

**U.S. Department of the Interior  
Office of Self-Governance - Indian Affairs  
Self-Governance PROGRESS Act Negotiated Rulemaking Committee**



**MEETING MINUTES**

Designated Federal Officer (DFO)—Vickie Hanvey

DATE:	<b>March 14, 2024</b>
Federal Register Notice:	FRN 2024-04196
Meeting Number:	14
DFO Convened at:	1:04 p.m. ET
DFO Adjourned at:	2:44 p.m. ET
Location:	Virtual Meeting via Zoom Link (Managed by Self-Governance Communication and Education Tribal Consortium) Broadcast via Federal Register Zoom (Public Access)
Designated Notetaker:	Regina Gilbert, ADFO, RACA
Facilitation:	None

In accordance with the provisions of Federal Advisory Committee Act (Public Law 92-463, as amended), the meeting was open to the public.

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**CONSENSUS AGREEMENTS SUMMARY:**

The Self-Governance PROGRESS Act Negotiated Rulemaking Committee (the “Committee”) reached consensus on the following during the meeting:

1. Table the Committee’s February 29, 2024, plenary session meeting minutes until the next plenary meeting.
2. Approval of the revised naming and structuring of the subparts pending BTFA agreement of removing ‘Review’ from Subpart O.
3. Approval of the scheduled meetings as presented.

**OPENING:**

The meeting was convened by Designated Federal Officer (DFO) Vickie Hanvey at 1:04 p.m. ET.

**BLESSING:**

Chairman Attebery offered the blessing.

**ATTENDANCE:**

DFO Hanvey took a roll call of the primary and alternate Committee members, finding that a quorum was in attendance and that the meeting could proceed. See **Appendix A** for a list of all attendees.

Committee Attendance		
	Present	Absent
Tribal Primary Members	5	2
Federal Primary Members*	4	1
<b>Total Primary Attendance</b>	<b>9</b>	<b>3</b>
Tribal Alternate Members*	3	3
Federal Alternate Members	5	1
<b>Total Alternate Attendance</b>	<b>8</b>	<b>4</b>
* One Vacancy		

**ADMINISTRATIVE UPDATES AND DISCUSSIONS:****Review of February 29, 2024, Plenary Session #13 Meeting Minutes:**

DFO Hanvey requested the meeting minutes be tabled until she could confer with others and obtain the transcript. Ron Allen made a motion to table the minutes until the next plenary meeting and the motion was seconded by Sharee Freeman.

**Consensus on the motion was tested by DFO Hanvey, with no Committee members objecting. Accordingly, a consensus was reached to table the February 29, 2024 minutes until the next plenary meeting.**

**Charter Extension and Committee Membership Extensions:**

DFO Hanvey requested ADFO Gilbert provide a status report that the Charter extension and the Membership extensions. Checked with the Executive Secretary's office on the status of both the charter and appointment letters and they are still waiting for the Secretary's signature. They had reassured her they understand the importance of having these items signed. Both should be taken care of in the next few weeks.

**REVIEW OF DRAFTING SUBCOMMITTEE WORK:****Restructure of the Subparts:**

DFO Hanvey presented the restructuring of the subparts on the screen with the cross walk of current to new subparts. She provided a brief overview. The Committee had discussed during the last meeting of 2/29/2024. Left column is the existing regulations. Federal team made proposed changes in middle column. The tribal team provided a counter of edits in right column. The federal team accepted the edits. However, during further discussion with the small group of the drafting subcommittee there was some fine-tuning identified. The full drafting subcommittee went through today to review and verify. A copy of the cross walk is provided in Appendix B.

Subpart A – General Provisions

Subpart B – Selection of Additional Tribes for Participation in Tribal Self-Governance

Subpart C – Planning and Negotiation Grants for BIA Programs

Subpart D – Financial Assistance for Planning and Negotiating Activities for Non-BIA Programs  
Subpart E – Compacts  
Subpart F – Funding Agreements for BIA Programs  
Subpart G – Funding Agreements for Non-BIA Programs  
Subpart H – Negotiation Process  
Subpart I – Final Offer  
Subpart J – Waiver of Regulations  
Subpart K – Construction  
Subpart L – Federal Tort Claims  
Subpart M – Reassumption  
Subpart N – Retrocession  
Subpart O – Trust Evaluation – need to confirm with BTFA staff. The proposal is to change the name to just Trust Evaluation, instead of Trust Evaluation Review. Prior to finalizing. The federal team is in agreement with that for now.  
Subpart P – Reports  
Subpart Q – Operational Provisions  
Subpart R – Appeals  
Subpart S – Conflicts of Interest  
Subpart T – Tribal Consultation Process  
Appendix A – has been stricken as there will be no Appendix A as that was in reference to the Model Compact. The Committee decided that there will be no model compact in the regulation; that was a consensus item.

