up with Lisa Wilson; she will be the point-of-contact.

Q: (Cheryl Frye-Cromwell) Mayra, will the training be available to Tribal staff?

A: (Mayra Alvarez) Yes.

Ms. Kelly also discussed the issue of essential community providers (ECPs)—providers that serve medically underserved and low income populations. She said Qualified Health Plans (QHPs) need to include ECPs in their networks. She noted that HHS's approach is that issuers applying to sell coverage through a FFE will be able to qualify for Safe Harbor in this area—if they qualify they will not need to provide additional justification regarding ECPs. The Safe Harbor is if the network includes 20 percent of the available ECPs in the plan's service area; and the issuer needs to agree in the application to offer a contract to all available Indian providers in the service area and to offer a contract to one of each type of ECP in the service area by county.

Q: (Ken Lucero) I've been hearing that when IHS or Tribes contract to be a provider, they can be subject to additional layers of credentialing and/or certifications. Is there anything in the Federal plan that says that if they are already credentialed that States can't require that additional burden to the IHS?

A: (Cara Kelly) We've heard that concern. At this time, we are not planning to override issuer credentialing standards.

C: (Geoff Roth) We are working on the I/T/U [IHS/Tribal/Urban] addendum that the Tribal Technical Advisory Group (TTAG) put together. We've seen the comments regarding this issue and they are under review. The addendum won't be required, but States can use it.

C: (Cara Kelly) I would also mention that if the issuer cannot meet the Safe Harbor, it will have to provide a justification to us on a supplemental form that explains how their network provides adequate service to a variety of consumers. We do plan to ask them specifically about access to specific populations. We will specifically ask how their network provides adequate service to AI/ANs.

Before updating the STAC on various new regulations that impact Indian Country, Ms. Terwilliger announced that three States have agreed to do the Medicaid expansion: New Mexico, Arizona, and North Dakota. She said a second set of regulations, refining Medicaid eligibility and simplifications, has been released, as well as new ACA outreach grant opportunities for which Tribal entities can apply. In the future, she said \$4 million will be

dedicated specifically to Tribal entities for outreach and education related to enrollment. Among the highlights of her comments included the following:

- The revised cost-sharing regulation now exempts all cost-sharing, regardless of where the patient is seen.
- CMS expects to announce a Section 11-15 Medicaid Waiver-type arrangement for California within the coming week.
- State Plan Amendments (SPAs) have been going well and States understand that they must meet Tribal Consultation requirements.
- After CMS returned 11-15 Waiver proposals to New Mexico and Kansas in 2012, Kansas resubmitted its proposal after consultation with Tribes and the proposal now includes the I/T/U addendum; it was approved on December 27, 2012. CMS is currently negotiating with New Mexico on its resubmitted proposal, but it's not considering its waiver of retroactive eligibility and has not made any decisions related to the Tribal provisions. CMS will attend a Tribal Consultation in New Mexico on Wednesday, January 23, 2013.

C: (Stacy Dixon) I have two statements I want to read to the STAC from the Draft Discussion Points for Administration Representatives.

C: (Lane Terwilliger) There will be a Tribal Consultation on February 4, 2013, and hopefully everything will be on the street before that. We will be offering technical assistance before that. California first needs to release the Notice to Tribes. I should also mention that California currently has a 35-day Tribal Consultation period, so they cannot submit to CMS until after they have exhausted that 35-day period.

C: (Stacy Dixon) Another issue California has is concerning ambulance service. There is a lack of operational funding to ensure availability of critical, lifesaving, emergency medical care and transportation to the nearest hospital or medical facility in remote areas of California. We are requesting that adequate, recurring funding for operations be made available in a line item of the IHS budget to fund Tribal ambulance (ground transportation) programs.

C: (Chester Antone) I will give you a packet to take to Cindy Mann. We have an issue on our reservation, of non-IHS 638 entities operating on Tribal lands. I have a copy of Two Ways to Certify to Participate in the AHCCCS. So, we have two ways to participate with AHCCCS reimbursements. We've been doing pretty well with the section that deals with the compliance survey. In the packet, I also have letters of support. My Tribe has a resolution that asks the Secretary to direct the CMS to waive licensure requirements. We haven't had any problems in the last 12 years, so we are really asking that things stay the same. I also have a copy for Stacey Ecoffey to pass along to the Secretary, as we are asking her to do something specific. It's a matter of Tribal jurisdiction.

C: (Lane Terwilliger) I'll be happy to take the packet.

C: (Rex Lee Jim) I have two issues for CMS. Regarding the Navajo Nation feasibility study, Navajo Nation has been identified in the ACA and the IHCA [Indian Health Care Improvement Act] as a possible Tribally-run Medicaid program. A study on the feasibility had a limited timeframe and we therefore recommend that a more thorough study be done. Even as the study is being reviewed throughout HHS, the Navajo Nation is interested in continuing to build capability and capacity that will result in the Navajo Nation implementing its own Medicaid

program. We request that HHS provide technical assistance and resources to the Navajo Nation to ensure that it fulfills the intent of the law in the creation of a Tribally-run Medicaid program. The second issue involves Tribal assurances of compliance. The Navajo and other Arizona Tribes have an agreement with the State Medicaid program based on the sovereign status of Indian Tribes that the Nation will have authority and jurisdiction over health care providers within the jurisdiction of the Nation receiving Medicaid funds. This jurisdiction entailed assuring the State Medicaid program that health care providers are complying with State Medicaid standards. The Navajo Nation was interpreted as having authority to inspect and certify that health care providers are meeting these standards. However, within the last few months, the CMS has issued a ruling that the jurisdiction only applies to 638 organizations. The Navajo Nation believes this is an infringement on the sovereign status of the Nation. The nation believes it has the capability to interpret and enforce these standards on all health care providers within the interior boundaries of the Navajo Nation. The Navajo Nation requests that the CMS ruling be reviewed and reversed.

C: (Kitty Marx) Aryana Khalid, the Chief of Staff for CMS, will be here tomorrow. She is planning on giving an update. I can say that the Navajo Nation Feasibility Study was completed. We received a final report this Monday. It was a short timeframe; the study ran from June 1, 2012, to January 14, 2013. The final report indicates that it is feasible for the Navajo to operate as a Medicaid agency, but it will take tremendous resources. The next step is for the study to go through agency clearance, including review by IHS. A Report to Congress is due by March 23, 2013.

Q: (Gary Hayes) Colorado is really working with us to get Tribes to participate in the Exchange. The concern we have is that Tribes have to be federally recognized or they can't participate. There is a population in our Tribe that can't enroll in our Tribe because of too many "nose bleeds." Medicaid isn't that stringent in terms of Native American participation. Is there a way the Tribe can recognize these individuals as part of the community? With IHS, for people that have lived there for a long time, we do a letter of support saying that they can have services at IHS because they've lived there all their lives. We asked Kim Ming the question on the State side.

A: (Lane Terwilliger) Medicaid has a very liberal definition of Indian, which is contained in our cost-sharing regulation. Our understanding is that there is a different definition with respect to accessing Indian protections through the Exchange, e.g., cost sharing, and the enrollment period. I think there needs to be a legislative fix to fix that. On the Medicaid side, it's very similar, if not exact, to the IHS beneficiary requirements.

C: (Gary Hayes) I understand that some States are looking at the Medicare payments. For example, we have some Tribal members that are young and have been diagnosed with Cirrhosis. They go to an IHS clinic and there's nothing they can do. They get sent to a hospital. Right now they are eligible to enroll, but I've heard that some States are cutting back and saying they can't have retroactive eligibility. This will impact our community members because those that are eligible are not getting enrolled. This will also impact rural areas.

C: (Lane Terwilliger) Retroactive eligibility is a Medicaid requirement. The only way to get by that requirement is if CMS, through Secretary Sebelius, waives that requirement. There are probably close to 30 Section 11-15 waivers out there. A few of the really old ones have had a

retroactive eligibility waiver for a long time. CMS is looking at this from a policy standpoint. States have to be granted a waiver of that and CMS is not seeing that it's a good thing. For States that have it in their waivers, they will continue for now. The current administration in Medicaid is not fond of it.

Q: (Ken Lucero) Can a State expand its eligibility to be like IHS or Medicaid for the health insurance Exchange or does it need to be changed via Federal law for them to allow it?

A: (Yvette Roubideaux) State law has to be consistent with Federal law.

