

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

February 12, 2014

Summary Report

The Secretary's Tribal Advisory Committee (STAC) Meeting was held on February 12, 2014, at the Hubert H. Humphrey Building in Washington, DC. The meeting provided an opportunity for the STAC to converse in-person, hear updates, and engage in discussion on the Department of Health and Human Services (HHS) budget, Intradepartmental Council on Native American Affairs (ICNAA), Indian Health Service (IHS), Administration for Children and Families (ACF), Affordable Care Act (ACA), Food and Drug Administration (FDA), human service issues, the Office of Intergovernmental and External Affairs (IEA), participation in the regulations process, the Administration of Native Americans (ANA), and the Centers for Medicare & Medicaid Services (CMS). The STAC also prepared for a discussion on its priorities with HHS Secretary Kathleen Sebelius, met with the Secretary, and addressed its business items. However, the HHS Federal Member Roundtable Discussion could not be held because snow closed government offices on Thursday, February 13. Throughout the meeting, the STAC was afforded numerous opportunities to engage with HHS leadership, program staff, and agency officials. The meeting was facilitated by Rex Lee Jim.

Members Present for Roll Call: Gloria O'Neill (Alaska Area), Cathy Abramson (Bemidji Area), Jace Killsback (Billings Area), Eileen Fink (California Area), Cheryl Frye-Cromwell (Nashville Area), Rex Lee Jim (Navajo Area), Marshall Gover (Oklahoma Area), Tino Batt (Portland Area), Chester Antone (Tucson Area), and Aaron Payment, William Micklin, Stephen Kutz, and Brian Cladoosby (National At-Large Members). (Quorum Met)

Action Items:

1. The STAC needs to select the 2014 chair at the next meeting.
2. Norris Cochran will bring the Office of Management and Budget (OMB) the issue that IHS, as a provider of direct health care services, should be exempt from sequestration.
3. Cathy Abramson will provide a list of other agencies that have grants available to tribes.
4. Gloria O'Neill asked for an update on whether priority (i.e. more points) could be awarded to tribes for grant applications.
5. Brian Cladoosby will ask the executive board to create a booklet of each agency's tribal consultation policy.
6. Brian Cladoosby will send Sally Howard the link to the FDA's tribal consultation policy as stated online.
1. Isabel Garcia will send Gloria O'Neill a list of the National Institutes of Health (NIH) teachers' guides.
2. Isabel Garcia will send Gloria O'Neill the name of the NIH director who gave STAC a tour last year.

3. Mandy Cohen will give an update at the next meeting on getting support from CMS to get exemptions.
4. Yvette Roubideaux will schedule a Tribal Delegation Meeting to address Section 402 of the Indian Self-Determination and Education Assistance Act.
5. Secretary Sebelius agreed to pursue a Medicaid exemption processed through the Internal Revenue Service (IRS).
6. Aaron Payment will provide Secretary Sebelius with information refining consultation.
7. Secretary Sebelius will try again to explain consultation to her new colleagues.
8. Jerilyn Church (Great Plains) will send Secretary Sebelius a description of problems with the Healthcare.gov website and their no longer being able to upload the tribal identity; when individuals mail the form they hear nothing for over a month.
9. Secretary Sebelius will ask case workers to resolve the ACA enrollment problems Ms. Church cited.
10. Secretary Sebelius will talk to OMB about the discussions during the STAC meeting and ask for clarification on OMB's role.
11. Commissioner Sparks will follow-up on whether home visiting dollars are being used by the Temporary Assistance for Needy Families (TANF) program.
12. Joo Yuen Chang will follow-up on the letter HHS sent to states, encouraging consultation.
13. Gloria O'Neill suggested discussing discretionary grant opportunities at the next STAC meeting.
14. Rex Lee Jim suggested as a goal using the TANF 5-year plans as a tool of enforcement and accountability.
15. C'Reda Weeden will address with HHS staff the process to reduce bureaucratic delay and complexity by retrospectively reviewing regulations and deciding where affirmations and improvements should be made.
16. Mirtha Beadle, Substance Abuse and Mental Health Services Administration (SAMHSA), will provide an update on the military families strategic initiative ..
17. STAC members should let SAMHSA know if there is interest in having future academies like the recently held Tribal Policy Academy on adult alternatives to incarceration and the one being planned for June on juvenile justice.
18. The SAMHSA Tribal Technical Advisory Committee needs nominees for new advisory committee members from the Phoenix area and an at-large representative.

(Day 1)

February 12, 2014

Welcome and Meeting Logistics

After the Tribal Caucus, Paul Dioguardi, Director, IEA, opened the meeting at 10:00 AM, welcoming everyone for the first STAC meeting of 2014. The following STAC members were present: Gloria O'Neill (Alaska Area), Cathy Abramson (Bemidji Area), Jace KILLSBACK (Billings Area), Eileen Fink (California Area), Cheryl Frye-Cromwell (Nashville Area), Rex Lee Jim (Navajo Area), Marshall Gover (Oklahoma Area), Tino Batt (Portland Area), Chester Antone (Tucson Area), and Aaron Payment, William Micklin, Stephen Kutz, and Brian Cladoosby (National At-Large Members). Although the weather prevented several STAC members from attending, a quorum was met. Snow was expected to close the federal government on Thursday (February 13), and Mr. Dioguardi asked members to assume that the STAC meeting would be a

one-day meeting and to be sure that the most important issues are dealt with on the first day. HHS leaders planned to present their visions tomorrow, but each has provided a report about what they are working on, and, although there will be no group discussion, these reports can be followed-up by e-mail and telephone. Mr. Dioguardi invited thoughts or concerns about the agenda.

Throughout this document, questions, answers, and comments are denoted by “Q,” “A,” and “C,” respectively.

C: (Brian Cladoosby) We should identify items we will not get to, and then prioritize the remainder.

Q: (Stephen Kutz) Will we have to lengthen the day?

A: (Paul Dioguardi) That depends on your feedback. We may run long anyway.

Mr. Dioguardi noted that the STAC report, due every 2 years, is due this year, and he seeks STAC members’ thoughts and input as IEA develops the report. He is also working to ensure that future dates are locked in, namely: June 4-5, September 10-11 (depending on room availability), and December 4-5.

Lastly, the STAC needs to select the 2014 chair, but since time for today’s meeting was constrained, he suggested delaying that until the next meeting. He asked for a volunteer to serve as the day’s tribal facilitator. Rex Lee Jim, Vice President, Navajo Nation, volunteered.

Vice President Jim offered the morning prayer. He then invited people to introduce themselves.

HHS Budget Update

Norris Cochran, Deputy Assistant Secretary for Budget, gave an update on the HHS budget. He noted that everyone is relieved to have an appropriations bill for this fiscal year with no threat of a government shutdown or continuing resolution, which usually means “flat” funding. In addition, it seems likely that no drama-causing crisis related to the debt limit will affect the economy. Some budget levels have already been agreed to for fiscal year 2015. There hasn’t been that kind of stability for a few years and HHS is eager to get moving in the regular order of things. Highlights of the HHS budget presentation included the following:

- A budget document is due to Congress on Friday (February 21). Mr. Cochran’s office is working with Dr. Roubideaux to meet that deadline. After the plan is transmitted, Dr. Roubideaux and her team will continue to review the allocations.
- An increase of \$300 million has been secured, and priorities indicated have been increased—including extended care, contract support costs, staffing, and operating costs for new and replacement health care facilities.
- The name Contract Health Services, which caused some confusion, has been changed to Purchasing Referred Care. The team has worked more than 2 years on how best to balance flexibility with reporting requirements and continues to make progress. The bill

directs the Bureau of Indian Affairs (BIA) to report back. Technical assistance will be important going forward.

