

BIA/Tribal Budget Advisory Council
Sheraton National, Arlington, VA
May 21, 2008

Strategic Planning (added to agenda).

Fawn Freeman and Leron Bielak, Office of Policy and Planning.

LeRon gave an update on the strategic planning process. The second strategic plan was just completed. Prior to that the plan consisted of separate documents for each bureau. The recent plan is an integrated plan that ran from 2002 to 2008. Every three years they are required to update and revise the plan. The second one culminated in December 2006. The next three year cycle is not far out – we’re midway through it now. The process has taken about 20 months to do and the time is now to begin the process. He advised the department that they’re due to start the planning process. LeRon has put forward a draft of what to do. There are some complications though. The major impact is the change of administrations. The fundamental question before the current admin is how much should the department due between now and November. There are a lot of things that could happen. The current administration is deciding how much to do, as the next administration may not do anything with what has already been done on the strategic plan. One choice is to do nothing and wait til the next administration. There are other steps that could be taken which may not be viewed by the next administration as ok. There could be an analysis of the current plan and see what has been working well and what has not and give that to the transition team. We could add factual updates. We could take those factual updates and say this is what could be revised in the next strategic plan. None of these decisions has been made. One other option is to seek public comment. We’re just a year into the current strategic plan. Would the comment be beneficial? The comments could be forwarded to the next administration. There is the problem of whether work done this year could be fruitless and not used. The decision will have to be made relatively soon. If the three year cycle ends December 2009, LeRon thinks the work might not be done. The secretary confirmation process takes a while too, and they are required to approve strategic plans. The process may be piecemeal. That would delay the strategic plan. It’s possible the confirmation could be fast. There have been issues with timeliness of the process. He has reminded the leadership that we need to be mindful of the criticisms tribes have made of the process. The first time in this process, folks thought this would be fairly easy to do. It took 22 months to finish the plan. The problem at the first time was that the stakeholder meetings were rushed and public comment time was rushed. The first public comment was on a blank slate. His advice is that we allow sufficient time for public comment to play itself out adequately. The last effort, he was impressed with the comments from the tribes. Several tribes were very well versed in the mechanics of developing outcome measures, strategic goals, and he saw many insights come in. He used many of those comments in the plan. To conclude, he can’t give a timeline at this point, but the general plan includes internal discussions and public comments to develop the plan. We are at the head of the process. He is always open to unsolicited comments.

Question: a tribal rep said he was involved in the first plan. IA said Indian Affairs should be included in the other categories instead of on its own. He asked why. LeRon response: The opinion was clearly divided. Having all the Indian measures and outcomes in one place had its advantages. The other side of the coin, we can see how IA could be involved in resource protection and use. The thinking was that the idea should be fleshed out. BIA component then becomes merged in with all the others. It was a

balancing question and in the end it tipped in the way of serving communities. LeRon agreed there's more of a limited view – resources are limited and it's important to focus on areas that would be the primary focus where things would be done. Perhaps the next administration has a different viewpoint.

Question: Hector Garcia said, in this process comes the public comment. He said this reminds him of jumping in the car with no destination. Given the trust responsibility, wouldn't it be appropriate to discuss the content and the trust responsibility sooner than later? LeRon response was that part of his recommendation was that they should do whatever analysis of what is working in terms of data collection and trends. Are there gaps in the plan that should be covered. How do we start ourselves in the process now given the change in administration. Hector emphasized that the tribes should be involved early. LeRon agreed. Not matter what the current administration decides, the next administration may not agree. We can put forward the opinion of the careerists and the next administration can take it or leave it.

Question: Ron Allen said when he evaluates the plan in relation to tribes' agenda with self-determination. It does not reflect the departments commitment based on these major pieces of legislation. We have ignored it as Indian Country. We need to talk to Leron very closely. We want to talk to you as you update it and pass it on to the next administration. Should there be a section just on Indian Affairs, or should each initiative or goal include Indian Country's agenda more explicitly. He is not sure, but it was evident to him that the plan needs to be much stronger with regard to Indian Affairs. If that is the road map for the Secretary, it needs to include the 562 Indian nations. The plan needs to be much stronger. Leron response: we understand the importance of SG and SD but it's difficult to measure the progress of those goals. Garcia said the needs and improvements in services, don't depend on parties or administrations. The needs are there. The data gathered should lead to a plan that is based on that. There are different ways to measure and report. How we balance all these competing interests is difficult.