Q: (Roberta Bisbee) This question comes from Mim Dixon. A key issue of the ACA is the identification of AI/ANs for implementing the exemption from tax penalties and cost sharing protections in the Exchanges. Tribes have suggested a short-term approach, which is to use the same definition that is used by Medicaid in the single, streamlined application, for 2 years—while the Administration seeks a technical correction in the legislation. If the Administration doesn't take this approach, there will be high cost for staffing of State Exchanges; the FFEs, IRS, and Tribes to review documentation of Tribal enrollment for each AI/AN. Furthermore, many AI/ANs who are not enrolled members, such as children who are not allowed to enroll until they turn 18 and others, will be required to pay tax penalties for not having health insurance—even though they receive health care from IHS. The ACA Policy Committee is working on a number of other issues, but the identification of AI/ANs remains the highest priority for Tribes to communicate to the Secretary and the White House. My question is, is there no consideration being given to using the Medicaid definition?

A: (Yvette Roubideaux) HHS has stated that we agree that this difference in the definition between Medicaid and definitions in the law is not a good thing. The Administration has been working to get a legislative fix. There is not a way to fix it through regulation or policy. Congress really has to fix it. We are trying to work with Congress on this issue. It affects whether Indians can do monthly enrollment (rather than annual), whether they get the special cost sharing waivers (so they don't have to pay co-pays), and whether they pay the tax penalty for not enrolling. They can still go to the Exchanges and enroll and take advantage of the other benefits.

Ms. Alvarez focused her discussion on the importance and purpose of the insurance Exchanges, now being called Marketplaces. She noted that millions of people who couldn't previously afford health coverage will benefit. To help share information and educate consumers, <http://www.healthcare.gov/> was re-launched the day prior; and real-time updates will be provided to those that signup (at <https://signup.healthcare.gov/>). Ms. Alvarez reiterated that open enrollment into the plans begins October 1, 2013. In addition to the website, she said changes have been made on other social media channels to better communicate with communities across the country, new brochures on health insurance and the Marketplace developed, and training materials are being created. Finally, she encouraged people to place a widget on their websites to link people to <http://www.healthcare.gov/>.

Q: (Cathy Abramson) So, if we have a website, they can link to you from us?

A: (Mayra Alvarez) Yes, it takes them directly to the Marketplace.

Before the STAC took a short break, Councilwoman Bisbee motioned to accept nomination of Gary Hayes and Ken Lucero as STAC Chair and Co-Chair, respectively. Stacy Dixon seconded the motion. The motion passed unanimously.

Tribal Consultation Update

Stacey Ecoffey, Principal Advisor for Tribal Affairs, IEA, provided the update on Tribal Consultation. She directed the STAC to the meeting packet for a list of Regional Tribal Consultation dates, noting that the format for the 3-day sessions will include a one-on-one session with the Regional Director on the first day; the regional Tribal Consultation on the second day; and a Tribal resource/technical assistance day on the final day of the meeting. She noted that the regional staff would reach out to the Tribes to plan the actual consultation agendas, directing the group's attention to an outline of suggested topics. Ms. Ecoffey also said her team would try to coordinate with the operating divisions to have regional representatives be a part of the consultations to provide updates back to the Tribes. Next, Ms. Ecoffey requested that the STAC review the draft STAC Report and provide comments as appropriate, as the goal is to have the report cleared and printed for the regional sessions. Mr. Dioguardi added to Ms. Ecoffey's remarks, saying they wanted to build on the improvements made last year by improving the sessions' format, content, and access to resources.

Q: (Gloria O'Neill) I reviewed the report quickly and I thought one big piece that was missing was the amount of time and effort that Tribes and senior staff have been putting into 477 to come to a resolution. I'm wondering why that hasn't been acknowledged. Secondly, we've provided comments on your Consultation Policy and we haven't heard back, can you give us an update on where you are with that?

A: (Yvette Roubideaux) There is one paragraph on 477, the question is whether this is enough or not.

C: (Stacey Ecoffey) It's on Page 12.

C: (Paul Dioguardi) Let us know if that text is adequate. On the Consultation Policy, we need to close that loop and go through the comments and update the policy as needed. We just haven't done that yet.

Q: (Gloria O'Neill) Do we know the June dates for STAC?

A: (Stacey Ecoffey) We were going to discuss proposed dates tomorrow.

National Budget Consultation (Follow-up Discussion)

The group continued to discuss date options for the National Budget Consultation. Mr. Dioguardi assured the STAC that commitments on the HHS side would be made to ensure that a consultation would occur once the STAC felt that enough information was available on the 2014 budget to have a meaningful conversation. Taking into consideration that the IHS budget formulation starts in May (as it does for most of the HHS agencies); the IHS Budget Formulation Co-Chairs requested more time to prepare their recommendations; the consultation policy that is in effect; the unique fiscal situations that abound; the possibility of using a portion of the STAC's June meeting to bring in the Secretary's Budget Council to discuss priorities; and other factors/recommendations, the group agreed to keep the original National Budget Consultation

dates of March 6-8, 2013, and plan for an additional follow-up session at its June meeting to present to the Secretary's Budget Council (with the understanding that if the IHS Budget Formulation Committee doesn't have sufficient time to prepare recommendations for the March meeting then it will present at the June STAC meeting). Additionally, in response to Chairman Hayes' request to hear from Tribal leaders on the first day of the consultation, Ms. Ecoffey explained the rationale behind the timing of the sessions, but said the order of presentations is always discussed during the planning conference calls.

Before the group moved to the next agenda topic, Ms. O'Neill expressed her appreciation to Mr. Dioguardi and Ms. Ecoffey for arranging the STAC's visit to the National Institutes of Health (NIH) the day before; and Councilwoman Abramson thanked them for all the work they have done.

Tribal State Update

Lillian Sparks, Commissioner, Administration for Native Americans, provided the Tribal State update, noting that the Tribal State workgroup developed an outline of activities to focus on in terms of Tribal State relationships, e.g., Tribal Consultation for programs that States receive from HHS and then provide funding to Tribes; guidance to States on implementing child welfare activities; CMS activities; and regional directors/administrators' role to help facilitate better Tribal/State relationships. She noted that a lot of data collection has been started; also commenting that "data" emerged as a priority at the last ICNAA meeting. Commissioner Sparks said regional directors developed a strategy to do better outreach and increase communication between States and Tribes; and the workgroup attended Casey Family program meetings to learn what that workgroup is doing in terms of Tribal State relations specifically concerning child welfare issues and has partnered with Casey Family to work collaboratively on the issues. Finally, she directed the STAC's attention to the meeting packet to see a document that explains CMS' strategy for increasing relationships between Tribes and States; and she stated that the workgroup responded to a specific request to talk to State HHS agencies, Tribes, and State representatives in Maine.

Chairman Lucero added to Commissioner Sparks' remarks, commenting that a lot of the workgroup's conversations centered on how the workgroup could affect the relationships of Tribes and their States. He said they did find some opportunities to educate State officials on Tribes and realized that the one common thread between the States and Tribes is regional directors.

C: (Gary Hayes) It was great to have regional directors there when we met in Albuquerque the first time. It was good to see their organizational chart and understand the dilemmas they face within the region. It has helped us to try to get them to participate in our Colorado Commission on Indian Affairs meetings. In fact, Marguerite Salazar has been appointed Ex-Officio. We like to do the same thing with BIA, to get someone in there to participate. The States and the feds really don't communicate about Tribes or understand Tribal policies as much as we'd like them to.

Update: Intradepartmental Council on Native American Affairs

Commissioner Sparks first invited Ms. Ecoffey to the table, stating that she was instrumental in helping the ICNAA with the Self-Governance Title VI Draft Report and therefore able to give an update on that. Ms. Ecoffey indicated that the Self-Governance Workgroup finished its meetings in July 2012. Since that time, she said the workgroup has been reviewing edits received from the Tribes and addressing their concerns related to the Self-Governance Title VI Draft Report. She is taking the lead on making the edits. She said she expected a draft final report to be shared at the regional sessions, with a final report ready for the STAC in June. Notwithstanding the need for legislative changes, she said the report offers some recommendations for consideration. She said the workgroup's work will end with the completion of the report.