- The Special Diabetes Program (mandatory funding) was subjected to a \$3 million cut in 2014, because of a mandatory sequestration. But, HHS is committed to its continued authorization.
- The 2015 budget process is underway. Usually the President submits the budget in early February, but because Congress is still working on the 2014 budget, the 2015 budget process was slowed so the 2014 numbers could be reflected in it. The 2015 budget, taking into account Congress' approved increases, will go to the President on March 4. Then Congress will want to start hearings quickly.
- Funding opportunities will be announced in coming months in agencies outside IHS. For example, ACF will be awarding a \$500 million grant for Early Head Start and Child Care Partnerships. Emphasis will be on providing technical assistance in the form of webinars and an applicant-support tool kit. Tribal set-asides of 3% apply.
- Mental health and substance abuse are important issues, and targeted funding has been requested. Congress provided SAMHSA \$5 million in the 2014 budget. Although the number is not huge, it's good to get the issue into the mix. Funding for these issues was requested a few years ago..

C: (Mirtha Beadle) To clarify, in FY2012, the HHS proposal was for \$50 million because we knew tribal leaders were supportive of mental health and substance abuse programs, but Congress did not express enough support for 2 years in a row. In 2014, we received \$5 million rather than the \$40 million requested in FY 2013. Nevertheless it represents a first step in suicide prevention.

Q: (Chester Antone) What about money for diabetes prevention and treatment?

A: (Norris Cochran) Most IHS money is discretionary. This \$150 million has been a vital source, and the Administration has continued to request funds. The \$3 million reduction was due to sequestration that Congress, in FY2014 and 2015 addressed by discretionary sequester, but it is not mandatory. This is a legal matter.

A: (Yvette Roubideaux) Last year we found administrative funds that could be obligated. The question is whether we can find funds to minimize the effects of the sequester. Last year, we used unobligated funds to lessen effects of the sequester. Now, we have to see what the final operating plan is.

Q: (Cathy Abramson) Is SAMHSA funding not a priority because the Administration is not hearing from enough tribes, or because of something on the federal government side?

A: (Mirtha Beadle) There was good engagement, good partnership, between staff members and tribal leaders, but not enough previous support by Congress. We hope to be able to continue this funding and to offer multi-year programming. There is no lack of support from the Administration. We have a new program and we have to make sure we can do something positive with it. In sum, STAC members should continue doing what they are doing.

Q: (Stephen Kutz) Where is the Administration in giving IHS relief from the sequester?

A: (Norris Cochran) Provisions of the mandatory sequester are in place, and I see no changes. Discretionary funding for FY2014 and 2015 is off the table. We are most likely to see an effort to continue to make it a priority to continue to build resources for IHS and close the gap, which has been pervasive for a long time. The President has made a point about the sequestration and the inefficiency of using that tool to reduce the budget.

C: (Stephen Kutz) Many people thought IHS should have been exempt from sequestration.

A: (Norris Cochran) A re-write of blanket budget rules or any immediate process of OMB is unlikely, but these are direct health care services, and I can bring the issue to OMB.

C: (Yvette Roubideaux) IHS has already brought this tribal recommendation to OMB.

C: (Aaron Payment) I agree that Congress should have considered tribal funds to be exempt, since veterans' health services are exempt. This is an opportunity to ensure that IHS funding is exempt as part of the trust obligation. Funding should be changed from discretionary to mandatory. Many tribes were left in a critical situation after getting through that period, and the damage is still felt for communities that had to cut services. Funding should be non-discretionary and advance.

Indian Health Service Issue Discussion

Yvette Roubideaux, IHS Director, updated the STAC on IHS issues. All area recommendations are coming in for the FY2016 budget. Highlights of Dr. Roubideaux's presentation include the following:

- In 2 weeks (February 25-27), the budget formulation work session will be held. IHS is still operating under conference budget limits, but is nevertheless trying to secure a DC-based hotel.
- Following the IHS budget formulation meeting is the HHS budget consultation session at which the IHS budget formulation workgroup presents its recommendations.
- Another Contract Support Costs (CSC) Workgroup meeting will be held February 24 and 25, in the same hotel as the budget formulation meeting. The CSC Workgroup meeting, held at the beginning of January, resulted in good ideas for better agreement from both sides. It helps to agree on the numbers from the beginning.
- The great news is that the budget includes a congressional recommendation to support contract support costs. The shortfall can be paid down so next year can begin with new programs. The increase was not enough to cover everything, mostly because of the current inability to estimate contracting. Fully funded contract health services are needed. IHS hears the tribes' call to not have to offset the HHS budget.
- An operating plan will be needed in 30 days. IHS would like to limit the dilemma between the authorizing language (that contracting can occur at any time) vs. the CSC language (that contracting must occur at a specific time). Congress wants a long-term resolution.
- In the past, CSC claims settlements had to be hurried. With the goal of getting settlement offers out to the tribes as soon as possible, IHS has increased resources and staff and is

working claim by claim to resolve disputes. The number of settlements has doubled per year, and the pace is increasing.

- IHS is assisting with ACA outreach education and aims to have in each federal facility one staff member who is trained as a Certified Applications Counselor. ACA enrollment ends at the end of March, except for tribal members.
- A consultation letter was sent on Medicare rates. Outside providers can be paid if their rates are lower, which can save on contract health funding. Discussion is underway as to administrative options.
- The name of the IHS Aberdeen Area was formally changed to the Great Plains Area on January 10, 2014.
- IHS is coordinating interagency initiatives and will hold a best practices webinar for breastfeeding and child care.
- The International Statistical Classification of Diseases and Related Health Problems, 10th revision (ICD-10) is a big issue for coding changes.
- IHS met all of its Government Performance and Results Act (GPRA) targets last year.

C: (Aaron Payment) We had a very successful CSC Workgroup meeting. Flexibility and predictability are the issues we face, and the variables differ in every circumstance.

Q: (Aaron Payment) Given the parameters on how to resolve past claims on individual settlements, we had previously asked for a special master. Wouldn't that help facilitate the process?

A: (Yvette Roubideaux) The Administration is still reviewing this tribal recommendation. Special masters tend to be something a court would order for a class action, and IHS is not a class action. However, many claims have reached federal court. The Administration is considering the situation, but has no public position as yet. Apparently IHS will be able to get offers out to everybody this year, and timely resolution saves on legal costs. Many claims are small, and we want to get through those quickly without accidentally favoring particular tribes. For example, a \$1000 claim probably does not need as much work as a \$50 million claim. In sum, we are trying to find ways to expedite claims resolution, and the legal people are considering the special master concept.

Update: Intradepartmental Council on Native American Affairs

Lillian Sparks, Chair, ICNAA, began the update by noting that the ICNAA is statutorily required specifically to ensure that all parties are collaborating and is required to meet three times per year.

