

**STATEMENT OF GEORGE T. SKIBINE
ACTING DEPUTY ASSISTANT SECRETARY – INDIAN AFFAIRS
DEPARTMENT OF THE INTERIOR
AT THE OVERSIGHT HEARING
ON TRIBAL SELF-GOVERNANCE
BEFORE THE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**

SEPTEMBER 20, 2006

Good morning Mr. Chairman, Mr. Vice-Chairman, and members of the Committee. My name is George T. Skibine, and I am acting Deputy Assistant Secretary Indian Affairs – Policy and Economic Development at the Department of the Interior (Department). I am pleased to appear before you this morning to present testimony on Tribal Self-Governance.

In 1988, Congress amended the Indian Self-Determination and Education Assistance Act (the Act) by adding Title III, which authorized the Bureau of Indian Affairs (BIA) and Indian Health Service (IHS) to enter into self-governance compacts for the first time under a demonstration project. Congress again amended the Act in 1994, adding Title IV, which established the permanent Tribal Self-Governance program within the Department. The 1994 amendments authorized federally recognized tribes to negotiate funding agreements with the Department for programs, services, functions or activities administered by the Bureau of Indian Affairs (BIA), and in certain circumstances, with other Bureaus of the Department. In 2000, the Act was again amended to include Titles V, which established permanent self-governance authority for the IHS within the Department of Health and Human Services. The 2000 amendments also included a new Title VI that provided for a study to determine the feasibility of conducting a Self-Governance Demonstration Project in other programs of the Department of Health and Human Services, which has since been completed.

The Department strongly supports self-governance as an exercise of tribal sovereignty and self-determination. Tribal self-governance is a framework for progress because it empowers tribes to prioritize their needs and plan their futures at their own pace, consistent with their own distinct cultures, traditions, and institutions. Many tribes have made this choice, which is demonstrated by the fact that in 2006, the BIA has 91 funding agreements providing services to 231 tribes,¹ for a total of \$300 million, which is a significant increase from a total of \$27 million for the funding agreements with seven tribes made in 1991,² the year the program began.

¹ By BIA region, the number of funding agreements is as follows: Alaska, 26; Eastern, 1; Eastern Oklahoma, 11; Midwest, 9; Northwest, 20; Rocky Mountain, 1; Southern Plains, 8; Southwest, 1; Western, 6; Pacific, 8. Neither the Navajo Region nor the Great Plains Region has self-governance funding agreements.

² The seven tribes that signed funding agreements in 1991 are the Absentee Shawnee Tribe of Oklahoma, Cherokee Nation, Hoopa Valley Tribe, Jamestown S’Kallam Tribe, Lummi Nation, Mille Lacs Band of Ojibwe, and the Quinault Indian Nation.

In addition to administering BIA programs, tribes have successfully negotiated funding agreements with the following agencies within the Department: the Bureau of Land Management,³ the Bureau of Reclamation,⁴ the National Park Service,⁵ the U.S. Fish and Wildlife Service,⁶ and the Office of the Special Trustee for American Indians.⁷ Tribes are typically successful in obtaining these agreements where a compacted program is of special geographical, cultural, or historical significance to them, such as the agreement between the U.S. Fish and Wildlife Service and the Council of Athabaskan Tribal Governments (Council). This agreement allowed the Council to perform certain functions within the Yukon Flats National Wildlife Refuge, an area of special significance to it, during FY 2004-2005.

As to non-Department programs, we understand that questions have been raised as to whether our self-governance policies should be made more consistent with the self-governance provisions governing IHS programs. In fact, the Department has been working with the Title IV Tribal Task Force to explore the need for amendments to Title IV. At this time, the approach embodied in the self-governance provisions applicable to Department programs should be evaluated carefully.

At the Department, Tribal Self-Governance for BIA programs is administered by the Office of Self-Governance (OSG) in Washington, D.C. The OSG has eight permanent staff positions and operates annually on a budget of \$1.1 million, and was organized so as not to duplicate BIA field structure and operations. The OSG Director reports to the Deputy Assistant Secretary – Policy and Economic Development within the Office of the Assistant Secretary – Indian Affairs. The responsibilities of the OSG include approving tribes to participate in self-governance; negotiating annual funding agreements; ensuring audit compliance; providing financial management, budgeting, and accounting services associated with self-governance funding; processing waivers of BIA regulations; preparing an annual report to Congress on the costs and benefits of self-governance; and developing and implementing regulations, policies and guidance regarding self-governance programs. In addition, we support the activities of the Self-Governance Communication and Education Tribal Consortium, and the Assistant Secretary – Indian Affairs holds quarterly meetings with the Self-Governance Advisory Committee to discuss and resolve issues of mutual interest and concern.

One issue of recurring concern among compacting and contracting tribes has been contract support costs. The Department recently participated in the formulation of a

³ Council of Athabaskan Tribal Governments.

⁴ Gila River Indian Community, Karuk Tribe of California, Duckwater Shoshone Tribe, and the Yurok Tribe.

⁵ The Grand Portage Band of Lake Superior Chippewa Indians, Lower Elwha S'Klallam Tribe, Tanana Chiefs Conference, and Yurok Tribe.

⁶ Council of Athabaskan Tribal Governments and the Confederated Salish and Kootenai Tribes of the Flathead Reservation.

⁷ Confederated Salish and Kootenai Tribes of the Flathead Reservation, and the Wyandotte Tribe of Oklahoma.

national policy in order to provide tribes, the BIA, and the OSG with guidance regarding this issue. The goals of the policy are threefold: 1) to stabilize funding to each tribe from year to year; 2) to expedite payment for each tribe; and 3) to respect the Act's prohibition against reducing contract amounts from one year to the next. The policy accomplishes these goals by requiring that, subject to appropriations, a tribe be paid the same amount it was paid in the preceding year.. The policy allows the payment to be made very early in the fiscal year, and the only restriction is that the BIA must ensure the tribe does not receive more than 100% of its total requirements. The completion of this policy certainly represents forward progress in the area of self-governance, and we believe that it will significantly improve administrative flexibility and fiscal stability for tribes with funding agreements. To implement the funding aspect of this policy, the President's 2007 Budget included a 14% increase for contract support costs.

The Department believes the national policy on contract support costs will encourage non-participating tribes to think about exercising their option to take over BIA programs or portions of programs to promote self-governance on their reservations. For the last few years, the percentage of participating tribes has remained relatively flat, at about 50 percent. The Department would like to get the percentage up and in BIA discussions with tribes, tribes have indicated that they would increase their overall participation if the issue of contract support cost funding was resolved.

The Department looks forward to working with the Committee in order to make continued progress in Tribal Self-Governance. I would be happy to answer any questions the Committee may have.