Commissioner Sparks credited the Self-Governance Workgroup with moving the needle concerning self-governance within the Department. Concerning ICNAA, she said the ICNAA had its last meeting in December 2012, and continues to align its activities with the STAC's priorities. To that end, she said the ICNAA has done work on Tribal State relationships; self-governance; increasing Tribes access to grants; and increasing Tribes' eligibility for grants. The Access to Grants document that was distributed to the group, she said, is a draft narrative to the grants matrix that was developed. She said the grants matrix was being finalized and the draft report of the Access to Grants was intended to help folks understand the matrix. She invited the group to provide feedback on the document. In her closing comments, Commissioner Sparks identified potential next steps for the ICNAA: making sure all data in the matrix is correct and Tribes input their data correctly into <http://www.grants.gov/>; working with HHS offices to ensure they include Tribes and Tribal organizations as eligible entities in their Catalog of Federal Domestic Assistance (CFDA) listings; and ensuring that program offices know that Tribes are eligible to apply for their grants. She thanked the STAC, Kim Romine, Sue Clain, Sean Carville, Liz Carr, and others that have guided ICNAA's work.

C: (Gloria O'Neill) Language is really important, as different States have different structures. We really need to say "Tribes and Tribal organizations."

C: (Gloria O'Neill) After doing some research after the last funding cycle, specifically looking at ACF's grants, I think the next step should be to look at the grant criteria to see if it appropriately helps them in the discretionary process, i.e., are the supports in place so that Tribes and Tribal organizations actually have a fighting chance of competing? So, I'm wondering, can you take 2012 grant funding and sort it to say how many grants went to Tribes and Tribal organizations? You might find, like we found, that out of 11 large discretionary grant opportunities, none went to Tribes or Tribal organizations. This [type of exercise] will really help identify where to do the work in terms of accessibility.

C: (Lillian Sparks) We have a two-part strategy: to see where the money is going and training within HHS for all of our grants management/grants policy folks to get them to understand that we have to increase the accessibility. Yes, we need to find programs for which Tribes are eligible, and find out if they are applying and if so the rates that they are getting funding. Then we will have a third part that entails determining the technical assistance we need to provide so Tribes are competitive, while continuing our internal education piece to see where we have flexibilities or policies that can assist Tribes.

C: (Stacey Ecoffey) We also want to do the trainings in the regions. We've been able to recognize some of the information you are referring to. We are hoping that by having training in the field that we can see what Tribes need from us and then work internally with the people who are reviewing the grants to show them the pieces they are missing. We really need to look at what we can do in the next 4 years.

The end of the first day closed with the floor being opened for general comments.

C: (Cathy Abramson) I have a list of topics that are reoccurring issues that have been noted in the last 2 years by Tribes, Tribal organizations, and Tribal serving organizations and partners.

Q: (Lillian Sparks) When you refer to "funds intended for Tribes and Tribal organizations not reaching Tribal communities," which specific programs are you speaking of?

A: (Cathy Abramson) Award of grant funds intended for implementation with Tribes or Tribal organizations to universities or other organizations whose indirect costs consume up to or more than half of the operating budget and whose budgets allocate a tiny fraction that goes directly to Tribes for services. Many of the funding opportunity announcements have such rigorous requirements for existing capacity to implement programs that only a small number of Tribes are competitive for funding; these Tribes tend to already have significant capacity to carry out public health projects. There is a concern that this is creating even greater disparities among Tribes because the Tribes that have very serious needs for funding to build capacity also tend to be smaller and more rural. Recent funding opportunities for which Tribes were eligible to apply had requirements that prevented Tribes from applying directly.

C: (Rex Lee Jim) On Navajo, we got ARRA funding to build corrections facilities; but we have a problem with corrections health care and how to bring medical services to inmates. We'd like to know how we can offer medical care.

C: (Gary Hayes) We also talked with BIA about that issue. When the U.S. Department of Justice (DOJ) had the money for corrections facilities, they'd build it, but they forget about the staffing. We have a treatment center with no medical staff. We are finally trying to get medical staff in that facility. It's a serious issue, providing counseling and rehabilitation to our members.

C: (Herman Honanie) Providing health care to inmates is an important issue. We are planning a new detention center on the reservation. The idea of providing health care arose 2 weeks ago when an inmate died because of lack of medical care. If anyone has a good plan, please let us know.

Q: (Gary Hayes) There is supposed to be a committee as part of the TLOA to hear Tribal action plans and no one has said who will take the lead on it. Is it going to be IHS, DOJ, or BIA? Maybe in the short-term, some of us can participate in these types of discussions. I understand that there is a group that meets monthly, but there is no Tribal representation.

A: (Mirtha Beadle) The group that meets monthly is one that is required in the TLOA and it's an interdepartmental group, that's why there is no Tribal representation. I will talk with Shelia Cooper and Rod Robinson about this particular provision and find out the background on that.

Because of the lateness of the hour, the group agreed to do a Tribal caucus at 8 a.m. and move the discussion on contract support costs to the following day.

DAY 2

(January 18, 2013)

Tribal Opening and Review of Previous Day

The second day of the STAC meeting began with Councilman Antone providing an invocation, followed by Chairman Lucero welcoming the group. Mr. Dioguardi commenced with reviewing the agenda for the day, noting the new format for the roundtable discussion.

HHS Federal Member Roundtable Discussion

Leadership from HHS' operating divisions updated the STAC on relevant work/initiatives being done on Indian issues. After each Federal member gave a brief update, they engaged Tribal members on issues of interest, after which the STAC discussed its priorities. Highlights of the updates are provided below:

ACL

(Cynthia LaCounte, Director, Office of American Indian, Alaskan Native and Native Hawaiian Programs, Administration on Aging, Administration for Community Living)

- The Title VI National Conference will occur the first week of August, in Washington, D.C.
- The Title VI Tribal Consultation will occur on the 7th, 8th, or 9th of August.

ACF

(George Sheldon, Acting Assistant Secretary, Administration for Children and Families)

- ACF is working to address ICWA issues and wants input from the STAC.
- ACF's strategic plan (which attempts to hold the agency accountable for holding Tribal and grantee meetings across ACF) has been drafted and will be tweaked in March, followed by the solicitation of Tribal input.
- The new Deputy Assistant Secretary of Administration is tasked with improving ACF's Tribal grant administration.
- ACF will create a community of Native language providers.
- ACF is working to increase its relationship with the BIA.
- Tribes are being encouraged to develop the infrastructure needed to set up their own child welfare systems.
- The Office of Child Support Enforcement is working with 47 Tribes to operate Child Support programs.
- The Office of Head Start is moving forward with Designation Renewal Systems; the second cohort of Head Start programs which have to compete has been released.

- The Office of Planning, Research and Evaluation is conducting research programs designed to better understand the challenges of self-sufficiency of low-income AI/ANs in urban areas; and it's evaluating the Tribal Health Professions Opportunities grants to enable better technical assistance in those programs.

IHS

(Yvette Roubideaux, Director, Indian Health Service)

- IHS is moving forward with the same priorities: strengthening its partnership with Tribes; reforming the agency; and improving the quality and access to care.
- This year IHS will focus on the ACA—making sure communities know about it; making sure IHS facilities are planning for it; getting people enrolled; handling reimbursements; keeping its patients; and keeping its collections.

HRSA

(Marcia Brand, Deputy Administrator, Health Resources and Services Administration)

- Tribes are eligible and encouraged to apply for a number of funding opportunities that are available, e.g., Rural Health, Health Centers, Health Professions grant program, and participation in the National Health Service Corp (NHSC).
- HRSA is actively engaged in improving the opportunities for first-time and previously unsuccessful grant applications via technical assistance outreach. The HRSA website has a lot of tools to help grant applicants be successful.
- A listserv has been created to announce all HRSA grants that Tribes are eligible for. (Sent name(s) to aianhealth@hrsa.gov to be added to the list).
- HRSA's first Annual Tribal Consultation will be held in March 2013.

NIH

(Isabel Garcia, National Institutes of Health)

- A list of contacts resulting from the STAC's visit to the NIH is forthcoming.
- NIH's Director has signed the NIH Tribal Consultation Implementation plan; the next step is to establish points-of-contact in all 27 centers, followed by the establishment of a Tribal Consultation Advisory Committee.
- NIH is collaborating with the Administration on Aging to focus on the needs of Native elders. Various initiatives are being implemented to increase the diversity of NIH's workforce, e.g., program BUILD; and a national research mentoring network.
- Firmer language for funding announcements has been drafted pertaining to Tribes' eligibility for NIH grants.