- During the last term, the ICNAA focused on self-governance, access to grants, and the Grants Matrix Initiative.
- The Grants Matrix Initiative is a huge undertaking for which the ICNAA looked at all HHS programs and requirements for applicants, whether funded by set-asides or funding formula. Some 80% (up from less than 50%) will have been included when the Grants Matrix is finalized.
- The next step is providing Grants Matrix training and technical assistance.
- The Grants Matrix will be available to everyone soon.

Q: (Aaron Payment) Is the matrix searchable?

A: (Kim Romine): No, but it is in Excel and is 508 compliant.

Other highlights from Commissioner Sparks' presentation included the following:

- The ICNAA wants to ensure that agencies included in the self-governance study are continuing and attending to priorities identified by tribes. ACF is having numerous conversations to see how to advance priorities. SAMHSA is also coming up with strategies to advance these priorities.
- To do a better job of outreach, ICNAA is facilitating better conversations between the tribes and the states regarding ACA, child welfare, TANF, etc.
- The Tribal Data Initiative addresses a problem that HHS has heard for years: how to do a better job of ensuring that tribes have access to the data that is provided to HHS. For example, ACF requires numerous reports for social service recipients. If a tribe receives a grant from all nine ACF programs, the reporting requirement is onerous because all nine have different requirements. The Data Initiative will enable HHS to ask for only the currently needed information (not outdated or redundant information).
- This information will be shared with tribal communities so tribes can see how their programs are faring under HHS.

Q: (Gloria O'Neill) How can tribal representatives who cannot travel gain access? Could these deliberations be made available by telephone or Skype? I try to streamline reports and provide only relevant data. How can this be brought back to the community?

A: (Lillian Sparks) ICNAA is looking for ways to improve access for those who cannot attend, such as webcasting and recordings.

C: (Gloria O'Neill) Thank you for your efforts and also for the matrix of requirements in the packet and the follow-up.

Yvette Roubideaux, Vice Chair, ICNAA, discussed health components. She thanked STAC members for their feedback, noting that when she meets with the ICNAA, people are generally excited to report outcomes and accomplishments because they see appreciation. Most of the ICNAA work has focused on issues of helping tribes get greater access to grants by more training, workshops, and so on. An enormous amount of work has been done, and she wants to be sure it is helping the tribal community.

Other highlights from her presentation included the following:

- Data is an important issue on the health side, but there are many areas within that.
- The White House Council on Indian Affairs functions for the President as ICNAA does for HHS. It consists of a group of agency heads who get together to implement recommendations.
- This administration has less than 3 years left, and the next administration could be more or less supportive of tribes. Therefore, it is important that issues are prioritized to get as much accomplished as possible in the next 3 years.

C: (William Micklin) Programs under HHS must be contractible or compatible, and we need to include those under ICNAA that could transition to contractible or compatible. Another priority is transitioning SAMHSA funding to community funding and other HHS mental health funding, so it becomes more of a coherent community health program and could be integrated under the PL102-477 program for flexibility.

C: (Cathy Abramson) It is not just IHS dollars, but health, social services, education, and other services. Most of the other agencies don't give much money to tribes. I would like to see a focus on getting more funding from various other agencies. I will provide a list of other agencies that fund tribes.

C: (Cathy Abramson) We need more training for people to get grants. It would be nice to have feedback from recipients—what is missing, what needs improvement. And, we need more training on resource data.

A: (Lillian Sparks) There will be more training and one-on-one consultations during the Resource Day. Resource directors are having planning calls to see what you would like. Norris Cochran does a great job of breaking out what funding each agency provides that is specific to tribes. For instance, ACF has the second largest tribal budget outside IHS. We need to better communicate how much money is provided and then see where more money should be provided.

Q: (Stephen Kutz) When is the Resource Day scheduled?

A: (Stacey Ecoffey) It is listed in the packet and it is March 6. And we will have grants information at the budget session.

A: (Yvette Roubideaux) The HHS Budget Consultation is always the day after Resource Day.

C: (Gloria O'Neill) Many tribes did not receive grants because competitive dollars have gotten smaller. As we compete against states and other non-profit communities, it is important to ensure that the competition is real. It would be helpful if tribes could get additional points for being tribes. We would like to hear an update on this situation and whether priority/more points could be awarded to tribes. I appreciate that you are considering set-asides again.

Food and Drug Administration: Discussion

Sally Howard, Deputy Commissioner for Policy, Planning, and Legislation, distributed a copy of "FDA at a Glance" and then began the overview of the FDA. The FDA has a unique role as a science-based regulatory community that regulates a wide variety of products, including food, drugs, medical devices, tobacco, and animal drugs and feeds. Allowing access to new products while ensuring safety, the FDA is at the intersection of regulatory science, politics, the economy, and public health. The FDA's clear decision-making role is based on risks and science and its many stakeholders include patient networks, providers, and pharmacists.

Highlights of the FDA presentation included:

- The FDA's annual budget is \$4.1 billion, including user fees, which must be renewed every 5 years. The user-fee model has been successful.
- The FDA has about 14,800 employees (mostly physicians and pharmacologists), 223 offices, 13 laboratories, and hosts in 10 countries. It is responsible for oversight of \$2 trillion in consumption of medical products, food, and tobacco.
- About 80% of active pharmaceutical ingredients are imported, as are 25% of finished drugs, 40% of biologics, and 30% of medical devices. As these imports increase, so do the FDA's international concerns.
- The FDA has not historically been engaged with tribes on many issues, but they have had a strong relationship with HHS' Office of Intergovernmental and External Affairs and has had some engagement with tribes at the operational level through its regional and district offices and its tribal liaison.
- As for rulemaking, the FDA is not as engaged as HHS, but it is moving in that direction. Currently, the FDA's engagement is more at the enforcement level.
- The FDA is institutionalizing capability through a new team within the Office of the Commissioner. The Office of Intergovernmental Affairs, led by Danielle Grote, will be dedicated to intergovernmental affairs, including tribes and tribal governments and organizations. That office needs recognition in the policy-making sphere, but FDA does not have that capacity. New initiatives include the Office of Policy, Planning and Legislation, which will be dedicated to intergovernmental services; for instance, the New England Compounding issue in which non-sterile ingredients were being injected into people's spines. They found gaps in existing authorities and enforcement; cooperation is essential. The FDA responded by convening a 50-state meeting to discuss policy making, which was very helpful in defining who should take what role, and how information should be communicated.
- As for the Federal Safety Modernization Act (FSMA), an effort to communicate with the tribes, the consultation component, its process and best practices, are being discussed in the Office of the Commissioner. Because the FDA has no tribal consultation policy, they are reviewing the HHS policy.
- Possible issues for consultation include tobacco. When the Deeming Rule is published, it will allow the FDA to regulate the whole tobacco industry, including its products. Currently, the FDA has no authority over such products as e-cigarettes and cigars.
- Plans for engagement with the tribes include developing a tribal consultation policy to better focus on tribal requirements, and coordination with other agencies' roles.

Q: (Jace Killsback) We need to incorporate how tribes view tobacco production, eco-development, and how to address tobacco issues internally. There is also the inability to interact with other agencies within HHS. How do we not duplicate services? How do we share resources?

