Indian Health Service
Office of Information Technology

Tribal Consultation Meeting Minutes

New Proposals for re-aligning Office of Information Technology Support Services Packages for Tribal Consideration

Hyatt Regency Ballroom, Hyatt Regency Hotel
Phoenix, Arizona

December 17, 2008

10:00am to 1:00pm

Table of Contents

Background 2

Presentation on New Proposals for re-aligning OIT Support Services Packages for Tribal Consideration 2

Purpose of Tribal Consultation 2

History 2

Driving Factors for Change 2

Current and Proposed Support Packages 3

Proposed Options 3

Written Responses IHS has Received to IHS Dear Tribal Leader Letter dated October 29, 2008 3

WebEx Attendee Comments Submitted During OIT Tribal Consolation Session 4

From Ron Garcia, Pueblo of Acoma, to All Participants 4

From Judy Muschamp, Confederated Tribes of Siletz Indians to All Participants 4

From Rhonda Butcher to All Participants 4

In-Person Comments Given During OIT Tribal Consolation Session 4

Patricia Knox – Health Director, Penobscot Nation (Nashville Area) 4

Terry Rice – Representing Chickasaw and Choctaw Nations (Oklahoma Area) 4

Bryant Rogers, Attorney at Law – Vanamberg, Rogers, Yepa & Gomez LLP 5

Carolyn Crowder – Health Director, Aleutian/Pribilof Islands Association (Alaska Area) 6

Patty Linduska – Chief Executive Officer, Eastern Aleutian Tribes (Alaska Area) 6

Jim Roberts – Northwest Portland Indian Health Board 6

Michael Cook – Executive Director, USET 7

Ron McClaren – Health Director, Wampanoag Tribe of Gay Head (Nashville Area) 7

Rick Kelly – Director, Cherokee Nation (Oklahoma Area) 7

Starla Roels – Attorney at Law, Hobbs, Straus, Dean & Walker 7

Dr. Cullen's Responses and Dialogue with Tribal Representatives 8

Background

The Indian Health Service (IHS) Office of Information Technology (OIT) is seeking Tribal input for its proposed restructuring of its Information Technology Support Packages. The IHS sent a Dear Tribal Leader Letter out on October 29, 2008 notifying Tribes that the OIT was holding a Tribal Consultation session at the Indian Health Information Management Conference in Phoenix, Arizona on December 17, 2008 from 10:00am to 1:00pm. Tribes were invited to attend in-person and if unable to attend, were provided the capacity to participate via WebEx/conference call.

The following minutes summarize the OIT's presentation and discussion that occurred at the Tribal Consultation session referenced above. Presentation and other related information referenced below can be located at: http://www.tribalitsolutions.ihs.gov/index.cfm?module=TribalConsultationFAQ

Presentation on New Proposals for re-aligning OIT Support Services Packages for Tribal Consideration

Dr. Theresa Cullen, Director and Chief Information Officer (CIO), OIT, IHS

Dr. Cullen emphasized that the proposal for realignment of OIT Packages ***will not*** be implemented in 2010. Highlights of Dr. Cullen's presentation follow:

Purpose of Tribal Consultation

- To gather comments and suggestions from Tribal Customers on proposed changes to the OIT Information Technology Support Packages.
- Establish future Tribal Consultation efforts.

History

- First OIT Support packages were formalized in 1999
- The OIT attempted to define Programs, Functions, Services, and Activities (PFSA) for Information Technology into a support package structure that would be consistent with that point in time.
- Second reorganization began in 2006 to update the OIT Support Packages to the changes that have occurred since 1999.
- OIT has to report its Information Technology investments listed below to the Office of Management and Budget (OMB) (See OMB Circular No. A–11 (2008), Section 53, located at: http://www.whitehouse.gov/omb/circulars/a11/current_year/s53.pdf):
    - National Data Warehouse (NDW)
    - Infrastructure Office Automation and Telecommunications (IOAT)
    - Resource and Patient Management System (RPMS)
- OIT should align its PFSAs to the investments listed above.

Driving Factors for Change

- NDW has expanded its ability to house, process and report data.
- IOAT has expanded its role for Telecommunications and Security.
- RPMS applications have expanded from 12 to 30 applications. This includes more Graphical User Interfaces (GUI) applications such as the Electronic Health Record (EHR).
- NDW has stabilized into a steady state investment.
- IOAT responsibility for security has increased.