DFO Hanvey at this time asked for a motion to approve with the exception of the outstanding item for the Federal team to confer that BTFA is in agreement with deleting 'Review' from Subpart O. Any comments or questions? If not, ask for a motion to approve.

Melanie Fourkiller moved to approve the subparts and titles, pending BTFA review of removing 'Review' from Subpart O, seconded by Richard Peterson.

**Consensus on the motion was tested by DFO Hanvey, with no Committee members objecting. Accordingly, a consensus was reached to approve the revised naming and structuring of the subparts pending BTFA agreement of removing 'Review' from Subpart O.**

DFO Hanvey shared the updated document just before this meeting. She requested that as the Committee moves forward with the drafting team, please utilize what has been approved by the Committee within the committee report, the combined consensus document and any other correspondence to be used moving forward. It would also be helpful to the reader to utilize a cross walk of the current and new subparts.

## **REVIEW OF TIMELINE AND MEETING SCHEDULE:**

### **Broad Overview of Upcoming Steps**

DFO Hanvey, stated that the last couple of weeks, and primarily this week, everyone from the Federal and Tribal team, in the drafting subcommittee, has been working long evenings and

diligently trying to move this forward. I just want to thank everyone for your hard work on the following documents.

Matrix Document: Primarily ADFO Gilbert and Matt Jaffe are working on a matrix document that has the subparts and numbering scheme, everyone has worked very diligently on that, and it is in the process of being finalized for review.

Combined Consensus Document: In addition, we are working on the combined consensus document, which is all of the subparts in a combined document. I would like to thank Matt Jaffe for pulling that document together for the rest of the team to go through and review their various sections and assignments within that document. We've been working as a group to go through all the subparts.

Committee Report: In addition to that, Sam and Meghan have been working diligently on pulling together the Committee Report. I know Sam had to step away for just a moment, I'll see if he is back on.

While waiting for Sam to rejoin the meeting, DFO Hanvey reviewed the following dates under discussion.

- March 20, 2024: Sam Kohn agreed to complete the draft Committee Report by this date which provides the Tribal team some time to review before the full subcommittee.
- March 27 and 28, 2024: The Drafting Subcommittee is scheduled to meet these two dates from 1:00 to 5:00 p.m. E.T. to discuss the draft documents.
- April 2, 2024: Falls on Tuesday. We have been working on an emergency Federal Register notice to get that date established for us to approve the committee report. Be sure the committee has agreed to the combined consensus documents, and basically to clean up and finalize the drafting work of the Committee.

DFO Hanvey clarified that the Committee Report has to be approved by the full Committee. It is submitted to the DFO, which is actually up through the Department.

Ron Allen thought it would be helpful, before we are done to get those steps and schedule, that you just articulated Vickie outlined for the record. Make sure we are all clear and that we approve that schedule.

DFO Hanvey clarified that she updated the schedule document and prepared to approve later in the agenda. At this time DFO Hanvey requested Sam Kohn to discuss the drafting of the Committee report.

Sam Kohn stated that our goal in preparing the report on this schedule is to have committee approval on the report at our next meeting on April 2nd at which point the Secretary's office will turn to the preparation of the preamble for the rule. The preparation of the preamble will be informed directly by the contents of the report. The contents of the report will be comprised of a statement of each of the subparts, as well as the Federal position on those subparts for which there was consensus and places where we did not reach consensus. And a Tribal statement on those parts where we reached consensus and those areas where we did not reach consensus. I think the purpose of this document is to indicate the consensus and collaboration process that we've entered into here that we have reached some degree of agreement and in an agreement that we can all live with, even if it may be not our ideal text of the proposed rule or proposed subpart in questions. So, at this point the Federal team has the, let's say the skeleton of that

document assembled. We have a working outline, and we are nearing a point where we can drop in all of the parts and narratives from the Federal team. It would be helpful for the Federal team to see any narrative or components of tribal disagreements that would be helpful to add into that draft. Of course, whether those are shared or not, we'll be able to turn over a draft to the subcommittee by Wednesday of next week in advance of our next meeting. I'm happy to answer any questions that members of the Committee may have but that's our outlook on the report in the next two weeks here.