A: (Sally Howard) The FDA's role is not duplicative of the Centers for Disease Control and Prevention (CDC). The FDA has no role in cessation or prevention of tobacco use other than an ad campaign to discourage youth from smoking, whereas the CDC does not target a single audience. However, cessation products (drugs) do come under the FDA's purview. The FDA's Center for Tobacco Products (CTP) sees its role as education of youth, and regulation of cessation products. FDA is on the regulatory side—they want to regulate the entire process to

make sure we understand what is in all these products. It is a good opportunity to engage with tribes.

C: (Brian Cladoosby) I will ask the executive board to create a booklet of each agency's tribal consultation policy. I Googled "FDA Tribal Consultation Policy" and found what alleges to be FDA's policy, so you have one to work with (unknown to Ms. Howard). I will send you the link.

C: (Aaron Payment) The President may have given an Executive Order that the FDA's Indian Policy be posted on the Web; at one point that was a requirement and that could be the source of the posting.

C: (Aaron Payment) I think efforts to ensure that policy is substantive and useable is laudable. We need to go back to the original mandate to ensure usefulness.

C: (William Micklin) Regarding FSMA, tribes have asked the FDA to look at their policies on tribal-specific waivers for tribal foods and especially for Native-to-Native commerce. Tribes should be able to regulate production as sovereign nations and to work with the FDA.

Michael Taylor, Deputy Commissioner for Foods and Veterinary Medicine, FDA, gave the perspective from the food side of the FDA. The food system is very important in the context of the overall federal food safety mechanisms. The FDA regulates 80% of food supply and imports, but the U.S. Department of Agriculture (USDA) regulates meat and meat content, including additives, chemical contaminants (unavoidably present), nutrition, and validity of claims. The FDA has a long history on the food side of working with governmental partners, and tribal authorities are an integral part. Highlights of his presentation included:

- Dr. Rebeca Buckner, Chief Implementation Manager for FSMA, oversees regulations.
- The FSMA is Congress' comprehensive response to food-borne illnesses that have occurred over the last decade. Significant problems arise with imported foods, e.g., the recent melamine contamination of pet-food from China. The FDA tries to ensure that its standard of care becomes the norm for domestic and imported foods.
- Dealing with the incredible diversity of the food system is a huge challenge, and regulations must work across that. Produce safety from the farm had not been included until FSMA. The FSMA has engendered farm tours and meetings to define key provisions, for example, the safety standard for water.
- The FDA has proposed rules and is receiving comments. A meeting was held with tribal communities and communication with the states. More activities are needed to expand the dialogue. Input is needed to get the rules right, so three trips are planned to Indian Country in the next few months. Then implementation will occur.
- A big component will be inviting technical assistance and training focused on small and mid-sized growers. Once the regulation is enacted, support will be provided. It will be 3 to 4 years before there are produce rules.
- The many specific issues include who is actually covered by the rules. There are proposed rules for 90% of the acreage, but exemptions reduce this to some 20% of farms. The market has a way of driving compliance. It is important to continue the dialogue and build on it.

Q: (Stephen Kutz) Is the FDA setting fish consumption rates for fish adulterated by contamination? Fish is an important component of the diet in the Northwest. We would like a conversation on this issue and how to deal with it. Essentially, we need better care of the water where fish live.

C: (Stephen Kutz) Another issue is the exemption of huge farms that produce the soil amendment regulation, which is being applied across many of our areas.

A: (Michael Taylor) For the seafood advisory, the FDA works jointly with the Environmental Protection Agency (EPA). The issue has to do with the presence of mercury in seafood. Mercury is a hazard, but fish are a benefit. We are working on updating that recommendation and we would be happy to have further dialogue.

C: (Michael Taylor) Another issue is “biological soil elements,” which are raw manure. We need to define the right standards for handling it and the right intervals for harvesting food crops where it has been used. Biological soil elements have an important role in organic crops and also food safety, and we need much discussion on this. It will be reconsidered with a proposed recommendation.

Q: (Jace Killsback) I share Mr. Micklin’s concern, and would like to offer another example from my tribe: buffalo, which are economically relevant. Buffalo offer a practical way to deal with health disparities and issues such as diabetes, and we promote the use of buffalo meat in schools, but that introduces much red tape because FDA has not regulated buffalo. Furthermore, tribes in Montana have trouble complying with the butchering standard. We need to build capacity within the tribes and have established the InterTribal Buffalo Council for tribally run herds.

A: (Michael Taylor) For both bison and the school lunch program, the USDA is the authority, but the FDA is actively engaged in pooling its resources related to these issues with the USDA’s.

Q: (Chester Antone) What does “agricultural water” entail?

Q: (Michael Taylor) Agricultural water is water that is applied to the harvestable portion of a crop. It does not include water used for drip irrigation.

C: (Michael Taylor) The FDA’s international offices include Mexico.

C: (Isabel Garcia) The NIH has developed a curriculum that covers developing products on health and science. These are teachers’ guides with 2-week lesson plans for elementary, middle, and high school, and they are available at no cost. I can send a list.

Q: (Gloria O’Neill) What is the name of the NIH director who gave the STAC a tour last year?

A: (Isabel Garcia) I will send the name.

Affordable Care Act Update

Catherine Oakar, Director of Public Health Policy, Office of Health Reform (OHR), began the ACA update by noting that, as of January 1, it's a new day in health care, health care insurance, and health policy, in general. Many changes are finally in place and millions of people have the opportunity for better health insurance coverage. Highlights of her presentation included:

- OMB recently released a report on affordable care and jobs; it showed that ACA creates opportunities for people so they don't have to stay in jobs they don't want just because the job gives them health benefits.
- Efforts are underway to make the employer-shared responsibility mandate less burdensome: If a company has fewer than 50 employees, they do not have to provide employee insurance benefits; if they have 50 to 99 employees, they have until 2016 to comply; if they have 100 or more employees, 70% must be covered by 2016, and everyone by 2017.
- The website is now working correctly and has about 83,000 users at any one moment; that is, almost 2 million in one day.
- Resources are available to help applicants, such as the call center and Certified Application Counselors in the communities.
- More than 3 million people have enrolled, and 6 million are enrolled in Medicaid.
- Seniors continue to save on prescription drugs.
- There are no preexisting conditions that allow denial of coverage.

Michele Patrick, Deputy Director, Office of Communications, CMS, said the website and the call center are managed by the Office of Communications. The website, <https://www.healthcare.gov>, has received more than 44 million visits, and the state-based sites have received 9.5 million visits. The system works smoothly for most people; the system error rate averages less than 0.5%, and it is up and running more than 99.9% of time.

Other highlights were:

- On the website, <https://www.healthcare.gov>, there is a specific section for American Indians and Alaska Natives.
- Some tribes were listed in the wrong states, but that has been corrected. All Alaska Native village corporations are listed.
- The Marketplace call center received nearly 16 million calls from October 1 to January 31.
- The call center supports 150 languages for which they have reached out to organizations to provide language support and one-on-one assistance. The call center relies on everyone to provide support, and continually monitors feedback.
- For this ongoing process, calls are being reviewed to see if additional scripting is needed. In addition, a training model is being incorporated and an Advanced Resolution Center (ARC) can handle unscripted questions and complex issues and provide additional research to find the answer. For instance, the ARC can contact a subject matter expert.
- The goal is to ensure that every American who wants it has access to improved health care.