- More RPMS Applications equal More Support and Maintenance.
- PFSAs in current packages were not aligned with the same function that they should be in.
- Functions within OIT are more interdependent with other functions than before (example: security is in both RPMS and IOAT).
- Cost for each support package is not consistent with current cost.
- Trust trumps Technology.

Current and Proposed Support Packages

- OIT *Current* and *Proposed* Support Packages are located at: http://www.tribalitsolutions.ihs.gov/index.cfm?module=TribalConsultationFAQ
- Proposals for OIT Packages:
  - Realign percentage costs to actual costs.
  - Ensure equity for all Tribes.

Proposed Options

- A Tribe may retain one, two, or all three packages with OIT. The OIT will perform the service package with the retained shares.
- A Tribe may perform the functions and not retain a service package(s) with OIT -- the Tribe assumes those PFSAs associated with a service package.
- A Tribe must follow government security standards to connect to IHS, even if a package is not retained with IHS. These requirements are mandated by law and federal regulations applicable to all computer systems that connect to a government computer network.

Written Responses IHS has Received to IHS Dear Tribal Leader Letter dated October 29, 2008

Dr. Cullen identified all Tribes/Tribal representatives who responded to the IHS Dear Tribal Leader Letter and also presented various comments from the respondents. The IHS received letters from the following:

- Vanamberg, Rogers, Yepa & Gomez LLP representing:
  - **Nashville Area:** Mississippi Band of Choctaw Indians, Chitimacha Tribe of Louisiana, Poarch Band of Creek Indians, Penobscot Indian Nation
  - **Phoenix Area**: Duckwater Shoshone Tribe, Ely Shoshone Tribe
  - **Albuquerque Area**: Taos Pueblo, Alamo Navajo School Board
- Alaska Tribal Health Compact
- Choctaw Nation
- United South Eastern Tribes (USET)
- Hobbs, Straus, Dean & Walker, LLP representing:
  - **Alaska Area:** Bristol Bay Area Health Corporation, Aleutian/Pribilof Islands Association, Metlakatla Indian Community, Council of Athabascan Tribal Governments, Mount Sanford Tribal Consortium, Yakutat Tlingit Tribe
  - **Portland Area:** Suquamish Tribe

WebEx Attendee Comments Submitted During OIT Tribal Consolation Session

From Ron Garcia, Pueblo of Acoma, to All Participants

We agree to the listed items presented by other Tribes.

From Judy Muschamp, Confederated Tribes of Siletz Indians to All Participants

Good morning, Dr. Cullen and thank you for this opportunity to comment. The RPMS is not easy, but we too have made the decision that it is the best system to meet our patients' various needs. Is this proposal purely a financial one? Does OIT need more funding to complete your required activities? It might be helpful to look at your complete funding sources and budgets, including the $5 million from the Diabetes Program, and then see how the proposals directly affect sample Tribes.

From Rhonda Butcher to All Participants

The Citizen Potawatomi Nation compacted its IHS Programs back in 1998. At that time, like many other Oklahoma Tribes, we chose to utilize RPMS for ease of data integration. However, we took most information technology shares so that we could train our staff for in-house information technology management. We now have our own on-site information technology manager. Changing the rules midstream in this all or nothing approach will be very problematic.

In-Person Comments Given During OIT Tribal Consolation Session

Patricia Knox – Health Director, Penobscot Nation (Nashville Area)

- Tribal Consultation is a government to government function. The absence of Mr. McSwain, Director, IHS, from this meeting constitutes that this is not Tribal Consultation.
- Tribes from USET (which her Tribe is a member) cannot make it to this meeting or location because of the time of year.
- Three hours of time allotted is insufficient for Tribal Consultation.
- The IHS proposal for All or Nothing is unacceptable.
- The Indian Self-Determination and Education Act Law provides for portions or portions thereof of PFSAs.
- IHS has not been able to respond to all of the Tribes' needs.

Terry Rice – Representing Chickasaw and Choctaw Nations (Oklahoma Area)

- The Tribes he represents decided to stay with RPMS.
- Programs at Chickasaw Nation and Choctaw Nation are designed around their system's way of doing business.
- No longer does a one size (services) fit all; need alternatives.