CMS

(Aryana Khalid, Chief of Staff, Centers for Medicare & Medicaid Services)

- The CMS TTAG was established in 2004 and has been providing great input.
- Numerous All Tribes calls have been held, particularly on the new Exchange rules.

- CMS is transitioning its medical contractor who does billing for the IHS, so please provide feedback.
- With 11-15 Waivers and Medicaid expansion, States are supposed to be consulting with Tribes; Tribes are encouraged to share thoughts on how the process can be improved. Cindy Mann is working diligently to improve the SPA process.
- CCIIO will be releasing outreach materials; Tribes are asked to provide feedback on whether the information works for their audience.
- CMS is coordinating with the VA and other HHS operating divisions on services that people need; so let them know how to make processes easier.
- Information is forthcoming on the FFE and Navigator issues; Tribes are encouraged to comment when the information is released.

SAMHSA

(Shelia Cooper, Senior Advisor for Tribal Affairs, Substance Abuse and Mental Health Services Administration)

- The SAMHSA American Indian/Alaska Native Team, comprising representation from the four centers within SAMHSA, is addressing AI/AN issues and concerns and looking at successes in Indian Country.
- SAMHSA is celebrating its 1-year anniversary of having a regional presence in all of the 10 HHS regions.
- Forty States have consolidated their Substance Abuse and Mental Health offices within their State authorities.
- SAMHSA redesigned its Requests for Applications (RFA) and has shared its success with other agencies. Tribal entities that apply get 5 additional points. SAMHSA saw a 46 percent increase in applications and 50 percent of the awards went to Tribes.

OMH

(Nadine Gracia, Acting Deputy Assistant Secretary, Office of Minority Health)

- OMH received word from the White House Initiative on Tribal Colleges and Universities that they will convene an interagency group to discuss how to expand and improve educational opportunities for AI/AN students.
- In November 2012, OMH hosted a research roundtable of the Health Research Advisory Council (HRAC) at NIH.
- Lieutenant Commander Tracy Branch is the new HRAC Project Leader.
- HRAC is concerned about the lack of consultation with Tribes, particularly among States and academic institutions that are awarded funds to work within Tribal communities. HRAC is considering recommending that grant proposals that are submitted without Tribal resolution letters not be considered for funding.
- The HRAC is preparing a recommendation to address the issue of Tribal Epi Centers having problems obtaining data from State health departments, as some States are not viewing them as public health authorities.

CDC

(Judith Monroe, Director, Office for State, Tribal, Local, and Territorial Support, Centers for Disease Control and Prevention)

- Two individuals have been hired for Tribal Support to work with Delight Satter.
- The STAC is invited to visit CDC.
- Tribal grantees can have direct assistance from CDC (in lieu of funds); and personnel are available that they can request, e.g., a Career Epi Field Officer.
- Two fellowship programs are available: PHAP and Public Health Prevention Specialist (PHPS).
- CDC just finalized its Tribal Consultation Policy revisions and the policy has been signed by the Director.
- A number of Epi aides have gone out to help Tribes.
- CDC finalized and implemented a new, standardized Funding Opportunity Announcement (FOA) that includes a checklist item for Tribes' eligibility.
- The CDC Tribal Advisory Committee (TAC) will meet February 5-7, 2013.

C: (Cathy Abramson) The issue of grant funding is a concern.

C: (Gloria O'Neill) I have a memo for George Sheldon. For the 2012 discretionary grants cycle, within the Children's Bureau, Cook Inlet Tribal Council submitted four applications and didn't get one. We did a little research and followed up with folks at the Children's Bureau. We were told that our applications were great, but criteria have changed in a way that it supports State and local governments (more than Tribes). I asked our senior planner to look at all 11 grants within the Children's Bureau and out of 89 awards not one went to a Tribe or Tribal organization. I'm wondering what type of criteria the STAC can propose to assist Tribes and Tribal organizations in having an opportunity to be successful.

Q: (George Sheldon) Did you share this information with Bryan [Samuels]?

A: (Gloria O'Neill) He wants to look into it.

C: (George Sheldon) As I mentioned in my comments, I've asked our new Deputy Assistant Secretary of Administration to look at our entire grant-making process. We have identified a need for more diversity on our review panels. Part of that means that we need to effectively disseminate information for people to become grant reviewers. I'd like to look at the Children's Bureau [data], because it does concern me. It will be helpful to give us specific suggestions and I'd like to meet with our attorneys to see if we can do a set-aside for Native communities. Let me talk with Bryan about this. If a couple of you could meet at some point with Bob Noonan, our new Head of Administration, that would be good. He has been asked to look at our grant-making process and our personnel system.

Q: (Roger Trudell) We have a fairly large Healthy Start program that has steadily been reduced in funding over the years and now it's almost impossible to have an effective program at all of the sites. We have a high infant mortality rate and the program has impacted that. Is there something that can be supplemental from HRSA in terms of funding? Also, staff from our Area Health Board has indicated that no one has provided them with the draft Consultation Policy for

CDC. One question I had earlier was if an area or region appoints somebody, a primary and an alternate, is that good enough for CDC or committees like the STAC or is there another approval process? For Dr. Roubideaux, I had a question about off-reservation boarding schools. Some are eligible for support services from the State. Some States don't "cross the lines" for students that are out-of-state. Those students are left without services. I know the home service units are supposed to provide some of the service; but some students are several hundred miles from home. We are looking for long-term, reasonable solutions.

Q: (Cheryl Frye-Cromwell) There was a concern given to me in regards to the Tribal Consultation process. I guess there was a letter signed by Dr. Friedman on January 8, 2013, without full consent or agreement from the [Tribal Advisory] Committee. So, when does an agency decide in the Tribal Consultation process to go ahead with an item (such as this letter) without full Tribal agreement?

A: (Judith Monroe) I think you may be referring to our Tribal Consultation Policy that Dr. Friedman just signed. The policy had been vetted; it was open for comments from March through August 2012. It's my understanding that at the TAC meeting there was a unanimous vote approving it and then there was a change the next day to rescind it. There were some issues of Robert's Rules of Order. There was another 3 weeks allotted for comments. I don't have the minutes from the TAC's call. As an agency, we felt we needed to follow HHS' Tribal Consultation Policy guidelines. That's how it unfolded. If there were some problems with the process, then we can certainly revisit the process.

C: (Cheryl Frye-Cromwell) There are some concerns around that process, from both committee members and national agencies, e.g., USET [United South and Eastern Tribes], NIHB, and the [Northwest] Portland Area Health Board. We need to make sure the Tribal Consultations are happening and make sure we have agreement before items get pushed through.

C: (Judith Monroe) We have heard from some national organizations.

C: (Delight Satter) During the 3-week courtesy review period, not one TAC member submitted any comments for change. So nothing had been received since the June review. The Tribal Consultation Policy received maximum consideration for submitted comments, as it was being reviewed 2 years prior to my coming onboard. There seems to be questions around the procedures and process, which we'll be going over at our next TAC meeting.

C: (Cheryl Frye-Cromwell) There was also concern around the committee membership, in terms of non-Tribal leaders getting letters stating they were removed from the committee because they weren't a Tribal leader; but they did have resolutions from their Tribe stating they were the designee.

C: (Delight Satter) We address this in the operating division debriefing. It says, "The CDC/ATSDR Tribal Advisory Committee Charter was revised in 2012. Since August 2012, administrative corrections were made to the TAC to ensure compliance with its FACA [Federal Advisory Committee Act] exemption." So, the way the former CDC TAC was established, it was out of compliance with FACA. We needed to have a transitional year to show respect to people who had been participating; but we had to comply with Federal law. Those people who were sitting in the seat of an elected Tribal official had to be rolled off. Now we have open seats for many Tribal Advisory Committee delegates. For example, we can't have nonprofits in the primary seat; it has to be an elected official.

Q: (Cheryl Frye-Cromwell) Was there an official letter sent to those removed stating that they were on longer on the committee?

A: (Delight Satter) There was a letter of thanks for their service to the CDC that was sent to them. For an entire year we had a subcommittee discussing how to do this in a respectful manner. We gave a year for those [affected] areas offices to appoint a new delegate. In two areas, unfortunately, their records were incorrect in that they were not elected officials. The individuals worked for Tribes and contributed, but they were not elected officials so they had to be removed.