Mandy Cohen, Acting Director, Consumer Support Group, Center for Consumer Information and Insurance Oversight, CMS, updated the in-person assistance program and casework process, as well as exemptions applications. Highlights were:

- Certified Applications Counselors, weekly calls, and webinars are being employed to facilitate enrollment.
- A consumer-friendly “edit application” function, rolled out last week, is now available and has had 1.6 million consumer touches in 6 to 7 weeks of open enrollment.
- A problem case is elevated to the casework process by calling the call center; Ms. Cohen will then be called. She determines whether the problem is isolated or more systemic.
- Lastly, there is a hardship exemption. This is pretty self-explanatory, but instructions are being developed with clarification as to whom the form is sent and how.
- If the applicant is a member of a federally recognized tribe, the form can be submitted with the tax return; if not, the applicant must send it through the Marketplace.

Jennifer Ryan, Director, Intergovernmental and External Affairs Group, CMS, works closely with the Medicaid program. Highlights from her presentation were:

- The 26 states and the District of Columbia that are expanding Medicaid coverage began to do so January 1. This expansion has broadened the role for retention of good health and it should continue to be available to parents, children, and the elderly.
- There is a newly modified adjusted gross income standard.
- Open enrollment ends March 11.
- Since it was posted on <https://www.healthcare.gov>, 4 million people have enrolled.
- CMS works in partnership with states and tribes to implement the extended care provision. The approved proposal for those states is expected to continue. There are other approaches to get states in that position.

Yvette Roubideaux, Director, IHS, concluded that IHS focuses on ensuring that everyone covered understands their benefits and how to access them. Highlights of her presentation included:

- Premium tax credits allow insurance premiums to be as low as 67¢ per month.
- Directional funds going to the organization fund the top priority of educating people about ACA.
- The Resource and Patient Management System (RPMS) can print an exemption letter.
- IHS hosts weekly calls for staff and leadership.
- Much technical assistance is available; e-mail Geoffrey Roth.
- Members of tribes are the only ones who can enroll without penalty after March 31.
- The definition of Indian is still under discussion in Congress.

C: (Brian Cladoosby) The Swinomish Indian Tribal Community paid six tribal assistants and now has high enrollment. Only 10 members were not income eligible.

Q: (Aaron Payment) Regarding call centers, the National Indian Health Board (NIHB) conducted a trial run and found a lack of information about IHS, Indian tribes, who is exempt, etc. Are the types of calls being analyzed? What categories need to be addressed?

A: (Michele Patrick) No information collected on the application addresses ethnicity. Information is related to, for example, the number of members signing up. We don't have a breakdown on ethnicity, but we can say how many access the line.

C: (Aaron Payment) The issues are complicated. Some members are exempt and not covered at all. The Sault Ste. Marie Tribe of Chippewa Indians started months ahead of time to train people on how to apply for the exemption. Counselors need to be prepared for how to talk to American Indians. Maybe questions can be streamlined to an expert. Not answering with the correct information would make the problem much worse.

C: (Michele Patrick) We constantly update scripts and training and where information is not relayed correctly. It is an ongoing and continuous process. Information given must be correct and culturally sensitive and given in an appropriate way. This implies continual training and continual evaluation of calls. We watch for instances of cultural insensitivity—evaluation is ongoing—and we appreciate feedback for correcting behavior.

C: (Aaron Payment) This process is complicated by exemption from ACA. These exemptions constitute a small fraction of a percentage, but nevertheless we don't want people to slip through the cracks. Are there common questions from American Indians that we could answer? Tribal members could be the technical experts. It is not a cultural sensitivity issue, but a highly technical response issue.

C: (Chester Antone) Arizona had 15 exemptions continued for one more year.

C: (Mandy Cohen) The challenge is that the state has to make the request. When the state makes its request, we will take another look. We hope that the need for uncompensated care will decrease with time.

C: (Chester Antone) Essential benefits do not include such things as podiatry.

C: (Mandy Cohen) There would be no problem getting support from CMS. I can give an update at the next meeting.

C: (Cathy Abramson) It is important to get the word out. Many tribes have a newsletter and we should put this information on the front page: Enroll by March 4 or pay a penalty, whom to get in touch with, the Navigator's name, etc. Many people don't know, but they will pay attention if they know they will get a tax penalty.

Q: (Jace Killsback) My concern is with tribal governments that have neither provided health insurance nor created self-funded programs. What about tribes that created or developed self-funded programs? Can they avoid a penalty from tribal government? A few tribes in IHS regions don't have the opportunity to offer health insurance to tribal employees. Are any newly designated tribes in self-funded programs?

A: (Catherine Oakar) That depends on the size of the organization.

C: (Jace Killsback) Another issue is that many individual members using the website have tax issues, e.g., whether they should file jointly or individually.

Q: (Jace Killsback) With a subsidy, I will pay only \$175 per month, while a friend would pay only \$49 per month. What is the difference in the packages?

Q: (Tino Batt) Priority 1 for all members regarding Obamacare is better use of contract dollars. Can we use contract money to purchase these plans? Can we have a consultation to address section 402, particularly the wording about stresses?

A: (Yvette Roubideaux) Section 402 of ISDEAA allows tribes to use funds to purchase insurance. They can limit it to a subset of those who have financial need, or they can buy it for everyone. We welcome input from the tribes on how it might work better. This opinion is on the website. IHS would like to hear from tribes regarding decision-making. Section 402 is self-implementing, but we are trying to lean into it and help people see that although this is a federal opinion, it will not be used for enforcement. If you think we need to do anything else, let us know. The situation is very different for every tribe. We can schedule a Tribal Delegation Meeting to address it.

Q: (Stephen Kutz) Do all the sites have Navigators?

A: (Yvette Roubideaux) They do not all have Navigators, but they do all have staff who have completed authorization training. Navigators don't have access to additional databases or other materials nor is there an additional portal. Certification gives reassurance that they have been trained by CMS.

C: (Stephen Kutz) This is complicated, especially when a single family has both tribal and non-tribal members.

During lunch, the STAC met in tribal caucus to prepare for its meeting with Secretary Sebelius.

Secretary Kathleen Sebelius

Secretary Sebelius arrived at 2:30 PM and welcomed new members. She thanked Vice President Jim for facilitating this meeting and for her welcome when she visited the Navajo Nation. She asked new STAC members to introduce themselves. She expressed her appreciation for their attendance at this working committee. Secretary Sebelius recognized the work of Paul Dioguardi, Stacey Ecoffey, and Commissioner Sparks and called Yvette Roubideaux a tireless advocate.

1. Budget

For the first time in 4 years, HHS has a budget (for FY2014). Secondly, the debt ceiling will be passed as a "clean" debt ceiling. There is no point in having a budget if it has no money to fund its provisions. HHS got increases for purchases and care and support costs, but much work remains to be done for Indian Country. Secretary Sebelius continues to see IHS as a priority, despite budget constraints, and wants to make sure tribes get their fair share of federal program dollars.