Carryover Discussion:

At the tribal caucus, the tribes decided on what to spend the carryover on and also would like more justification on how the carryover already obligated was decided.

MJM: IT support it is expensive. MJM asked Sonny for the information.

JOM has already gone out to schools.

Data MGMT has money.

TCU Haskell has gone out

Western Shoshone has to go forward.

Other IT needs is the Microsoft exchange bill.

Mary Jane Miller says it seems fair to spread it across every tribe in TPA. Some tribes will get less than a dollar. The scholarship money didn't go very far. \$1000 was the cutoff. Mary Jane Miller said spreading it across TPA may leave \$4 million unobligated.

Question from tribal rep: it's the lack of inclusion in the process early on. He asked how far behind our IT is. Carl Artman said our IT budget is much smaller than most other federal agencies and businesses.

Six years have gone by since we've been on the internet. MJM said she's not a CIO, but when she came here, all the computers and printers were all 5-6 years old. Sonny was appalled when he arrived at DOI. Security has to reprogram all sorts of things. We need a brief from Sonny on how the IT money is being spent.

Ron Allen: he commented that spending the carryover on TPA versus putting it in other initiatives that may have an impact is a good argument. On the other hand, our TPA base budget just keeps getting eroded year after year. It doesn't matter if it happens to be rescissions or sweeping off the top for IT, TPA keeps getting smaller and eroded. Every time we make a pitch based on inflation, it falls on deaf ears. We keep losing ground. If we put it back in the base budget, we will fight back against this losing game. This is a steep hill we're climbing. Even if it's a dollar back in TPA, we have to fight the fight, even though that \$4 million could make a huge impact for one program alone instead of having it in the TPA base. We're not objecting to IT funding, but it shouldn't have affected TPA. Tribal rep agreed with Ron. She emphasized seeing justification for carryover spent.

A tribal representative commented that the internet connection – we're spending a lot of money to reconnect, how much does that cost so much? Carl Artman said the BIA is a modern corporation and there are a lot of changes to make. 6 years ago, Google didn't even exist. There are security enhancements that need to be made. CIA has found more intrusions from China, North Korea and Russia. They have attempted to break into DOI. BIA needs to secure these connections.

Mary Jane Miller clarified: the money would go directly to the tribal base TPA, none at the agencies. Self-governance will get a lump, and the rest will go out to the tribal TPA. Navajo had a concern. There's a distribution for all the tribes. Is there a difference in distribution for self-governance and direct service. Mary Jane Miller said she needs to talk to her analyst. She said there's already \$4.3 million already sitting with the agencies.

Mary Jane Miller said she can do this. When it's issued, the regions have to act on it and get it out. The regional directors have to do this as well.

Ron Allen said it can be done. The first question is will it make a difference. It's not an easy question. But our role is as an advisory council. This council was established to reach out to Indian Country. We've been learning how the system works. We are an advisory council. The challenge and key is to be respectful. Mary Jane Miller processes instructions. The tribal recommendation has been made. Lately, our recommendations took her advice to fund specific tribal projects. Now are concern is that we move it out to the tribes. We shouldn't spend a lot of time re-visiting this. In the end, it's DOI and BIA's call.

Mary Jane Miller asked, what if she did issue one TPA line to each region, and that region coordinates with the tribes on where they would like to put it. There could be a chart showing how much tribes should get. Regional directors will have some work to do as they will have to work with the tribes. In 1995, Rick Gay said, that's how the TPA increase was handled.

Fixed Costs Issue

Mary Jane Miller said we could put an amount in the over target under advancing self-determination. We'd get it on the table and see how they might react to it, if you don't want to put it into contract support. **Mary Jane Miller suggested the budget subcommittee, prior to submitting this to OMB, address**

this with OMB. That way the subcommittee can hear directly OMB's argument. Ron Allen agreed it would be a good.