C: (Chester Antone) The Tohono O'odham Nation, through Resolution 12436, was urging the Director of the CDC to sign the draft Tribal Consultation Policy. It was important for us to have an established mechanism to communicate with Federal agencies, including CDC. It seemed as though we were holding up Tribes' right to consult without the policy being in place. The council voted unanimously and we did a telephone consultation with Dr. Friedman. The call was recorded. We urged Dr. Friedman to sign the consultation policy. It is very important that we have the right to consult with Federal agencies. If this is something you disagree with, we can still move forward. There will always be disagreements, but we move forward. Unfortunately, we do have to go by some rules. We must be in compliance with FACA.

C: (Cathy Abramson) NIHB is sending a letter to Dr. Friedman because we have concerns about the process.

Q: (Gloria O'Neill) I want to talk about three issues: ICWA, 477, and HRSA. George, I commend you for taking on ICWA. We had a discussion with Bryan [Samuels] yesterday and a letter was given to the STAC for its review. Hopefully it will be presented to the Secretary later today. Ron Allen first broached the issue and the STAC has made it a priority. I really appreciate your leadership in being bold around this. One of the things we talked about yesterday was the CFSR. We heard the process will be completed internally and then sent to other agencies. Part of our request is that a subcommittee, of the STAC and other members in our community that have expertise around ICWA, be created to work in partnership with you around the Tribal elements before it goes to other agencies. If the STAC agrees, we'll be making an official request. Also, I hope the Office of the General Counsel pushes the interpretation of the powers of the Department in terms of enforcing ICWA with the States. We believe you have bold power and we hope that you and the Secretary take that power up in the next 4 years to really help this issue move forward. On 477, we know the Department has spent a lot of time working with the Tribal workgroup; thank you. Over the next couple of months I think we will resolve some things, but we still have a few concerns about the process. I talked with Mark Greenburg on Wednesday morning and there have been some Tribal conversations since then. The concern is that the final report before going back to Congress was supposed to be a partnership [effort] between Tribes and the Federal agencies to produce a joint report, but we're not sure if that will happen. I'll get more information on where we are and send an email. The last item is for Marcia [Brand], regarding the Notice for Proposed Methodology for Designation of Frontier and Remote Areas. It comes from the Tribal Health Consortia. The request is that HRSA take another look at the Proposed Methodology for Designation of Frontier and Remote Areas that it recently published. ANTHC [Alaska Native Tribal Health Consortium] submitted a comment that recommended Tribal Consultation. That consultation should happen before any

changes in the proposed methodology occur. Since Tribal communities are often located in the most remote and frontier communities, the Tribal Consultation could also identify additional data points that would truly reflect the needs of the community and the need to focus Federal resources where they are needed the most. Can you please tell us what your consultation plan is in regards to these changes?

A: (Marcia Brand) The Notice of Proposed Rulemaking is a way of soliciting comments. I did get some comments directly from Valerie [Davidson] regarding the frontier definition. I think there is some misunderstanding about the definition. It's principally intended to be a research tool. It currently does not redirect resources to any particular segment of frontier versus rural. It's a way of providing some precision within a region to reflect if it's frontier or rural. Right now the definition that is principally used to direct resources is county-based. In Alaska, that is not useful. So this is another way to provide some precision for understanding what is happening in frontier versus rural communities. To my knowledge, there hasn't been a specific strategy for engaging Tribal input. I will take the request back. Certainly we are happy to develop a strategy to make sure the Tribes have input. We are very sensitive to your concerns. I'd like to take a minute to respond to earlier comments. Ms. Abramson, you were talking about things we might do to improve the way we engage Tribal communities around grants and grants administration. On our grants site we have a place for folks to sign up to be reviewers. We welcome your input regarding how we might identify more folks that want to serve as grant reviewers for HRSA's diverse mix of programs. You also mentioned the need to have data that reflects the way information is collected from Tribal communities. One of the things we are doing is streamlining the application process for applicants. I'm not sure we have thought through what the data elements issues might be; so I'd be interested to know what we request in the application process that creates barriers or challenges for Tribal communities. We welcome your input and input from others. Chairman Trudell asked about supplemental funding to the Healthy Start grant for the Great Plains region. We will get back to you. Yesterday there was discussion about the Federal fiscal year. At this point it is unclear to us what we will have in terms of resources, but certainly we will try to understand the challenges that region has.

C: (Roger Trudell) We know dollars are shrinking everywhere; but if there is something that would pick up administrative costs, that would be helpful.

C: (Rex Lee Jim) There are a few issues I'd like to talk about. First, I'd like to thank Mr. Sheldon and his staff for their support of the Head Start program on Navajo. We are turning that program into more of a school system. In the process of doing this, we realize that we need quality teachers. This means people with higher degrees; and we also need to look at school laws. We have people with experience and compassion that lack credentials, so we need funding/financial assistance for training and professional development so they can pursue their degrees and we can retain them. As you stated, elders can pass on language and culture; but some laws prevent grandparents from entering school systems. They have to be certified and have certain credentials. Unfortunately, our grandparents don't have that; but they are the most qualified to teach the language and the culture, principals and values that make us different as a people. So, we need to find ways to allow this to happen. We also need to think more about how to secure our schools, in light of the recent school shootings. Another issue is corrections health care. We built corrections facilities with ARRA funding; but we need to provide medical care, address substance and alcohol abuse, and address behavioral and mental health. We need assistance with this. We are trying to figure out how to fund bringing medical staff to the

corrections facilities. The Navajo Nation is doing a Grow Your Own project—which means identifying the needs of the Navajo Nation 100 years from now and making plans to meet those challenges. One thing we have identified is a need for a medical school. We have over 620 medical doctors on Navajo, but less than 10 are Navajo. We need to train close to 1,000 medical doctors, with the understanding that maybe only half will stay on Navajo. We are working with the Navajo Technical College to start a medical school. We recently graduated 17 registered nurses. We need to find funding for specialty areas. Finally, we are interested in having a Center of Excellence in Health and Education on Navajo to train and qualify Native researchers. Maybe we can partner with NIH on this.

Q: (Roberta Bisbee) I wasn't there, but it sounds like the meeting at Mohegan [Sun] was contentious. After the meeting, was the consultation policy sent out as a final draft to Indian Country to review? Was it sent to people other than those in the group that participated in the meeting? Delight commented that there were no comments received on the policy during the 3-week comment period, but was that just from the people that participated in the meeting or was that sent out to all of Indian Country?

A: (Judith Monroe) I'll turn that over to Delight, because I wasn't able to attend either. My understanding is there were webinars from March 12th forward, but that was only for TAC members.

A: (Delight Satter) I thought overall the meeting was fantastic. We love meeting in the community. The TAC had requested that the Tribal Consultation Policy and the Charter be ready for the meeting, and they were. We had a lot of engagement throughout the year with our TAC members, including individual meetings with delegates and their authorized representative. At the August meeting the Tribal Consultation was addressed during the business portion of the meeting and it was approved unanimously, with one abstention from a new member. On the third day of the meeting, the TAC caucused. When we reconvened they asked to revisit how they conducted the vote on the first day. As the Executive Secretary or the Designated Federal Official, I said they followed the rules. But there was still some concern that some of the newer members might have wanted more time, so there was a motion to rescind—which actually isn't the technical approach. People were very concerned that they might have done something wrong. So, I re-phrased the motion and I reminded them that the approval was conditional because Dr. Friedman has to approve CDC's Consultation Policy. I suggested that they move forward, because it was only a conditional approval, and have a 3-week courtesy review period. In 3-weeks, no one submitted any request for changes. In that case, the conditional approval stands. Only one of the Tribes that is a member of the TAC went into official government-to-government consultation with us, asking us to execute the Tribal Consultation Policy. Two other Tribes contacted us, asking us to do the same, but not officially through consultation.

Q: (Roberta Bisbee) So, no notice was sent to Indian County; just to the TAC members?

A: (Delight Satter) That is correct. When I first started at CDC we were told that there would be a Federal Register notice, and there was; but it turns out that a policy like this (an Operations Policy) wouldn't traditionally go into a Federal Register notice for open comment. The good news is in 5 years we will be revisiting this. We do have many open seats. I know some of the issues that may be coming up are also around people having participated for many years and then being transitioned off. We have many committees at CDC that others can participate on, but this committee is for Tribes.