2. ACA

Many education and health literacy issues must be addressed, but there is an opportunity between now and March 1 to get the word out. Tribal leaders can do a lot to educate their constituencies. Federal payment for non-health care services can be leveraged to help pay for other things. Many freed-up health care resources will become available for other uses, which drives another stream of funding and other third-party payments. There is no deadline for Medicaid, but states where Medicaid has not been expanded, will be subject to a \$1 per day loss for the state. Secretary Sebelius wants to make sure STAC members have that information at hand so they can make the argument for why ACA should be implemented.

C: (Brian Cladoosby) Consultation is very important to tribes. Sequestration hurt tribes through the cap for sequestration. One goal is to repair damage of the past and to show tribes how this will be addressed.

C: (Kathleen Sebelius) We have a robust consultation process, but we cannot control sequestration (that is a law passed by Congress). The cap on contract support costs was a decision made in the overall budget process, but we will continue to be advocates for the tribes. It's not a lack of our hearing or taking on your views, but we do not make those calls.

C: (Aaron Payment) You created this concept of consultation, and I wish others agencies would do the same to work through the conflict issues, such as contract support costs. We want flexibility, but also predictability, because we want to be able to trust that these negotiations have appropriately drafted categories. We have asked for input on contract support and we are asking to have fully funded contract support without collateral damage. We don't want tribes pitted against each other. We ask that you refine consultation.

C: (Kathleen Sebelius) I have a number of new colleagues who may be unfamiliar. If you communicate this information, I will try again with the new ones.

Q: (Stephen Kutz) Regarding ACA, the tribes would like the federal government to look at Medicaid expansion, which costs the state nothing. The Medicaid exemption could go through IRS for federally recognized tribes.

A: (Kathleen Sebelius) I will pursue the Medicaid exemption process through IRS.

C: (Stephen Kutz) Many congressmen thought sequestration did not apply to IHS and tribes.

C: (Kathleen Sebelius) It has to be a legislative chain that applies to everyone, unless something is exempted.

C: (Stephen Kutz) We should start looking at advance appropriations as part of the budget process.

C: (Kathleen Sebelius) I did not understand the comment. Since we had no budget for 3 years, nothing could be advanced.

C: (Brian Cladoosby) Veterans' Affairs (VA) has a 1-year advance on their budget and the same should be considered for tribes.

C: (Kathleen Sebelius) If Congress does not give us a year's advance, we cannot give you that advance.

C: (Brian Cladoosby) We need to collectively push for this.

C: (Aaron Payment) Support from the agency would be helpful. Past analysis shows that IHS, as non-discretionary, should be exempt from sequestration. It may finally be an OMB issue, but it would behoove us to look at this more closely.

C: (Stephen Kutz) The definition of "Indian" continues to be an issue. The Administration delayed employer mandates, so there might be some flexibility the Administration could take.

C: (Stephen Kutz) Lastly, is Navigator issues. Despite much progress, many states have a particular problem.

Q: (Jerilyn Church) The Great Plains has a cooperative agreement to provide Navigator services. My policy is, if a staff member hears about an issue three times from three different people, bring it to me. What I'm hearing is: often people still get kicked off the website; and they are no longer able to upload the tribal ID, so they mail them in but do not hear back for over a month. Therefore the Great Plains Area has enrolled only 40 people in the first quarter.

A: (Kathleen Sebelius) I need something in writing about this and then I can have case workers resolve these problems.

C: (Gloria O'Neill) I congratulate your team for work on the 477 tool to administer programs over the last 2 and a half years, and I encourage you to continue your commitment to make ICWA a priority.

C: (Joo Yeun Chang) I have this as a priority. I want to figure out how to work in this partnership and to be open to new and creative solutions. The Child Welfare Model is essentially a Foster Care Model, which may not address all the issues.

C: (Gloria O'Neill) I would like to thank SAMHSA for its set-aside. I had wanted \$40 million to \$50 million and would like to collaborate to increase the amounts. Implementing tribal set-asides is a step in the right direction. But, how can grants be made more accessible? If tribes are allowed additional points in grant applications, it makes tribes and states equally competitive. I thank you and HHS for technical assistance and for taking this process seriously.

Secretary Sebelius left the meeting at 3:15 PM, and discussion continued.

C: (Chester Antone) A regional issue for Arizona is that since 2003 Rocky Mountain spotted fever cases have exceeded the number of other infectious diseases in Arizona. Dealing with this requires a line-item in the budget. Without control, the disease will spread into the cities.

C: (Chester Antone) CMS includes optional benefits, such as podiatry and emergency care, and they hold harmless direct services.

C: (Cathy Abramson) They talked about establishing a Tribal Advisory Committee/Workgroup for OMB.

C: (Paul Dioguardi) That is now an internal committee, but we can raise the issue. One difficulty is that OMB is part of the White House, so to set up a mechanism to deal with this committee's issues might be at cross purposes.

C: (Cathy Abramson) I appreciate being invited back to STAC. I see the committee's role as helping to give input in a respectful manner. We now have a new group of people, so it might be good to have training on the role of an advisory committee.

C: (Stephen Kutz) If the sequestration ruling came out of OMB and their analysis said IHS was not exempt from sequestration, it has vast and long-term consequences.

Q: (Stephen Kutz) Where in the organization should consultation happen so we can weigh in before policy is made?

A: (Yvette Roubideaux) OMB only implemented what Congress passes. Sequestration was decided by Congress. Originally sequestration exempted IHS, but in the 2013 sequestration they did not include the exemption made in 1985. We have to get back to where we were in 1985.

C: (Yvette Roubideaux) This raises the issue of OMB: OMB is the final decider on the budget. In this administration there has been a lot of consistency and it is much better about IHS access to HHS and OMB; however, they sometimes make decisions we don't know about. When the executive order for consultation was issued, OMB coordinated it. To have an OMB director who meets with tribal leaders is a big change—OMB used to make budget decisions without consultation.

C: (Yvette Roubideaux) The President's budget will be submitted in 2 weeks. Secretary Sebelius will talk to OMB about the discussions here and ask for clarification on the role of OMB.

Human Service Issues: Discussion

Joo Yeun Chang, Associate Commissioner, Children's Bureau, ACF, discussed major funding streams available for human services, including:

- Title IV-E, a dedicated federal funding stream, is the largest source of funding in child welfare. It supports foster care, adoption assistance, and guardianship. Tribes can now administer their own Title IV-E program. ACF wanted to provide resources via IV-E development grants annually to help tribes administer their own IV-E program. So far, four tribes have been approved and nine tribes have sent IV-E direct applications. Grants were awarded for 2012 and 2013.
- A technical assistance resource center, the National Resource Center (NRC), for tribes has been established. Whether tribes have an IV-E program or not, the center can be used

to help with things such as assessment. NRC provides service for technical assistance; it is designed to help tribes navigate options.

- A 5-year grant will be re-awarded at the end of this fiscal year.
- Another discretionary grant program is the Regional Partnership Grants, designed to improve the lives of drug-addicted parents. ACF wants to build a body of knowledge to help the field at large understand types of possible intervention and to create a full body of knowledge of what works for children whose parents are addicted to drugs.
- Discretionary grant opportunities include products designed to aid evaluation of programs.
- ACF wants a conversation about what works and what can be done better. ACF wants a tool that discusses a roadmap as to what a successful program looks like. Ms. Chang hopes to address concerns aired in the last few years.

