

# Oneida Business Committee Agenda Request

1. Meeting Date Requested: 06 / 08 / 16

## 2. General Information:

Session: ☒ Open ☐ Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

☐ Accept as Information only

☒ Action - please describe:

Accept Self-Governance FY '16 2nd quarter report

## 3. Supporting Materials

☒ Report ☐ Resolution ☐ Contract

☐ Other:

1.

3.

2.

4.

☐ Business Committee signature required

## 4. Budget Information

☐ Budgeted - Tribal Contribution

☐ Budgeted - Grant Funded

☐ Unbudgeted

## 5. Submission

Authorized Sponsor / Liaison:

Christopher Johns, Self-Governance Coordinator

Primary Requestor:

\_\_\_\_\_  
Your Name, Title / Dept. or Tribal Member

Additional Requestor:

\_\_\_\_\_  
Name, Title / Dept.

Additional Requestor:

\_\_\_\_\_  
Name, Title / Dept.

# Oneida Tribe of Indians of Wisconsin

Post Office Box 365



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

Phone: (920) 869-2214



Oneida, WI 54155



UGWA DEMOLUM YATEHE  
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

## Tribal Self-Governance Quarterly Report to the Oneida Business Committee

Submitted By:  
Christopher Johns, SG Coordinator

May 31, 2016

### BUDGET

#### **Restore FY 2012 sequestration cuts and exempt Tribal funding from future sequestrations.**

Tribes experienced heavy budgetary cuts as a result of the 2012 sequester. The cuts affected direct services to Tribal citizens. Among the services affected were public safety, social welfare, and health care services. As Congressional members debate the FY 2016 appropriations, Self-Governance Tribes must continue to urge Congress to restore these funds to at least their pre-sequestration levels. We also must continue to insist that the Federal Government uphold their trust responsibility and amend the Budget Control Act of 2011 to exempt Tribal funding from future sequestrations.

***WASHINGTON – Since 1996, Congressional appropriations for Tribal programs has declined by 29%. This figure reflects direct cuts and does not account for inflation. The President's FY 2017 Budget Request (as reported in March) continues to request increases for all Tribal programs and to exempt Tribes from the current and future sequestrations. It is highly unlikely that the President's Budget Request will be enacted in full and entirely possible that appropriations for non-military-related programs will be delayed until after the November election.***

#### **Authorize mandatory funding and fully fund Contract Support Costs and expedite payments to Tribes.**

Self-Governance Tribes support the President's current budget proposal to fully fund Contract Support Costs (CSC) in FY 2017 and to shift CSC from discretionary funding to mandatory funding. Self-Governance Tribes expressly support the shift in funding to remedy the need for Administrators to make fiscal decisions without consultation from Congressional members and Tribal leaders. Additionally, mandatory funding protects appropriations that are allocated for direct services in Tribal communities.

***The President's Budget Request for 2017 honors the President's pledge to fully-fund Contract Support Costs (CSC). Joint Tribal-Federal Workgroups are in the process of finalizing amendments to the CSC policy to manage the process. Tribal Consultation meetings have been held, and the Tribal representatives on the Workgroups have reported significant progress in an amicable environment of negotiation.***

**Preserve authority to include one-time or short-term resources in Self-Governance Funding Agreements.**

Self-Governance Tribes have noticed a troubling trend that the Department of the Interior (DOI) is moving one-time funding to grants that cannot be included in Self-Governance Funding Agreements and are restrictive in nature – undermining core Self-Governance tenets. This trend allows DOI to heavily regulate and restrict the inclusion of indirect costs to administer Tribal programs and hinders Tribal governments' ability to re-design programs to better meet the needs at the local level.

***DOI has requested the Office of Self-Governance (OSG) survey Tribes to identify categories of grants that have been restrictive and include them in a report estimating the economic impact on indirect cost funding and how the restrictive nature of these grants have hindered Tribes in carrying out their programs.***

**Enact Advanced Appropriations for the Indian Health Service.**

Since FY 1998, there has been only one year (FY 2006) when the Interior, Environment and Related Agencies budget, which contains the funding for IHS, has been enacted by the beginning of the fiscal year. Late funding creates significant challenges to Tribes and IHS provider budgeting, recruitment, retention, provision of services, facility maintenance and construction efforts. Providing sufficient, timely, and predictable funding is needed to ensure the federal government meets its obligation to provide health care for American Indian and Alaska Native people. Enacting advanced appropriations will provide more stable funding and sustainable planning for the entire Indian Health Care system by appropriating funding two years in advance.

***There is little possibility that Congress would be receptive to this proposal.***

**White Papers**

Policy priorities and goals do not often change, but strategy to implement the priorities change as external decisions are made, new data is reported, or progress is reported. The White Papers below provide the most up-to-date administrative and legislative actions as well as new strategy ideas.