- These two Tribes compacted information technology services at the Area and Service Unit Level and built their own information technology staff.
- The All or nothing approach is a step backwards. It is reminiscent of the IHS treatment of Tribes in the 1970's to 1990's.
- All or nothing proposal does not meet individual needs of the Tribes.
- OIT management of resources is the problem: The OIT has contracted out the resources resulting in a lack of technical expertise in RPMS and a lack of direction in RPMS development. Software needs to be done in-house (Federal Staff).
- All or nothing proposal is unlawful.
- Both Tribes he represents are willing to work with IHS, but the top-down management of information technology resources from IHS will not work and both Tribes are not interested in this management style.

Bryant Rogers, Attorney at Law – Vanamberg, Rogers, Yepa & Gomez LLP

- The IHS has failed to respond to the letter as promised. The Office of General Council (OGC) is not present to respond to any legal questions and IHS people who can answer questions (i.e., Mr. McSwain) are not present. The Dear Tribal Leader Letter was misleading.
- Does IHS acknowledge that this proposal is illegal?
- All legal points are referenced in a letter we sent to Mr. McSwain on November 14, 2008 concerning the legality of the proposal. The IHS cannot legally implement this proposal.
- Choices for PFSAs are up to the Tribes.
- After fifteen years of RPMS and OIT support from Headquarters, satisfaction has gone down.
- References are made to OMB, but where is the supporting documentation?
- Tribes were not at the table when this proposal was developed.
- The proposal addresses the programmatic needs of IHS, not what the Tribes need. The focus needs to be on the Tribes and their programs and what they need, not what is best for OIT/IHS.
- The OIT needs to disclose the amounts of and support functions that have been contracted out. Contracts need to be looked out for expertise in the contract and the work being performed. Can we terminate those contracts and provide support in house?
- What is the real problem? We can work together to help identify a solution.
- The OIT Support Packages developed in 1999 are not legally binding.

Carolyn Crowder – Health Director, Aleutian/Pribilof Islands Association (Alaska Area)

- The real problem is money. The IHS is funding information technology at two percent of the population served and this is a failure. Private industry is at five percent. We are fighting over two percent.
- With a lack of funding for health care, staff is laid off and some departments shut down.
- Erosion of self governance rights is a real issue and need to pay attention to this issue.
- She was on the Tribal Shares Workgroup; we need to remember we represent all of Indian Country.
- Need to identify the real problem.
- The OIT does not exist for itself, but must represent all of Indian Country.
- Possible solution to money issue is for a partnership between IHS and Tribes to ask Congress for more money.
- Worried about getting side tracked from the issue.

Patty Linduska – Chief Executive Officer, Eastern Aleutian Tribes (Alaska Area)

- Echoes and affirms Carolyn Crowder's comments.
- Appreciates Dr Cullen for setting aside the proposal for 2010.
- Proposes regional consultations; together we can solve the problems.
- Suggests individualized plans for each co-signer.
- Suggests an al a carte plan with the ability to purchase services on an ad hoc agreement.
- Suggests that expectations and commitments be carefully documented via a Service Level Agreement.
- Define the problem first, and then a solution can be designed.
- Eastern Aleutian Tribes are dedicated to RPMS.

Jim Roberts – Northwest Portland Indian Health Board

- Consultation needs to be done with Tribal Leadership at the regional or Area level.
- Consultation is a process for dialogue on issues to identify what the issues are. It allows us to have a dialogue on those issues.

- Repackaging support services is not fair to Tribes, is inconsistent with the law, and is a violation of the law. Concerned that the repackaging was developed without Tribal input.
- OMB information needs to be shared with the Tribes as well as the Department of Health and Human Services.
- Echoed funding concerns voiced by others at the session.
- Trust: Need to share information

Michael Cook – Executive Director, USET

- It is the correct decision to defer changes to 2011.
- Do not go back to a paternalistic attitude.
- Need to know the impact on full cost recovery and contract support costs.
- True spirit of consultation requires both parties working together.
- Why go to an All or Nothing approach?
- What are the OMB Regulations?
- This proposal needs to be presented at a round table discussion.
- Need to know the Plan. How are we going to get there in a nine month plan?
- Formally inviting all to the USET Impact Meeting in Arlington, VA during February 9 – 12, 2009

Ron McClaren – Health Director, Wampanoag Tribe of Gay Head (Nashville Area)

- Agrees with all previous remarks presented.
- Has lost perspective on what we are trying to achieve. Need a strategy to meet the mission.
- His is a small Tribe on Martha's Vineyard trying to build capacity within their health program.