Q: (Roberta Bisbee) I'd like to recommend to Ms. Monroe that we revisit and provide comments prior to 5 years. Can we provide suggestions? I'm asking because Indian Country wasn't provided an opportunity [to comment]. If that is not the required process for Tribal Consultation, then a national call with members of the TAC or Tribes that want to participate to go over the Consultation Policy would be beneficial.

A: (Judith Monroe) I think we have learned through this process. It was confusing. From our perspective, it was confusing giving time to have a unanimous approval and then pulling it back. If you look at our Tribal Consultation Policy, it states that we honor the government-to-government relationship and consultation. We are really in the spirit of strengthening our relationship with Tribal governments. As far as the process, the Tribal Consultation Policy has been signed by Dr. Friedman; so I'm not sure that any change can be made for 5 years. I think we can learn from what happened with this process. I haven't seen a national call take place since I've been at CDC, but admittedly it's new to me. This was the first time a policy like this has come up for signing during my tenure.

C: (Ken Lucero) If the CDC policy follows the HHS Tribal Consultation Policy, then any Tribe at any point in time can request consultation and ask for that to be opened back up; so that's what I'd suggest. Go through the process, get all the Tribes involved that want to be, and move forward from there.

Q: (Roberta Bisbee) For ACF, it was mentioned that webinars were provided for the Designated Renewal System (DRS). My Tribe is, unfortunately, one of the Tribes caught in this Designated Renewal System process. I think we need more information on the DRS. I went to the Tribal Consultation for our region in October. At that time, we were told there were going to be webinar broadcasts provided on the DRS. The re-broadcast occurred on October 18th. There was one on October 16th, one on October 18th, and one on October 23rd. We were at a Tribal Consultation on October 15th, so the timing was a bit of a dilemma. We were told the broadcasts would be available on ECKLC, but our staff couldn't find it. We also have the same concerns that Vice President Jim mentioned regarding teacher certifications. We have two local colleges. One college only offers AAs [Associate of Arts]; and the other is no longer offering [degree] programs. This creates financial barriers. Affordable training is a critical need, especially when CLASS [Classroom Assessment Scoring System] scores is one of the seven DRS triggers. Tribes need to be more informed about the DRS triggers. We recommend that CLASS trainings be offered in conjunction with the Northwest Indian Head Start Association conference; the Southwest Consortium Meeting; and the National Indian Head Start Directors Association conference. Cultural relevance and cultural competency of CLASS reviewers is also a concern, as each Tribe is unique. Regarding school readiness, training on developing and implementing ongoing monitoring of school readiness goals is a critical need—as with DRS, lack of school readiness is another one of the seven triggers. We believe that school readiness begins with Head Start, Early Head Start, and partnerships with parents. The non-Federal share, for the Nez Perce Tribe, is difficult to meet for the in-kind match because a lot of our funds are Federal funds and they can't be used for the in-kind match. This is a barrier for Tribes. Do you have any recommendations for [meeting the in-kind] match for Tribes? I attended the Tribal Consultation in Portland. I am disappointed that the Office of Head Start Director did not attend any of the Tribal Consultations in 2012. I think that was very disrespectful. We do appreciate senior staffs' attendance, as they come to most of the meetings. Health insurance impacts Head Start budgets.

It has significantly impacted our Head Start and Early Head Start budgets. Transportation is still an issue. The current contract for T/TA doesn't meet the needs of Tribal programs. We should be able to access resources through our T/TA contractor, but that's not the case. In the future, consideration and preference should be given to Tribal proposals for T/TA for AI/ANs programs. We have a Child Support Enforcement program. On November 8, 2012, a letter was sent out regarding the MTS—the Tribal advance planning process or the MTS and office automation. The comment period on this closed January 15, 2013. For the record, I wanted to provide some questions we had. Is the MTS fully funded by the OCSE or does the Tribe provide a match or cost share? Who is responsible for installing MTS? Who is responsible for the upgrades once the program is installed? Regarding conversion, how are financial records added to the MTS in an accurate manner? What are the IT functions required to host the MTS database? Confidentiality is a concern. Maybe the progress of the demonstration sites can be posted online, as well as the Q&A and comments from the comment period.

Q: (George Sheldon) Can I have your sheet?

A: (Roberta Bisbee) Yes.

C: (George Sheldon) On the child support, I really need to get back to you. On Head Start, it's not the first time I've heard some of the concerns you raised. We have to take a broader look at the issue of credentialing.

Q: (George Sheldon) When you say you are caught up in the DRS, does that mean you are being forced to recomplete?

A: (Roberta Bisbee) We will be.

Q: (George Sheldon) But you are not in one of the first two [rounds]?

A: (Roberta Bisbee) No.

C: (George Sheldon) I think the way we worked with Navajo Nation is exactly the way we need to work with Head Start programs. Instead of being the big regulator, we need to talk about how to make it work. Let me see if we can do additional technical assistance webinars. This is the first time we've used CLASS; it's a well respected instrument. I do think, however, it's something that people have to understand better. I would like to explore doing some trainings at the regional and/or national conferences. Maybe Lillian [Sparks] and I can talk with Linda Smith about this. I apologize for the Director not being at the meeting. I think a lot of our regional staff have attended the regional meetings. I think Linda Smith, who supervises both Head Start and Child Care did attend some of the regional consultations. So, I'd like to get back to you on some of your Head Start questions. I think other Tribal communities are affected also. I can give the information to the Chairman, if that works best.

C: (Ken Lucero) Thank you.

Q: (Roberta Bisbee) One of the other issues is the funding for Early Child Development and the Head Start Program. When you have a family service worker that assists in both areas for a family, now you have to document the amount of money (hour and minutes) at each site. So if you run out of money on one side and a parent comes in, do you not assist them? It's hard to manage when you have a family with kids in both areas.

A: (George Sheldon) I understand. We've got Home Visiting, Child Care, and Head Start. To a large extent, there is a "disconnect" between those programs. One initiative we have taken is we rolled out grants to four Tribal communities that had all three programs and provided them more flexibility within the programs to see if there is a better way for us to coordinate all of those components. I'm hoping this pilot will give us lessons on how we can improve the overall quality and get some linkages.

C: (Herman Honanie) Regarding in-kind costs, we also have problems meeting that cost. That has been a challenge, as well as teacher certifications. Hopefully some online courses will come to fruition so our staff can be upgraded. Just to let you know, we celebrated opening of a new Head Start center on Hopi. A lot of people in the First Mesa area were really grateful for that. Now people are telling me that Second Mesa needs a permanent house as well. The first one is a modular unit, so people are saying they want to see a permanent structure. That would be our preference to house our kids. I haven't read up on the regulations regarding transportation, but with the health issues and attention being given to obesity, our kids had a "walk to school" day this past winter. I joined them for the mile walk. They tolerated the cold and once in class they sang Hopi songs to me. I was pleased to hear that. I also want to thank CDC for its help with Rocky Mountain Spotted Fever on Hopi.

C: (Gary Hayes) I want to re-emphasize the importance of how policies affect us at the local level. At times there can be a "disconnect" there. I hope Tribal leaders will publicize the vacant seats on the various committees, as we really need to be part of the solutions by being at the table. I also want to emphasize the importance of diversity. The general population doesn't understand the history of Tribes. We feel that it is still important to honor treaties and agreements that were signed. That's what sets Federally-recognized Tribes apart. We need to remember that the Federal government has a responsibility to the Tribes, so remember that when creating your grants.

Q: (Cathy Abramson) In regards to the PHAP, how many Tribes applied for positions and how many got them?

A: (Judith Monroe) We had few apply; we certainly want to increase that.

A: (Delight Satter) I know we currently have three PHAPs in Tribal settings. I don't know the overall numbers. We can get that information to you. I know we are really working hard to get more Tribal host sites. You can also come up with combination plans, e.g., the PHAP could spend one year at the county health department and one at the Tribal site. The program is flexible, so you can come up with cool models.

C: (Judith Monroe) The other thing to keep in mind is that the PHAP is growing. We only had 10 associates in the program back in 2008, and then in 2010 we had 50. In this last class we had 100. As we grow the program, there is more opportunity. I really encourage Tribes to apply.

Q: (Cathy Abramson) Why do you think Tribal participation is low? Do people not know about it or is it more work for somebody?

A: (Judith Monroe) That's an area we've charged the program with trying to understand, i.e., to figure out why Tribes and members of Tribes don't apply. It is a fairly new program, but marketing may also be a factor.