- Analysis of DOI Budget Equity for Self-Governance Tribes
- Advanced Appropriations
- Sequestration

**POLICIES**

Administrative policies often directly affect Self-Governance Tribes and the programs they choose to manage. Many of the policy priorities identified in the National Tribal Self-Governance 2015-2017 Strategic Plan & Priorities are critical to efficiently manage programs and leverage external opportunities to improve Tribal programs.

There are many competing policy goals for Self-Governance Tribes, however those listed below have momentum or support outside of Self-Governance Tribes. To see the full list of policy priorities, download the full version of the National Tribal Self-Governance 2015-2017 Strategic Plan & Priorities.

**Revise and streamline each agency's Contract Support Costs Policy.**

After years of advocacy, CSC funding has changed monumentally in the last twelve months. As a result of full funding and Presidential support for mandatory funding, each agency must identify, assess, and implement modifications to each agency's CSC policy that reflects recent legislative and funding changes. Each agency has a Tribal-Federal Workgroup that made several recommendations to update the CSC policy. Self-Governance Tribes urge each agency to review those recommendations begin updating the policy as quickly as possible.

***Both Agency's CSC Workgroups have reported progress as noted previously.***

**Expand Tribal consultation on allocation and formula distribution of Bureau of Indian Affairs.**

In 2012, Self-Governance Tribes published the Program Formulas Matrix Report, which identifies areas where the formulas and methodologies currently used by the Bureau of Indian Affairs (BIA) for distribution can be improved and provide recommendations for eleven programs. Action on these recommendations has stalled in the last several years. However, as DOI seeks to move funding to one-time grants, the Formula Matrix Report recommendations are increasingly important. Continued consultation and discussion with BIA officials and Tribes is needed to implement changes recommended in the report.

***The Program Formulas Matrix Report will be useful in negotiating a Multi-Year Funding Agreement (MYFA) with the BIA for FY 2017 through FY 2021.***

**Foster greater transparency announcing new DOI funding opportunities.**

Access to program and initiative funding is critical as Tribes work to meet the needs of their citizens locally. As such, Self-Governance Tribes encourage DOI agencies to streamline their grant and funding announcements so that all Tribes have equal opportunity for one-time funding and support.

***The Office of Self-Governance (OSG) in the Interior Department and the Office of Tribal Self-Governance (OTSG) in Health and Human Services have both established systems whereby new funding opportunities will be communicated to SG Tribes through the Education and Communication website and email as those opportunities are announced. All new funding opportunities are referred on to the Grants Office and the appropriate program director.***

**Include Purchase and Referred Care in all VA-IHS reimbursement agreements.**

When the IHS and the Veterans Administration (VA) negotiated the first national agreement, required under the Indian Health Care Improvement Act (IHCIA), the agencies only included reimbursement for direct care provided by IHS facilities. This agreement has become the model for Tribal programs in negotiating with local VA facilities. However, it does not adequately address the specialty care Tribal systems provide eligible veterans. After two years of implementation and changes to the Veterans Administration health care delivery, Self-

Governance Tribes believe the time is right to revisit the reimbursement agreement and include specialty and referred care.

**Institute a Tribal Advisory Committee for Office of Management and Budget.**

Given the role the Office of Management and Budget (OMB) plays in the Tribal funding – from guiding the President’s annual budget request to distributing appropriations to all federal agencies – a Tribal Advisory Committee could prioritize Tribal needs and requests. Other advisory committees have assisted in educating and building momentum within agencies and departments to further Tribal sovereignty and priorities.

***Tribe’s continue to express frustration as the lack of movement on this issue. Since OMB is under the executive direction of the president, Tribes will probably have to start over with the next president on this effort.***

**Update the IHS Facilities Construction Policy to include broad Tribal input.**

The IHS Health Care Facilities Design and Construction Policy does not currently reflect new authorities available under IHCA, nor does it accurately reflect the tenants of Self-Governance. Additionally, the Facilities Appropriations Advisory Board (FAAB) recently decided to review and possibly update the Policy to reflect new authorities and make recommendations to the prioritization system. Self-Governance Tribal leadership believes the time is right to make changes that have broad Tribal support and allow for greater flexibility in construction projects.

**Evaluate the Indian-specific provisions of the Patient Protection and Affordable Care Act (ACA) and continue consultation to implement outstanding provisions.**

After nearly five years of implementation, an assessment is needed to ensure that Indian-specific provisions of the ACA are working effectively and efficiently. Additionally, some provisions continue to require Tribal consultation and technical fixes that may be successful through negotiated rulemaking process.

**Supporting White Papers**

Policy priorities and goals do not often change, but strategy to implement the priorities change as administrative and legislative changes occur. The White Papers below provide the most up-to-date administrative and legislative actions as well as new strategy ideas.