Modernization Update

Majel Russell said the idea of modernization is to talk about how to improve the services of BIA given budget constraints. The effort started in last September. BIA traveled to every region to have dialogue. Certain topics were addressed: attrition of staff, self-governance (how to make it more attractive), education, law enforcement, economic development, and land management. After those sessions, there was a national meeting in Washington, DC. There is a Modernization Advisory Council. The DOI named a federal team and a similar structure to the TBAC, which is an umbrella group. The first meeting was in Denver on March 17th. The tribes narrowed down the focus areas. Those areas were: Indian Land workgroup (management of Indian land and trust resources), law enforcement (including detention), self-governance and 638 contracting (how to make it more attractive), education, BIE staffing and services. Also at the Denver meeting, the TMAC identified immediate action items.

Indian Lands Group:

- consideration of appraisal waivers for certain types of land transactions.
 - There have been many problems with appraisal delivery
 - Look at every place where BIA is required to obtain appraisals and see if there are places where the appraisal can be waived.
 - BIA will look into the regulatory changes
- Reconsideration of BIA policy to discontinue will drafting and wills
 - Due to liability, BIA would no longer draft or store wills recently
 - This move was very unpopular
 - A lack of wills perpetuates the fractionation problem
 - We need to help draft wills, not stop drafting wills.
 - Artman and Majel are working to fund will drafting services
 - They are talking with contractors and looking at templates
 - If TBAC has ideas to move this effort along, send to her
- Determine a specific contact on the status of fee to trust applications
 - There have been many complaints about this.
 - BIA feels the focus on fee to trust has been successful
 - Vicki Forrest is primary contact
 - Need to figure out what apps are pending

These three areas are the ones that immediate action can be taken.

These action items were identified by the tribes. Majel said this is to be fully tribally driven.

Comment that we need to hear from tribes on appraisal waivers and gift deeds. That is a discussion that needs to occur.

Another meeting was at Gathering on fractionation held with ITMA. There were numerous presentations, including the scope of the fractionation problem by Robert Yager. The Rosebud reservation effort was

discussed. We're aware of the concern from tribes that this is a DOI problem started by the allotment process. We need to be creative about solutions that will work for tribes. ILCA was a solution. This time around we need to work with tribes to develop concepts and ideas. Even though it's a DOI problem, it's also a tribal problem. Even though there was a lot of discussion, there are not enough solutions developed.

Law Enforcement Action Items

- Consideration of accepting state academy training and DOJ coursework
 - This was about getting people trained as quickly as possible
 - Training was an issue in getting cops on the street
 - Artman signed an agreement with one tribe and this is a viable option
- (less well received) consideration of returning administrative authority to the regional and agency level
 - Comments over and over were heard that they didn't like centralization of law enforcement services
 - Tribes wanted local control
 - Tribes will have to do some work to justify this idea on how it would be effective
 - The administration is not feeling that it is a good idea to turn over control to the regional and local level
- Explore the possibility of developing MOUs with the bureau of prisons to address long term detention needs
 - Move long term prisoners to BOP
- Roll out of facilities study
 - Ragsdale and Rever will go over this in the next presentation

Tribal comment at TBAC was that BIA is not working with IHS for medical screening. Police have to travel long distances for medical screenings if the IHS clinic is closed down. An agreement should be worked out so 24 hours a day a screening can be done.

Self-governance and 638 contracting Action Items

- Requested a statement from BIA that 638 contracts do not violate treaties with tribes or the trust responsibility.
 - This would go to the solicitors office.
 - The request has been received.
- Recalculate cost shares in the lower 48 in the same way as Alaska
 - There has not been much discussion yet
- Standardize or clarify inherent federal function

Question about how the TBAC and TMAC are going to work together? How will modernization continue during and after the transition to the new administration. Majel said we need to have good ongoing reports and summaries of these. Tribal organizations have hosted these meetings – NCAI, ITMA, CERT, IAC, and others. Tribal organizations have endorsed this and we are confident that it will

make sure the effort will continue. Majel talked to DOI and senior managers and there is endorsement of continuing this effort. The tribes were reluctant but Majel says the sixth floor (Kempthorne, Scarlett, Cason, Kempthorne's staff) wishes to continue this. Gloria O'Neill said it needs to have a grassroots effort. Also Majel said there are many career people invested in this effort.