C: (Chester Antone) Yesterday I brought up the issue of State Exchanges. Arizona opted out of the State-based Exchange, so it will be a FFE. Arizona Tribes are asking for consultation. We were previously focused on the State-based Exchange, because we thought that's where it was going to go. We had a meeting last week, the Insurance Exchange Workgroup. The State is still funding the work of the workgroup. We want to work with the Federal government to consult on the FFE. I asked yesterday if we could consult with CMS, either here in D.C. or in Arizona. We have a resolution that I gave to Lane [Terwilliger] and she has a copy for Cindy Mann regarding the non-IHS 638 facilities—if we could continue with the Tribal AHCCCS stations that we are currently doing with AHCCCS Arizona Medicaid.

C: (Aryana Khalid) Staff did report back to me that you asked for that; it's on our radar.

C: (Cathy Abramson) Michigan will also be a FFE, so if we could request consultation that would be great. We could get Tribal leaders on a phone call.

C: (Aryana Khalid) We'd be happy to do that. It will be good for us to understand what you need, even if we have to get back to you on the answers.

Q: (Cathy Abramson) In February we will have a United Tribes of Michigan meeting. I will bring up the issue of consultation. Who should I contact?

A: (Aryana Khalid) You can contact Kitty Marx.

C: (Ken Lucero) There were some concerns about Lisa Smith not getting back to Tribes regarding various requests, so if you could follow-up with her about that.

C: (Aryana Khalid) I'd be happy to do that.

Q: (Gloria O'Neill) Alaska is also concerned about consultation related to the FFE. Has there been any talk about internal deadlines on implementation of the plan; and when will a list of FFE contacts be provided to Tribes? We would like the list.

A: (Aryana Khalid) I understand. Thank you.

C: (Rex Lee Jim) The Navajo Nation is also concerned about the Exchange in Arizona, since Arizona declined. Utah and New Mexico are participating. We want consideration of being one geographical area. We want to explore this possibility and have a meeting to discuss this. Also, Navajo has an agreement with the State Medicaid program allowing us to have authority to inspect and certify health care providers in terms of meeting the State standards. In the past few months, CMS has issued a ruling that this jurisdiction applies only to 638 organizations. The Navajo Nation believes that it has been given the authority over non-638 programs. We believe this is an infringement on the sovereignty status of the Nation. We request that the recent CMS rule be reviewed and reversed. We would also request a meeting to address this issue.

C: (Aryana Khalid) We'll take a look at that.

C: (Gary Hayes) Only a few Tribes have the same issue as the Navajo Nation. We also have land in three States. As you talk with States that have Tribes within their State, it's important that they don't use the term "organization." They should not define Tribes as organizations. We are not organizations, we are a government. Colorado sent correspondence listing us in the category of "organizations" for the Navigator program. We are sovereign nations and shouldn't be treated as organizations.

C: (Ken Lucero) In New Mexico we appreciate what CMS is doing in terms of being engaged in the consultation process. We probably do need better clarification on the process. It seems that you allow the Tribes in the State to negotiate through consultation and if we can't reach agreement then you step in. Maybe you can work with the TTAG to clarify the rules of engagement, so we know the process.

C: (Isabel Garcia) Regarding the concern about the lack of knowledge and cultural competence of reviewers, from NIH's perspective the best way to address this is to increase the number of Native reviewers. To that end, we welcome your input and names. We also recognize we can do a better job of increasing awareness of cultural issues, so that's one of the things on our plate. The issue of implicit bias is uncomfortable to talk about, but data shows it may be there. We are trying to undertake a process and do interventions to get at this bias in the peer review process and take steps to overcome it.

C: (Marcia Brand) It would be helpful for us to get assistance from the STAC on an issue with the NHSC. We've been working on a way to get information out. We have been developing a web-based tool that we are calling Site Profiles. I've asked Kim Cline from our Bureau of Recruitment Services to quickly articulate the problem to you.

C: (Kim Cline) We know it's hard to recruit primary care providers. We've decided to create two tools for the NHSC that go after the recruitment issue. One of them is called the NHSC Job Center. It allows all of our NHSC sites to post profiles and job vacancies. Since the site's launch, we've been calling our Tribal sites to ask them to post a profile and any job vacancies. Tribal sites are underrepresented, so we welcome your input in terms of how we can increase those numbers.

C: (Nadine Gracia) We still have three vacancies on the HRAC (for the Aberdeen, Bemidji and Billings areas); speak to Tracy Branch about nominations.

Secretary Kathleen Sebelius

The Secretary greeted the STAC, expressing her excitement about having another 4 years with the committee that she calls one of the great successes of the previous 4 years. After thanking Chairman Lucero for his leadership and congratulating Chairman Hayes on being elected the new STAC Chair, the Secretary reemphasized the importance of the STAC's work in helping senior HHS leaders shape policies for the country. She recognized the work of Sally Howard and Dr. Roubideaux in getting the VA Reimbursement Agreement actualized; and she happily reported that despite fiscal issues, funding for the SDPI was approved for an additional year. After providing examples of how States are considering Tribes as partners is beginning to pay off, Secretary Sebelius cautioned that there is still work to be done. To that end, she said there will be many opportunities for Indian Country in regards to implementation of the ACA; and she encouraged the use of the <http://www.healthcare.gov/> website to keep Tribes informed.

Following the Secretary's remarks, Chairman Lucero informed her that the STAC wanted to present issues concerning the CDC, FFE, consultation process, ICWA, funding, sequestration, and other items of interest to the members. Before opening the floor for the STAC to address the Secretary, Chairman Lucero notified the Secretary of some Tribes and Tribal leaders' concern

regarding the CDC Tribal Consultation process, noting that it was his advice that they exercise their right to request consultation to continue discussions on the issue.

Q: (Chester Antone) Governor Brewer has declined to do a State-based Exchange. The Insurance Exchange Workgroup, along with the Inter Tribal Council of Arizona, was preparing for a State-based Exchange. The Governor cited unclear guidance from HHS as one of the reasons for declining the State-based Exchange, saying “Rules are being made as we go.” I asked for consultation from CMS for Arizona Tribes, because we now have only 8 months before things get started. I was wondering, can you do something similar to when you had the Exchange sessions in Alaska, Denver, and D.C., for the FFE situation?

A: (Kathleen Sebelius) That step may be slightly premature. The next deadline is for a “Partnership.” Many governors decided not to do the State-based Exchange. By February 15, 2013, they have to tell us if they will enter into the Partnership—the Federal government will run the “guts” of the new health market (formally called the Exchange), but the State will be responsible for the plan management (choosing what insurers operate and sell policies) and/or consumer outreach and assistance. If a State is going to be a partner State, and particularly if they are going to run consumer assistance and/or plan management, you want to be engaged in those conversations at the State level. That’s why I say those consultations may be a bit premature. I take your comments to heart. We will figure out what the Consultation Policy will look like for FFE States, but we won’t know that until after the 15th of February. A lot of the governors, I think, will be partners. I’ve been placing calls to them. Our goal is to pass along the Exchange to the State fully by 2015; but we will have a plan ready for the FFE and how that consultation will go.

C: (Chester Antone) As I understand it, Arizona is doing the FFE. There has been no discussion on the Partnership. Also, Governor Brewer is opting for the Medicaid expansion; however, it will be up to the State legislature. There have been some comments contrary to her announcement. Regarding the CDC issue, there is a resolution from my Tribe that Ms. Ecoffey has. You can refer to that later.

C: (Gloria O’Neill) We have written a letter to you, thanking you for making ICWA a priority. A lot of work has been done and the State Tribal Relations subcommittee has taken on this issue also. The letter speaks to how we can engage in true partnership with you around ICWA, as the STAC has started to do with the Department. In terms of what that would look like, before major reports or regulations are released, there would be a process in place for engagement with the Tribes and an opportunity for feedback. We believe Tribal communities will be making ICWA a priority and we look forward to your leadership in interpreting the law and understanding your power in working with States so we can help determine a process that the Department puts into place to ensure that States adhere to the ICWA. This has been an issue for over 30 years; and I want to acknowledge the work that George Sheldon has done with his team on this. The letter really states that this will be a top priority for the STAC.

C: (Kathleen Sebelius) I think that’s great. I know that George Sheldon and Lillian Sparks and the ACF know this is a high priority. I look forward to the letter and figuring out the best strategy to really move the needle forward. I need to be informed by all of you. As you’ve acknowledged, it’s been an area that has languished for decades. We probably can’t do everything at once, so having some discussions about priority areas will be important.