Q: (Gloria O'Neill) Maybe we should address discretionary grant opportunities at the next STAC meeting. How can we be most helpful?

A: (Joo Yeun Chang) Every 5 years states must submit a 5-year plan for how they will address TANF during that period. It requires states to discuss how they will work with the tribes and ICWA.

C: (Aaron Payment) These are home visiting dollars.

C: (Lillian Sparks) That comes under a separate program, but I can follow up on this.

C: (Tino Batt) In reality, states just submit the policy without tribal consultation.

C: (Joo Yeun Chang) If it is a mandate, it will be enforced. At a minimum we can encourage states to work with tribes.

C: (Brian Cladoosby) This is one of the unintended consequences of devolution. We must have a way to address this from federal trustees. This is unacceptable behavior.

C: (Joo Yeun Chang) I did send a letter to states encouraging consultation, and will follow up on that.

C: (Lillian Sparks) I hope to bring other advisory committees up to this standard.

Q: (Rex Lee Jim) What is the 5-year plan follow-up?

A: (Joo Yeun Chang) We want to use the plans as a tool of enforcement and accountability. I hope things will shift in the coming years.

C: (Rex Lee Jim) So, we need to make this a goal.

C: (Chester Antone) The Tohono O'odham Nation has gotten out of Title IV-E because we became unqualified. We need to be flexible in waiving some regulations in the Children's Bureau.

Dr. Felicia Gaither, Director of Tribal TANF Management, Office of Family Assistance, ACF, discussed Tribal TANF management and tribal child welfare. When Tribal TANF is one program, we can continue to add more tribes. Currently 10 tribes have submitted letters of intent. The important issue is 102-477. ACF has been a member of the working group for many years and has dealt with outstanding issues for 477 projects. There was a meeting in Washington, DC with federal agencies, BIA, and tribal partners.

Highlights of Dr. Gaither's presentation included:

- Tribal TANF has established a checklist to help work through the plan's approval process, which has included becoming better partners at the federal level and with the tribes.
- Tribal TANF also worked through new forms concerning 477—financial and expenditure forms, narrative and statistical forms. The new report forms are based on cost categories.
- There has been consultation throughout the process regarding what makes sense for the forms.
- Now the Department of the Interior (DOI) is the lead agency on 477, and they are submitting their recommendations to tribes for comment.
- The DOI plans to have a formal consultation in March (a 30-day notification period is required). The comment period is another opportunity to provide comments.
- Upcoming Tribal TANF events include Tribal TANF Leader Symposium, in Washington, DC, August 5-6. Participants are encouraged to invite a Tribal TANF program director.
- Tribal TANF is joining with the Office of Family Assistance to have a Tribal TANF/ Child Welfare meeting.
- Webinars on child support will be held in late March. A partner webinar will also be presented on economic development.
- The ACF is working to clear up confusion and clarify BIA designations for service areas for Tribal TANF on your own reservation base. If there is no reservation or land claim, there must be state concurrence. This has created limbo situations. The ACF has been working with BIA to define when it is appropriate for tribes to go to the states.
- The ACF can encourage states to negotiate, but doesn't get involved in funding issues. The ACF can explain what needs to be done and what makes sense, which helps to understand how to help the tribes.

C: (Gloria O'Neill) This does not apply to Alaska because TANF associations are listed in law. But, one point concerning 477 is to ask you to continue to support your leadership staff to remove unnecessary barriers. There are probably issues of capacity and infrastructure, but regardless, we need to make it a process that allows the possibility to add programs. We in STAC need to decide to encourage this to happen. For example, in Alaska a non-profit has been trying to add its TANF services for 6 years.

C: (Felicia Gaither) If a community never had a tribal TANF program, we need to administer the program for a year before they can do so directly.

C: (Gloria O'Neill) But, if a community takes on a TANF program, it requires at least a year of planning. That process challenges us to think it through, knowing that we have this ramping-up period. The required year of oversight may be an artificial barrier.

C: (Elaine Fink) Thank you for facilitating the Denver summit meeting. Tribes are interested in the TANF program, and there is lots of information there. In addition, this is another source of revenue and it also provides jobs.

Lillian Sparks, Commissioner, ANA, ACF, gave the ANA update. Highlights from her presentation included:

- ANA will continue to provide as much funding as possible, including Sustainable Employment and Economic Development Strategies (SEEDS) grants. To be eligible, applicants must show that they will report specifically on the jobs created, jobs retained, and income generated. The purpose is to see how to invest a pool of money in economic development and what the outcomes are.
- Language immersion activities are budgeted at \$4 million per year. (Project planners usually ask for about \$275 thousand per year, so the \$4 million is reasonable.)
- ANA hopes to publish funding opportunities in a timely fashion this year.
- ANA offers extensive technical assistance, this year in the Eastern Region in Minneapolis (February 20-21) and in Tulsa (February 26-27), in the Western Region in San Diego (February 25-26) and in Albuquerque (March 4-5), in the Pacific Region in Wai'anae, Hawaii (February 26-27), and in the Alaska Region in Anchorage (February 24-25). A tribe can send as many as six people.
- The ACF Tribal Grantee Meeting will be held June 17-19, preceded by consultation, the second in this administration. ANA will hold a consultation every other year to allow access to and collaboration with decision-makers.
- On June 20, ANA partners will meet with other agencies to promote better practices and policies on Native languages. ACF, the Office of Head Start, and the Office of Child Care meet regularly on language promotion.
- New money, to be awarded in the spring of 2015, has been made available for Head Start and Child Care partnerships. More than 200 participants joined on the outreach call held on February 11. This is different from a set-aside.
- Four tribes are participating in the Tribal Early Learning Initiative.
- The ACF Office of Policy, Research, and Evaluation provides evaluation. They will have a meeting on April 7-8 to discuss what “data” means. The purpose of the meeting is to learn from each other about best research methods, what tribes need from ANA, what makes a good evaluation, and how tribes can begin to collect their own data and measure it.

Update: Office of Intergovernmental and External Affairs

Stacey Ecoffey, Principal Advisor for Tribal Affairs, IEA, distributed handouts and noted that participants’ packets contain information on 2014 consultations. This is the 16th year for the budget consultation. This year the consultation will not be held the same week as the National Congress of American Indians meeting. She strongly encouraged STAC members to participate.

- Consultation recommendations are taken to the ICNAA and the STAC, and then a decision is made on what to work on. The first consultation occurs on February 5 with the United South and Eastern Tribes (USET).
- In addition to data, IEA has been trying to work on a tribal-state working group with the STAC to deal with issues such as child welfare, HHS consultation

policies, and general outreach to states and tribes. A few years ago Secretary Sebelius sent a letter to states saying she expected them to consult with tribes.

- On the website, a specific HHS Tribal Grants page is being created that will house the Grants Matrix, PowerPoints from grants training, etc.
- A representative will be at all regional sessions to explain the Grants Matrix.

Participation in the Regulations Process

C'Reda Weeden and John Gallivan, HHS Executive Secretariat, reported that a task force on public participation in the regulations process has been created to get feedback from the public and from stakeholders. Mr. Gallivan explained that “rule” is the same as “regulation.” An infographic of rules and how to comment on them was distributed.