Ron Allen asked if Sam was able to give us a sense of who's going to be in the meeting briefing the Secretary regarding her final decision what goes in the report and what goes into the preamble. I want to make sure that at least, Melanie and I as Co-Chairs could be in the room when that discussion is taking place. So that if we don't agree with how it's being presented that we have the opportunity to share that with the Secretary. Typically, you can correct me if I'm wrong, we know that Brian and you will probably be in the room, and we don't know who else. We don't know who will be advising the Secretary, whether it's her Chief of Staff or other advisors within the Department. And so that would happen, we don't know when that will happen. But is there any reason why we can't have representation when that, when those briefs are taking place. I know that the decision won't be made at that point. It's just the presentation of the decision that she has to make and making sure that it's being presented in a fair fashion.

Sam Kohn stated he understood Ron to be asking who will be in the meeting presenting the views comprised or contained in the report to the Secretary and whether there's a space for Tribal participation in that meeting. I think in that meeting Chairman, I couldn't tell you who will be in the meeting. I can only say it will be, and I say that cause of shifting schedules with our entire hallway in the next two weeks. I can only give you a firm commitment and will be political leadership from the Office of the Assistant Secretary for Indian Affairs that maybe Assistant Secretary Newland, Principal Deputy Assistant Secretary Garriott, Deputy Assistant Secretary Isom-Clause, and depending on their judgment that may include Senior Counselors to the team, myself and Senior Counselor Bishop. I would say that the likelihood of Tribal participation in a meeting like that is an unknown to me. I think we will have, I think there will be a certainly a space for a meeting between the Secretaries team and Tribes, but in terms of our briefings upward on proposed regulations, to my knowledge those have been only between the Assistant Secretary's team and the Secretaries team. That said, most of those have been direct only Federal rules not negotiated rules. So, I don't know the answer to that question off the top of my head Chairman, but I give you a commitment I will ask and get you an answer back as quickly as I can.

**Tribal Caucus Listing of Non-Consensus Draft Regulatory Provisions (dated 3/14/24):**

DFO Harvey stated it was her understanding that the Tribal team had expressed some areas that that were of concern to the Tribes and wanted to be sure was covered in the report. She asked if the Tribal team would like to do that now, and if so, give an opportunity to do so.

Ron Allen, acknowledged plans to ask Matt Jaffe to walk down the list of all the disagreements and how we got to consensus. Right now, I think Vickie's asking about the first one where we clearly have disagreements in the record as to where we are right now. Am that correct Melanie?

Melanie Fourkiller replied that they would like to have further discussion on the preamble as well as those items of disagreement which have now become one list of items of disagreement. As well as go through that for the record today. That doesn't mean between now and the 1st of April that any number of those could be resolved. But if not, they would go into the report as items of disagreement.

Ron Allen then turned the floor to Matt Jaffe to walk through a summary document that he had drafted to reflect the current Tribal position.

Matt Jaffe thanked the Tribal and Federal negotiators and acknowledged on behalf of the Tribal drafters and certainly the Tribal representatives, the considerable compromises that the Tribal and Federal negotiators to the PROGRESS Act Negotiated Rulemaking Committee have made over the course of the more than 18 months since the Committee first convened in late August 2022, to overhaul the Part 1000 regulations consistent with the PROGRESS Act. However, an acknowledgement of the Tribal representatives' position in the Committee report to DFO, both consensus and non-consensus provisions. It was important for the Tribal representatives to reflect in the plenary session today, the current state of issues that are in disagreement. Matt shared a document on the screen for discussion.

At this point, DFO Hanvey requested pardon for interrupting before the discussion continued. She asked if the particular document on the screen had been emailed to either herself or ADFO Gilbert. Matt indicated that the document had just been vetted and cleared that morning by the Tribal caucus and that it could certainly be provided. DFO Hanvey requested that the document be emailed to her and the ADFO Gilbert so that it would become part of the Committee record. The document was provided to the DFO and ADFO within a matter of minutes.

Matt Jaffe continued to review the Tribal Caucus Listing of Non-Consensus Draft Regulatory Provisions to the proposed Part 1000 Subparts dated March 14, 2024. Upon conclusion, Matt stated that he wanted to underscore the broad agreement that the Tribal representatives to the PROGRESS Act negotiated rulemaking committee have reached with the federal negotiators. But this is put forth with the goal of presenting with clarity the tribal disagreement issues in the hopes that the remaining discussions by subcommittee of the PROGRESS Act subcommittee might resolve some of these issues prior to the next plenary session.

Ron Allen made a motion to include the Tribal document into the record and Melanie Fourkiller seconded the motion. Upon discussion and a brief caucus from 2:05 to 2:32 p.m. E.T., it was clarified that any documents provided to the DFO become part of the official record of the Committee. The Federal caucus indicated that it was their position that the document having been provided to the DFO and ADFO that it is now formally part of the Committee records and no motion is necessary. Ron Allen stated that as long as it was part of the official record that he was good with it. He then withdrew his motion.