- Implementation of the Patient Protection and Affordable Care Act (ACA) P.L. 111-148
- Implementation of the Violence Against Women’s Act
- Self-Governance Concept for the Environment Protection Agency
- Self-Governance in Tribal Transportation
- Streamline and Expedite Grants authorized by Special Diabetes Program for Indians (SDPI)
- Implementation of the Tribal Law and Order Act
- Wildland Fire

**LEGISLATION**

Legislation is critical to expanding Self-Governance and reaffirming its tenants throughout the Federal government. Self-Governance Tribes seek to further the self-determination across the spectrum of Tribal programs, while building local capacity to meet local needs. Self-

Governance Tribes are interested in a vast number of legislative ideas, but identified the items below as their key priorities for the 114th Congress.

**Amend Title IV of the Indian Self-Determination and Education Assistance Act.**

Amending Title IV of the Indian Self-Determination and Education Assistance Act (ISDEAA) has been a top legislative priority for Self-Governance Tribes for over a decade. Over the past 35 years, the ISDEAA has been one of the most successful mechanisms allowing Tribes to develop the capacity for government-building activities. Self-Governance Tribes must continue to advance the vision of the ISDEAA by working to amend Title IV of the ISDEAA to create consistency between Title IV Self-Governance in the DOI and Title V Self-Governance in the Department of Health and Human Services (HHS) to create administrative efficiencies for Self-Governance Tribes.

***This issue continues to flounder in Congress. Tribes came very close to realizing this goal two years ago but time ran out.***

**Reauthorize the Native American Housing Assistance and Self-Determination Act.**

Current authorization of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) expired on September 30, 2013. NAHASDA is the main authorization of Tribal housing programs. Tribal programs under NAHASDA have been successful in allowing Tribes the self-determination necessary to provide effective programs for Tribal citizens. Tribes are now exercising their right to self-determination by designing and implementing their own housing and other community development infrastructure programs. Reauthorization of NAHASDA is critical to continue to support Tribal housing authorities that build keystone housing and community infrastructure in Tribal communities.

**Enact legislation that strengthens and reaffirms the original tenets of Public Law 102-477.**

The 477 Program provides Tribal governments with the flexibility to design employment, training, and economic development plans that utilize funding from several federal programs to best meet the needs of their local communities. While PL 102-477 is still technically a “demonstration project,” the 477 Program has existed for over two decades and currently over 250 Tribes and Tribal organizations consolidate multiple programs into a single 477 Plan. Despite nearly two decades of success, the viability of the 477 Program was jeopardized by two Federal agency actions. Legislation is necessary to make the 477 Program permanent and remove administrative burdens for Self-Governance Tribes.

**Expand Self-Governance to the Department of Transportation.**

Congress has sought to address transportation infrastructure deficiencies in Indian Country by increasing funding available to Tribes, broadening eligibility for direct Tribal participation in Federal transportation programs and by extending the ISDEAA to several of those programs. With increased funding and expanded authority, Tribes have demonstrated that they are best positioned to ensure the effective and efficient use of federal transportation infrastructure funds. Despite these results, the Departments of Transportation (DOT) and Interior have been unwilling to extend the ISDEAA framework into new program areas, such as transit and highway safety. However, reauthorization of transportation legislation expires in May 2015 and Tribal advocates are urging Congressional members to expand Self-Governance tenants to the DOT.

***The FAST Act authorizes of a version of the Department of Transportation (DOT) Tribal Self-Governance Program that Tribes have been advocating for several years. Essentially***

***this provision would extend many of the Self-Governance provisions of Title V of the Indian Self-Determination and Education Assistance Act (ISDEAA) to DOT.***

***The first step toward implementing the FAST Act is to establish a “negotiated rule-making” committee. This committee would be responsible for interpreting and setting forth regulations which would govern the process by which tribes would assume a Self-Governance program with the DOT.***

**Permanently reauthorize and provide full funding for the Special Diabetes Program for Indians.**

Congress established the Special Diabetes Program for Indians (SDPI) in 1997 as part of the Balanced Budget Act to address the growing epidemic of diabetes in American Indians and Alaska Natives communities. SDPI programs have become the nation’s most strategic and comprehensive effort to combat diabetes. Self-Governance Tribes believe the success of these programs require the permanent reauthorization and supporting funding for SDPI.