C: (George Sheldon) There are two things we are trying to do, one of which is redesigning the CFSR process. I think Bryan [Samuels] has some reluctance to opening it all up. I want to talk to him because I do think those elements in there that relate to ICWA we can pull out and have a working group around that. The other item is the guidance we are preparing to send to States. While BIA has the primary authority, we do have the “bully pulpit.” There is also the work that Casey Family is doing; they will make some recommendations in the next couple of months. In the near future, working together, we’ll have some recommendations to you on next steps.

C: (Kathleen Sebelius) As you know, Secretary Salazar will be leaving the Administration as of March of this year. I don’t know if that means there will be changes up and down the line, but it probably is a good time to reset and figure out some strategies. BIA has the statutory lead on a lot of these issues, but we have an opportunity to get their attention as we begin this new term. I’m happy to do that.

C: (Gary Hayes) The Tribal grants eligibility matrix is useful and I hope we can work together to hold Indian programs harmless. What you have been able to do has improved and enhanced cooperation and collaboration between the Tribes and you. I hope we continue this momentum. We are hoping to hear from you on how the Tribes can help you accomplish your goals for Indian Country.

C: (Kathleen Sebelius) We will be facing the economic tsunami in March. The CR that we have been operating under since the fiscal year began in October expires at the end of March. That means no HHS or other funding is guaranteed after March 31st. Before we get there, we have sequestration; which is supposed to hit March 1st, as well as a discussion on whether Congress will move to raise the debt ceiling. While I would love to guarantee that the future is rosy, I can’t do that. Sequestration is a terrible, blunt instrument. It is not at all discretionary. It makes a broad-base cut across the board. If we hit that point, we won’t be able to control very much. We are still debating with the legislators on the Hill if we will have a 2013 budget. I point that out because sequestration cuts operate off the budget. So, we are living in a very tenuous land. Notwithstanding, IHS and the needs of Indian Country continue to be a priority. The President continues to make the case to Congress that these resources are still a gap away from the promises made and has the same priority. We know the resources are still a gap away from the promises made and we need to continue funding services in Indian Country.

Chairman Lucero opened the floor for individual members to share concerns from their home areas.

C: (Rex Lee Jim) I’d like to address two issues; the first is Head Start. Your staff is doing a wonderful job working with the Navajo Nation. As we progress in enhancing our Head Start program by turning it into a school system, we realize that we need quality teachers that are certified. That means more money is needed for professional training and development so we can retain people that have been with us for decades. So, we ask for more assistance in that area. We also realize that our elders may not be able to participate in various events because of certification requirements, but they are the number one teachers of language and culture to our students. The other issue I want to address is that of corrections health care. Through ARRA funding we have built some corrections facilities on Navajo. Because of the rising number of inmates needing medical care, we have repositioned these facilities to become healing centers—a

starting point to heal their lives and address behavioral health, mental health, substance and alcohol abuse issues. We need assistance in this area as well.

C: (Herman Honanie) An important matter to my people and other Tribes concerns health services in general. In regard to our location, Hopi people have voiced a need for fully bona-fide doctors, rather than practitioners. We want to get away from the stigma and stereotype of being “practiced on” by individuals who are not fully credentialed doctors. About a month ago my wife had to go into surgery. The lack of services was problematic. Many other women have shared similar challenges. Our invitation is there to you to visit Hopi and understand why we make these pleas. If things can be put in place to recruit doctors, it would be greatly appreciated. Also, we need a health care center for things such as minor surgeries.

C: (Gloria O’Neill) We’ve talked a lot over the last couple of days about contract support costs. Dr. Roubideaux has indicated that we will be moving forward with settling these claims. We ask that you make it a top priority to get claims settled this year, if possible. We are concerned that there may not be the capacity to really handle all the claims because of the way we are engaging in the process, but this is a top priority for us.

C: (Kathleen Sebelius) I’ve gotten a bit of an update from Dr. Roubideaux. I think it’s safe to say that significant progress has been made. It’s my understanding that conversations with the lawyers have been successful and we are moving to do two things: discussion and analysis of individual cases; and coming up with an expedited process. We hear the sense of urgency and we share that. We are not the major lead in some of this. My understanding is progress is being made and we should see claims settled in the near future.

C: (Gloria O’Neill) We’ve worked a lot with your senior staff concerning settling 477. We have made progress, but we have a concern that the Department will move the reporting requirements to the Federal Register and publish them without Tribal input. We want to ensure that before anything is published that the Tribal workgroup has the ability to provide comment.

C: (Chester Antone) I have a resolution, number 13023. I gave it to Ms. Ecoffey. It asks for a waiver from you regarding the situation in Arizona with the non-IHS 638 facilities operating on Tribal lands. We want to continue the Tribal AHCCCS stations that are done in lieu of State licensing. It is better explained in the resolution. There are also attachments and letters of support.

C: (Kathleen Sebelius) Thank you; I’ll talk to Stacey Ecoffey about that.

C: (Cathy Abramson) I’m bringing forth some concerns from our area regarding grant funding. Other Tribes also share the same concerns. I’ll read for the record the areas of concern, but we also list solutions. I presented this to your staff; it’s nice to see that some of them are already working on them. I’ll give the list to you. The concerns are: funds intended for Tribes and Tribal organizations are not reaching Tribal communities; award of planning grants with the promise of continuation funding for project implementation, through both competitive and non-competitive funding processes, with no follow through; lack of understanding and cultural competence of grant reviewers; data and evaluation requirements do not reflect the unique issues that face Tribal communities when selecting, adapting, implementing, and evaluating programs; and a “one size fits all” thinking when creating programs and funding opportunities is not an effective process for potential Tribal grantees and the potential funder.

C: (Kathleen Sebelius) I love any set of problems that come with solutions.

C: (Roger Trudell) We consider the U.S. government as having obligations to us based on our treaties. I'm glad there will be health care for everyone. I'm interested in seeing how it will impact Tribal health programs and Tribal people, especially older Tribal members that reside on the outlying areas of the reservation. They have limited opportunities to even get into health care facilities without some real assistance. Sometimes transit programs don't even go out that far. I want you to know that we do support your efforts in the area. There are some problems taking place with Head Start in terms of the way it's doing the program redesign. This concerns us because a lot of us have older facilities and limited resources to put into programs. We'd hate to lose them because someone that is not familiar with us has put together this regulation. So, we ask you to look into some of these areas.

C: (Roberta Bisbee) Madam Secretary, I wanted to take this opportunity to thank you for allowing me to serve on the STAC. This is officially my last meeting. I'm up for election in May and I will not run. I also want to thank your senior staff for getting down to the issues with us. This committee should be mirrored.

C: (Kathleen Sebelius) I thank you for your service. I know all of you come from great distances and it's not easy on you or your families. We are grateful for your willingness to consult with and inform us. I'm delighted that you got to spend some time at NIH and I hope the group will be able to visit other agencies in the future as part of ongoing STAC meetings.

STAC Business, Closing Discussion and Comments

Mr. Dioguardi led a discussion on upcoming meeting dates, stating that consideration was being given to the following: June 3-7, 2013 (two days only); September 11-12, 2013; and December 11-12, 2013. Recognizing a request from Ms. O'Neill that the June date be moved back a week, and noting that the meeting should occur after the last regional consultation and prior to IHS' budget formulation, Mr. Dioguardi said alternative dates would be sent out. Councilwoman Abramson indicated that NIHB has a meeting scheduled the week of June 17th, and NCAI has a meeting thereafter; she asked that the meeting not conflict with them. Per Ms. Ecoffey's inquiry about moving the June meeting forward, the STAC indicated that the Wednesday and Thursday before Memorial Day (May 22-23, 2013) would work best. There were no concerns regarding the September and December dates.

Before adjourning, Mr. Dioguardi asked for comments on the STAC Report. The group agreed to allow a week's time for review of the document.

As an aside, Cheryl Frye-Cromwell mentioned that the Mashpee Wampanoag Tribe had its 1-year anniversary for clinical services and just opened a dental clinic. She said the Tribe has served over 500 Tribal members who have changed their primary care doctor to the Tribes onsite primary care doctor; and a week prior they processed their first bill for third-party billing.

The meeting closed with Councilman Antone giving the closing blessing.