- There are two stages in rulemaking: 1.) notice of proposed rulemaking; and 2.) issuing the final rule. When it has permanent standing it is a federal regulation.
- A rule can only be issued if it has a statutory basis.
- Especially important are regulations governing contracting under the Indian Self-Determination Act.
- Currently, 20 documents are open for comment, such as the one concerning TANF funding.
- Final rules are based on comments received during the comment period of the proposed rulemaking, for example, where a hospital can be located, or how much providers can be paid. Feedback on these issues is needed.
- The initial basis of development is new legislation. Agencies enact rules and then sometimes revise them themselves, for example, nutritional labeling.
- Another way to revise is receipt by the Department of advice from an advisory committee regarding how regulatory progress is or is not going well.
- Importantly, an executive order of retrospective review instructs the Department to revise accordingly. This involves not just upgrading, but removing the deadwood that remains on the books.
- The website, <http://www.hhs.gov/regulations>, lists rules open for public comment.
- Mechanisms to make commenting easier are being worked on.
- Those making comments can comment on as much or as little of a regulation—just identify the issue.
- Suggestions are helpful and resources can be provided when making comments.

Q: (Brian Cladoosby) To be found among the legal deadwood are outdated laws related to tribes and their relationship with the federal government that were passed in 18th and 19th centuries, when the prevailing view was more subservient and paternalistic. How do we get these laws off the books or amended to reflect the government-to-government partnership we have today?

A: (C'Reda Weeden) It depends on which government agency is the author of the particular regulation. The Office of the Executive Secretary does not originate any regulations, but facilitates the process. We do this in July and January, which includes suggestions on the rules. Each agency has a retrospective review component that you can see at the website: <http://www.hhs.gov/open/execorders/13563>.

A: (John Gallivan) Looking at the recommendations from this advisory committee would be a good way to start.

C: (William Micklin) Tribes often don't suffer from a statute, but from their omission from a statute. Regulations often assume that if a group is not mentioned in a statute, the group has no rights. The President issued an executive order to reduce bureaucratic delay and complexity by looking to regulations to do that. It is an opportunity to reduce tribal exceptions, but no cohesive approach is apparent, for example, the #139D program did not go smoothly. And, the list is long.

A: (C'Reda Weeden) I will take this issue up with the staff and decide where affirmations and improvements should be made.

Q: (William Micklin) Who provides your mandate or agenda for the year?

A: (C'Reda Weeden) It is part of the executive order for retrospective review. It is a good idea to flag some of these recommendations up the chain to the Secretary.

Mirtha Beadle, reported that Pamela Hyde, SAMHSA Administrator, had planned to come for the second day of this meeting (February 13) to provide information on the new Tribal Behavioral Health Program. Administrator Hyde has had many conversations with tribal leaders on suicide and other behavioral health issues, but this legislative language from Congress is slightly different from the consultation feedback received. There is \$5 million for the this new program. New program overview:

- In consultation tribes stated that they did not want to compete against each other, however the Congressional language specifies that grants are to be awarded competitively.
- Funds are to be awarded to the tribes that have suffered the highest rates of suicide.
- Specifically the strategy addresses substance abuse, suicide, and mental health..
- The focus is to be on American Indian and Alaska Native “young” people, which Congress did not define.
- The SAMHSA Tribal Technical Advisory Committee advised Administrator Hyde to keep the program as flexible as possible. It has to be simple and flexible so tribes can do what is best for the community. The committee also advised there be a streamlined application.
- Most important, the program has to allow tribes to start where they are. Some tribes have been working on these issues for a long time and may be able to build on something that already exists.
- SAMHSA is trying to get it posted quickly so tribes have as much time as possible to work on an application.. There will be opportunities to discuss further during pre-application technical assistance.
- At the last STAC meeting, there was a question about volunteerism and veterans services. Administrator Hyde wants to make clear that SAMHSA has a strategic initiative around military families that includes active and veteran service members. There is a technical assistance center, and conversations with ACL are occurring to identify mutual resources; SAMHSA will continue to provide updates.

- The first Tribal Policy Academy (TPA) on adult alternatives to incarceration was held last May. A TPA on juvenile justice is being planned for June 3-5 in Albuquerque. Ms. Beadle asked that STAC members let SAMHSA know if there is interest in hosting such academies in the future.
- The SAMHSA American Indian Alaska Team (SAIANT) is currently working on a tribal behavioral health communication strategy and developing recommendations on simplifying grant applications.
- There are current vacancies on the SAMHSA Tribal Technical Advisory Committee and nominees are needed from the Phoenix area and an at-large representative.

C: (Aaron Payment) I appreciate the strategy of helping to find appropriate resources. Tribes may not be well equipped to understand systemic reasons for substance abuse and mental health problems, and they need technical assistance.

C: (Stephen Kutz) Youth are the most vulnerable (along with elders). But, so much about these problems is multigenerational, so it's hard to know where to put the money for the greatest advantage. The requirement to focus only on youth could be a problem.

C: (Mirtha Beadle) The language is "young people," which is not defined. The Tribal Advisory Committee gave some guidance as to what "young" should be. The Garrett Lee Smith Suicide Prevention Grant is another relevant program. We need to address various age groups and generations.

C: (Cathy Abramson) I would define "young" as age 16. I see a lot of frustration with funding specifications.

C: (William Macklin) We entirely agree on the need for flexibility and adaptability. In southeastern Alaska there are 18 villages, each with a different problem at any one time. "Where you're at" changes in time. We need to address what we have and to mitigate problems. Problems might be best addressed with 477-type authority over use of funds. Specification about how money is spent is alright in a single, isolated department, but it does not work at the village level. We have to be able to work with people in drug courts and tribal law courts, whether it is prescription drugs, meth or basalt, and whether it is an education problem. We also need flexibility to best use funds, given that available funds will never meet all the needs.

C: (Mirtha Beadle) SAMHSA is working to ensure flexibility within the Congressional requirements. We have heard the tribal recommendations and are addressing them where possible.

C: (Jace Killsback) For flexibility, we need cultural competency at all levels.

C: (Stephen Kutz) Sometimes we talk about the place with the biggest problems and sometimes that is the place with the least capacity. If they don't have capacity, they sometimes cannot figure out how to write a request for proposal (RFP), or even how to use the money. The place with the highest number of suicides may not be the place of greatest need.

C: (Mirtha Beadle) The goal is not to provide grants to the community that is best able to write a proposal. Some communities with high rates of suicide, substance abuse, and mental health problems have been working on them for a long time. SAMHSA wants to ensure that communities that meet Congressional eligibility requirements can apply .

STAC Business, Closing Discussion, and Comments

C: (Rex Lee Jim) I want to see the goals that came from this meeting with a timeline attached.

C: (Stacey Ecoffey) We will pull out follow-up issues, the meeting is recorded, and we will send a summary to you. At the next meeting we will focus on goals (which we intended to do this afternoon). The next meeting is set after the consultations for that reason. We will pull out talking points of the meeting to share with regional meetings.

The next STAC meeting is scheduled for June 4-5, 2014. Gloria O'Neill has a conflict, but her alternate Andy Teuber, can attend.

Vice President Jim asked committee members to send agenda items to Ms. Ecoffey.

Vice President Jim adjourned the meeting at 5:35 PM.