***On April 14, 2015, the U.S. Senate passed a two (2) year renewal for the Special Diabetes Program for Indians (SDPI). The renewal was contained in a larger bill called: "H.R. 2 - The Medicare Access and CHIP Reauthorization Act of 2015." The measure was passed the Senate by a bipartisan vote of 92-8. This follows action by the House of Representatives on March 26, 2015, which also passed the legislation by a bipartisan vote. President Obama signed the legislation into law. The legislation funds SDPI at \$150 million per year but will expire on September 30, 2017.***

**Enact Medicare-Like Rates for IHS outpatient services for IHS, Tribal and Urban facilities.**

IHS, Tribes and Tribal organizations currently cap the rates they will pay for hospital services to what the Medicare program would pay for the same service (the “Medicare-Like Rate” or “MLR”). Currently, this MLR cap applies only to hospital services, which represent only a fraction of the services provided through the Purchase and Referred Care system. Proposed legislative fixes would amend Section 1866 of the Social Security Act to expand application of the MLR Cap. It would direct the Secretary to issue new regulations to establish a payment rate cap applicable to medical and other health services in addition to the current law’s cap on services provided by hospitals. It would make the MLR cap apply to all Medicare-participating providers and suppliers. Self-Governance Tribes support this legislative fix to leverage the limited resources provided to IHS, Tribal and Urban health programs.

**Advance legislation to expand Self-Governance to other Health and Human Services agencies and programs.**

Title VI of the ISDEAA required the Secretary of HHS to conduct a study to determine the feasibility of a Tribal Self-Governance demonstration project for appropriate HHS PSFA in agencies other than IHS. HHS submitted the required report to Congress in March of 2003. The report concluded that the demonstration project was feasible. Although Congress has considered legislation to authorize a Self-Governance demonstration project, legislation has not been enacted into law to date. HHS has since convened a Self-Governance Tribal Federal Workgroup (SGTFW) and issued a final report in September 2014. After repeated attempts to reconstitute the SGTFW to continue working on the report recommendations, Self-Governance Tribes will seek out legislative proposals to implement recommendations outlined in the report.

## Supporting White Papers

Legislative priorities and goals do not often change, but strategy to move legislation forward changes based on external opportunities and information available. The White Papers below provide the most up-to-date administrative and legislative actions as well as strategy changes. .

- Contract Support Costs
- Amending Title IV of ISDEAA
- P.L. 102-477, Indian Employment and Training Act
- Education

## Additional Resources

In addition to the White Papers identified above, the following documents are available upon request.

- 2015 – 2017 National Strategic Plan
- Self-Governance Acronyms
- Self-Governance Definitions
- Self-Governance Major Statutes
- HIS - OTSG Funding Agreement Components
- DOI/OSG Financial Operations
- DOI - Federal Financial Systems
- SGAC Protocols
- TSGAC Protocols
- White Paper – Budget Equity
- White Paper – HIS Advance Appropriations
- White Paper – Sequestration
- White Paper – Contract Support Costs
- White Paper – Amending Title IV
- White Paper – 477 Program
- White Paper – Streamline SDPI Process
- White Paper - TLOA
- ACA Implementation
- VAWA Update
- Tribal Transportation Update
- Expanding SG to EPA

## 2016 Self-Governance Meetings

June 1-2, 2016	Pre-Negotiation Meeting with IHS	Mpls, Mn
July 19-21, 2016	3rd Quarter SG Advisory Committees Meeting	Washington D.C.
Sept. 7-8, 2016	SG Tribal Strategic Planning Conference	TBD
Oct. 25-27, 2016	4th Quarter SG Advisory Committees Meeting	Washington D.C.

## **Emerging Issues:**

- ✓ ***A significant number of tribes have expressed concern about potential threats to their information systems, the data within those systems and the security of the communication networks that are used to share tribal data with the federal government. Additionally, some of those tribes have also expressed concern***



***about the data shared with the federal government and the recent reports of hacking going on between agencies of the federal government. Many tribes do not have the resources to prevent unauthorized access to their information systems and are requesting assistance from the federal government. The federal government – particularly the BIA and the Indian Health Service do not have the resources to assist tribes with this potentially huge and serious threat.***

- ✓ ***The Tribal Interior Budget Council (TIBC) established a new subcommittee to address justice matters. The goal is to assist in coordinating with all of the agencies charged with providing Law and Order funding and services to Tribes. The subcommittee is charged with gathering data and addressing the following issues: 1) develop a list of all the Department of Justice (DOJ) programs available to Tribes and Indian Country; 2) identify which Tribes have been able to access these programs; 3) identify the funding formulas or other funding mechanisms used to provide funding; 4) assess the consistency and adequacy of resources to support justice programs; 5) describe how DOJ is coordinating with the Bureau of Indian Affairs – Office of Justice Services (OJS) on programs, services and facilities; 6) provide information about whether or not DOJ funds can be transferred to OJS so that Tribes are able to manage it under their Self-Governance Funding Agreements and identify challenges or impediments to transferring these funds.***
- ✓ ***Jessica Burger, Tribal Council, Little River Band of Ottawa Indians and Annette Johnson, Tribal Treasurer, Red Lake Band of Chippewa Indians now represent the Midwest Region of the Bureau of Indian Affairs on the Self-Governance Advisory Council.***