Next Meeting:

- Hosted by Council of Large Land Based Tribes, which will focus on land management. June 24, 25 at Crow Agency, Montana during the Crow Native Days
- Discussion on law enforcement issues as well, but the meeting date and location is not set.

Comment: BIA's policy for juveniles. MJM said there is money put in FY07 for juvenile detention education. BIA tried to increase this funding in 08 and 09. Jackie ____ at BIA 202-208-6983. Pat Ragsdale said they are working on implementing this.

Majel said so far this has been held at the national level. There is discussion about holding also regional meetings. There needs to be an education discussion. It would occur naturally with NIEA. Also talked about range and leasing issues and having a meeting focused on proposed regulations. This effort will be as successful as the tribes want it to be. Immediate action items has been effective.

Carl Artman said his fear is that modernization would end with the new administration.

Justice Services Issues

Pat Ragsdale introduced his staff, Laura Naranjo, Jeannine Brooks, etc.

He gave a status report on justice services in Indian Country. The basic responsibility of law enforcement outside of PL 280 states.

A reform movement is on the horizon. The Senate Committee on Indian Affairs will introduce a bill in the next month or so. Many of the tribal leaders will be invited to testify on. Pat pointed out that the front line of providing justice services is the tribes and DOI. We have the responsibility to provide this service.

We have a very high violent crime rate, ranging from 32 times the national average to 16 to 6 to 5. Some communities provide excellent public safety services on their own. Many tribes don't have the resources to do this.

He suggested there needs to be more jobs. In the 60s, the BIA had a program to put people to work. If you have an idle population, there will be more crime. Secretary Kempthorne wanted us to address the problem of drugs. The focus of these drug agents is to keep drug cartels out of Indian Country. Pat wants to bring 200 more officers this year and next year. BIA has streamlined the background check process. He mentioned training: he encourages all tribes to send candidates and applicants to the National Indian Police Academy. There's a high dropout rate. One of the criticisms is that we don't provide enough training for the types of crimes we have on the reservation. He invited people to go to the academy. The basic police training includes 105 hours focused on domestic violence and sex crimes. Graduates are certified to be federal police officers.

The detention report is still not available. The executive branch has still not approved the report. Hopefully it will be available soon. The assessment presents a true picture of where we are today, he said.

On appropriations: committees are very curious about how the money is being used.

This bill that will be introduced looks to be a very comprehensive bill. It will try to attempt to increase appropriations. He asked us to keep the men and women in law enforcement in our prayers.

Question: Hope McDonald Lonetree asked about the recommendations of the IG report on detention. One recommendation was to collaborate with DOJ on constructing new facilities. Pat Ragsdale said about 10 recommendations are still in focus but not implemented yet. It is a good blueprint. It's a resource issue. Also, there is no new construction money for detention. There is some planning money, some improvement money. There is no request for new construction money. Pat has had discussions with the Bureau of Prisons and the Office of Justice Services at DOJ about how to better coordinate. There are some big policy decisions to make though. We have to step back and see how we can get the most services for the dollars we invest. Navajo requested that TBAC get a report on the recommendations from Neither Safe, Nor Secure. Second item: what is the status of the detention report and what role that will play in the appropriations process.

Pat Ragsdale will provide it to Joe Garcia.

The Shedner? Report on detention.

Comment from Rick Gay said one of the ESLEC process should be streamlined and should be added to the immediate action item list of modernization.

NEW BUSINESS

Requesting 5 year summary of TPA as action item for next meeting.

Midwest region stated they're opposed to the FY2010 budget. Midwest would also like OST included in this consultation process. Midwest opposes the OST FY2010 budget.

TBAC would like organizational charts of Indian Affairs.

Agenda items for August TBAC

- improved process for dealing with carryover
- Strategic planning involvement
- Transition issues
- Budget for FY2010 (MJM said not much will change except fixed costs if that goes through to the overtarget)
- Update for fixed costs
- Strategy for tribes budget priorities for the next administration. We need a one pager. MJM has a chart of OIP budget. The transition team is starting now.
- Update on fractionization issue

Request from tribal caucus on the credit program.

Dates for March, May 09 dates for TBAC will be set via email communication with the TBAC.