DFO Hanvey confirmed to the Committee receipt of the document. She has also provided this document as an attachment to the minutes which will be posted to the Committee website.

#### **REVIEW OF TIMELINE AND MEETING SCHEDULE:**

DFO Hanvey reviewed the upcoming meeting schedule as discussed.

Committee & Subcommittee Schedule						
		DOI HYBRID In-person (changed to virtual only)		(Virtual)		DOI (Virtual)
		FRN 2024-04196		NA		FRN In process
S						S
M	3/11	SubCommittee 1pm to 5pm ET				M
T	3/12	SubCommittee 1pm to 5pm ET			4/2 Full Committee 1-5pm ET Virtual	T
W	3/13	SubCommittee 1pm to 5pm ET	3/27	SubCommittee 1pm to 5pm ET		W
Th	3/14	1/2 Day Subcommittee Full Committee 1-5pm Virtual	3/28	SubCommittee 1pm to 5pm ET		Th
F	3/15	SubCommittee 9am to 12pm				F

Ron Allen made a motion to approve the schedule as discussed and Sharee Freeman seconded the motion.

**Consensus on the motion was tested by DFO Hanvey, with no Committee members objecting. Accordingly, a consensus was reached to approve the scheduled meetings as presented.**

#### OTHER MATTERS TO BE DISCUSSED:

None raised.

#### PUBLIC COMMENT:

Beginning at 2:38 p.m. E.T., members of the public were given an opportunity to comment via Zoom link or by calling in by telephone by DFO Hanvey. No members of the public were present in person and no members of the public had logged into the Zoom link. She reminded everyone that members of the public may also submit written comments to the Committee. The comment period was closed at 2:40 p.m. E.T., after once again confirming that no members of the public were logged into the Zoom link.

#### ADJOURNMENT:

Ron Allen made a motion to adjourn and was seconded by Sharee Freeman.

**Consensus on the motion was tested by DFO Hanvey, with no Committee members objecting. Accordingly, a consensus was reached to adjourn the meeting.**

DFO Hanvey adjourned the meeting at 2:44 p.m. E.T.

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**CERTIFICATION**

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.



4/10/2024

Sharee Freeman,

Director Office of Self-Governance, Assistant Secretary – Indian Affairs.

Chair, Self-Governance PROGRESS Act Negotiated Rulemaking Committee

These minutes will be formally considered by the Committee at its next meeting, and any corrections or notations will be incorporated in the minutes of that meeting.

**Attachments**

Appendix A- Attendees

Appendix B- Part 1000 Subpart Structure Crosswalk

Tribal Caucus Listing of Non-Consensus Draft Regulatory Provisions (dated 3/14/24):

**Attachments (to be posted to the website <https://www.bia.gov/service/progress-act> )**

**Designated Federal Officers (DFOs) Present**

Vickie Hanvey, DFO

Regina Gilbert, ADFO

**Members of the Public 25**



## Appendix A—Attendees

Present	TRIBAL REPRESENTATIVES	
	PRIMARY Tribal Representatives	
	Name	Affiliation
✓	W. Ron Allen	Chairman/CEO Jamestown S’Klallan Tribe
	Melanie Benjamin	Chief Executive Mille Lacs Band of Ojibwe
✓	Richard Peterson (joined later)	President Central Council Tlingit and Haida Indian Tribes of Alaska
✓	Michael Dolson	Councilman The Confederated Salish and Kootenai Tribes of the Flathead Nation
✓	Melanie Fourkiller	Director of Self-Governance Choctaw Nation of Oklahoma
✓	Russel (Buster) Attebery (joined later)	Chairman Karuk Tribe
	Karen Fierro	Self-Governance Director Ak-Chin Indian Community
Present	ALTERNATE Tribal Representatives	
	PRIMARY Federal Representatives	
	Name	Affiliation
	Vacant (Sandra Sampson)	Board Treasurer Confederated Tribes of the Umatilla Indian Reservation
✓	Jennifer Webster	Councilwoman Oneida Nation
✓	Gerry Hope	Transportation Director, Former Tribal Leader Sitka Tribe of Alaska
	Jody LaMere	Councilwoman Chippewa Cree Tribe of the Rocky Boy’s Reservation
	Lana Butler	Secretary Sac and Fox Nation
✓	Will Micklin	Second Vice President Central Council Tlingit and Haida Indian Tribes of Alaska
	Annette Bryan	Council Member Puyallup Tribes of Indians
Present	FEDERAL REPRESENTATIVES	
	PRIMARY Federal Representatives	
	Name	Affiliation
✓	Sharee Feeman	Director Office of Self-Governance, AS-IA
	Jody H. Schwarz	Attorney-Advisor Branch of Self-Governance and Economic Development, Office of the Solicitor
✓	Kelly Titensor (joined later)	Native American Affairs Advisor Bureau of Reclamation
✓	Byron Loosle	Division Chief National Conservation Lands, Bureau of Land and Minerals Management.
✓	Scott Aikin	National Native American Programs Coordinator U.S. Fish and Wildlife Service Head Quarters.
	Vacant (Rose Petoskey)	Senior Counselor to AS-IA Office of the Assistant Secretary—Indian Affairs.
Present	ALTERNATE Federal Representatives	
	PRIMARY Federal Representatives	
	Name	Affiliation
✓	Matt Kallappa	Northwest Field Office Manager Office of Self-Governance, AS-IA
✓	Andrew Caulum	Attorney-Advisor Branch of Self-Governance and Economic Development, Office of the Solicitor
✓	Nathalie Washington	Native American Affairs Advisor Bureau of Reclamation
	Nicole Hanna	Tribal Liaison Bureau of Land and Minerals Management.
✓	Dorothy FireCloud	Native American Affairs Liaison National Park Service
✓	Samuel Kohn	Senior Counselor to ASIA Office of the Assistant Secretary—Indian Affairs.