Rick Kelly – Director, Cherokee Nation (Oklahoma Area)

- Need the economies of scale.
- Need more dialogue.
- Need to identify a process for a plan, in terms of a national workgroup.

Starla Roels – Attorney at Law, Hobbs, Straus, Dean & Walker

- Echoes the same concerns as Mr. Bryant Rogers presented.
- She was expecting a representative from OGC. When can we meet and discuss this with OGC?

Dr. Cullen's Responses and Dialogue with Tribal Representatives

Dr. Cullen:

- The OIT will provide Tribes with the OMB Capital Planning and Investment Control guidelines. (Note: See OMB Circular No. A–11 (2008), Section 53, located at: http://www.whitehouse.gov/omb/circulars/a11/current_year/s53.pdf)
- Defined the Capital Planning and Investment Control function and role within OIT. (Note: See CPIC Website located at: http://www.ihs.gov/cio/cpic/)
- The IHS Information Systems Advisory Committee information including meeting minutes can be found at the following link: http://www.ihs.gov/Cio/ISAC/index.cfm
- Programmatic Management
  - Fixed Costs
  - Variable Cost
- It is difficult to determine what services the OIT is expected to provide from Tribal Annual Funding Agreements.
- For contracting:
  - Dr. Cullen agreed to provide OIT contract information to a Workgroup (per Bryant Rogers' request for contracts (types and amounts, etc).

Bryant Rogers

- When contracts are entered, then Tribes cannot compact for those shares. Contracts impact the cash flow of OIT.

Dr. Cullen

- Explained the rational for going to contracting vs. in-house expertise. Noted that there is a Full-Time-Equivalent employee limit imposed on IHS from the Department of Health and Human Services.
- Agreed to make the OIT Fiscal Year 2009 spend plan available to the Workgroup.

Bryant Rogers

- On Administration's policy, need to consider private sector solutions.
- Look at the contracts. The IHS needs to consider developing in-house expertise. Tribes need to know what the contracts are about.

- Tribes need to know what the constraints are.

Terry Rice

- Need to think of Tribes as clients, not beneficiaries. The IHS should consider services that cost by the hour with Tribes.

Dr. Cullen

- The OIT needs guidance on how to consult with Tribes.
- Need Service Level Agreements with Tribes, but what we have right now are compacts, contracts, and annual funding agreements with them.

Rhonda Metcalf – Vice Chairman, Sauk Suiatte Tribe (Portland Area)

- This meeting is not Tribal Consultation. Mr. McSwain, Director, IHS, was not present and this is not Tribal Consultation. It is very frustrating.
- This is a waste of her time and her Tribe's money.
- Expects to be reimbursed for two airline tickets and motel stay.

Dr. Cullen

- The OIT needs to figure out how to proceed from here.
- Need to realign cost percentages with what OIT is spending.

Patricia Knox

- Tribal Consultation at a minimum needs to be regional and Mr. McSwain needs to be there.
- Dollars that go to OIT do not go to patient care.
- The Office of Tribal Self Governance needs to be more involved.
- Need to have people at meetings that can answer questions.

Jim Roberts

- How was the Office of Tribal Self Governance involved in the review?

Hankie Ortiz – Director of Office of Tribal Self-Governance

- The Office of Tribal Self Governance worked with the OIT to present the information to Tribes, but the Office of Tribal Self Governance does not have the technical expertise to review the packages.

Jim Smith

- This is Tribal negotiations, not a technology issue. Why is OIT dealing with this?
- Why are we dealing with this at the tail end of the 2008 Administration?

Rhonda Metcalf

- The IHS continues to say "don't know" or does not have the authority to answer questions.
- Wants someone at the Tribal Consultation sessions with the authority to speak for IHS and answer questions.

Bryant Rogers

- If OIT went to the Tribes first with the problems, the response would be different.
- Work with Tribes to develop an alternative proposal.

Hankie Ortiz

- Contact the Office of Tribal Self Governance with questions and comments.

Jim Roberts

- How long will comments and suggestions be recorded?

Dr. Cullen

- Until the close of business on January 31, 2009.
- Projects that the Minutes will be on the OIT website by December 29, 2008.

Ron Clarendon

- Need flexibility and options.
- Workgroup might be resource intensive.

Dr. Cullen

- Workgroup will be established after the end of the comment period. Their purpose will be to review comments and help develop alternatives.
- Regional/Area Consultation is needed.

Meeting Adjourned