## Appendix B

					DISCUSSION PURPOSES ONLY Status as of 2/29/24 (Edited 3/14/24) DFO Hanvey
PROGRESS Act Negotiated Rulemaking Committee					
E X I S T I N G	N E W	Current Subparts		Proposed New Subparts	
		Subpart	Title	Subpart	Title
1		1 Subpart A	General Provisions	Subpart A	General Provisions
2		2 Subpart B	Selection of Additional Tribes for Participation in Tribal Self-Governance	Subpart B	Selection of Additional Tribes for Participation in Tribal Self-Governance
3		3 Subpart C	Section 402(d) Planning and Negotiation Grants	Subpart C	Planning and Negotiation Grants for BIA Programs
4		4 Subpart D	Other Financial Assistance for Planning and Negotiations Grants for Non-BIA Programs	Subpart D	Financial Assistance for Planning and Negotiating Activities for Non-BIA Programs
5		5 Subpart E	Annual Funding Agreements for Bureau of Indian Affairs Programs	Subpart E	G 2—(Renamed: <b>Compacts</b> )
6		6 Subpart F	Non-BIA Annual Self-Governance Compacts and Funding Agreements	Subpart F	Funding Agreements for BIA Programs
7		Subpart G	Negotiation Process for Annual Funding Agreements G 1—(Renamed: Final Offer)	Subpart G	
7		7 Subpart G	Negotiation Process for Annual Funding Agreements G 2—(Renamed: Compacts)	Subpart G	Funding Agreements for Non-BIA Programs
7		Subpart G	Negotiation Process for Annual Funding Agreements G 3—(Renamed: Negotiations)	Subpart G	
8		8 Subpart H	Limitation and/or Reduction of Services, Contracts, and Funds Delete H, move one section to Misc/Operational	Subpart H	Negotiation Process for Annual Funding Agreements G 3—(Renamed: <b>Negotiation Process</b> )
9		9 Subpart I	Public Consultation Process	Subpart I	Negotiation Process for Annual Funding Agreements G 1—(Renamed: <b>Final Offer</b> )
10		10 Subpart J	Waiver of Regulations	Subpart J	Waiver of Regulations
11		11 Subpart K	Construction	Subpart K	Construction
12		12 Subpart L	Federal Tort Claims	Subpart L	Federal Tort Claims
13		13 Subpart M	Reassumption	Subpart M	Reassumption
14		14 Subpart N	Retrocession	Subpart N	Retrocession
15		15 Subpart O	Trust Evaluation Review	Subpart O	Trust Evaluation <b>Review</b>
16		16 Subpart P	Reports	Subpart P	Reports
17		17 Subpart Q	Miscellaneous (Renamed: Operational Provisions)	Subpart Q	Miscellaneous (Renamed: <b>Operational Provisions</b> )
18		18 Subpart R	Appeals	Subpart R	Appeals
19		19 Subpart S	Conflicts of Interest	Subpart S	Conflicts of Interest
		20		Subpart T	Public Consultation Process ( <b>Tribal Consultation Process</b> )
		Appendix A-	Model Compact of Self Governance Between the Tribe and the Department of the Interior	Appendix A-	No Appendix A (No model compact in Regulations)