Indian Health Service

Tribal Consultation Summit

March 13-14, 2012

Renaissance Arlington Capital View Hotel
Arlington, VA
Indian Health Service (IHS) Tribal Consultation Summit
Renaissance Arlington Capital View Hotel
2800 South Potomac Avenue, Arlington, VA 22202
Phone: (703) 413-1300
RenaissanceArlingtonCapitalView.com

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- Data Sharing Agreements
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- Facilities Construction
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- Federal Advisory Committee Act (FACA)
- Veterans Affairs (VA) and IHS
- ICD-10 and Meaningful Use (MU)

Acronyms List

Hotel Map
Dear Summit Attendees:

I am pleased to welcome you to the second Indian Health Service (IHS) Tribal Consultation Summit (Summit), which is immediately followed by a half-day session on the Affordable Care Act (ACA). The purpose of this Summit is: to provide a “one stop shop” on Tribal Consultation; to learn about current IHS Tribal Consultation activities and workgroups; and to provide feedback and recommendations on current IHS consultation topics. I look forward to our discussions of these issues during the Summit.

This event originated from a series of recommendations developed by the IHS Director’s Advisory Workgroup on Tribal Consultation (DAWTC). I have invited the Chairs of key IHS workgroups, including the DAWTC, to present on their current Tribal Consultation activities. Participants will have the opportunity to provide feedback and recommendations on current IHS current consultation topics.

We appreciate your participation and look forward to further strengthening our valued government-to-government relationship.

Sincerely,

Yvette Roubideaux, M.D., M.P.H.
Director
Purpose: To provide Tribes the opportunity to attend a “one stop shop” on Tribal Consultation; to learn about current IHS Tribal Consultation activities and workgroups; and to provide feedback and recommendations on current IHS consultation topics.

AGENDA

Tuesday, March 13, 2012

8:30 am – 12:30 pm  First General Assembly (Salon 4)

FACILITATOR: CAPT Sandra Pattea, Deputy Director for Intergovernmental Affairs, IHS

8:00 a.m.  REGISTRATION

9:00 a.m.  Opening Ceremony
- Presentation of Colors (IHS Color Guard)
- Flag Song
- Veteran’s Song
- Invocation

9:30 a.m.  Overview – Yvette Roubideaux, M.D., M.P.H., Director, IHS

10:45 a.m.  BREAK

11:00 a.m.  Director’s Advisory Workgroup on Tribal Consultation (DAWTC)
The DAWTC is charged with working in partnership with the IHS Director to recommend improvements on the IHS Tribal Consultation process to make it more meaningful, effective, and accountable.
11:30 a.m.  **Direct Service Tribes Advisory Committee (DSTAC)**
The DSTAC is established to provide leadership, advocacy and policy guidance
by assisting and advising on the development of Indian health policy that impacts
the delivery of health care for Indian Tribes with an emphasis on policies that
impact the Direct Service Tribes.

12:00 p.m.  **Tribal Self-Governance Advisory Committee (TSGAC)**
The TSGAC provides advice and assistance to the IHS Director on issues and
concerns pertaining to Tribal Self-Governance and the implementation of the
Self-Governance within the IHS.

12:30 p.m.  **LUNCH ON YOUR OWN**

2:00 – 3:00 p.m.  **Concurrent Breakout Session #1**

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3:00 p.m.  **BREAK**

3:30 – 4:30 p.m.  **Concurrent Breakout Session #2**

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4:30 p.m.  **Adjourn for the day**
### Wednesday, March 14, 2012

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<td>10:00 a.m.</td>
<td><strong>BREAK</strong></td>
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<td><strong>FACILITATOR:</strong> CAPT Sandra Pattea, Deputy Director for Intergovernmental Affairs, IHS</td>
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<td>10:30 a.m.</td>
<td><strong>General Session – Summary/Comments/Wrap Up</strong></td>
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<td>Yvette Roubideaux, M.D., M.P.H., Director, IHS</td>
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<td>12:00 p.m.</td>
<td><strong>LUNCH ON YOUR OWN</strong></td>
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<td>Second General Assembly (Potomac Ballroom)</td>
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<td>1:00 p.m.</td>
<td><strong>Affordable Care Act Session</strong></td>
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<td>The purpose of this session is to provide updates on current consultation activities related to implementation of the Affordable Care Act, including an update on the State Exchanges.</td>
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<td><strong>Retire the Colors</strong></td>
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<td><strong>Closing Prayer</strong></td>
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IHS Tribal Consultation Topic Summaries
BACKGROUND:

The Director’s Advisory Workgroup on Tribal Consultation (DAWTC) is charged with working in partnership with the IHS Director to recommend improvements on the IHS Tribal Consultation process to make it more meaningful, effective, and accountable. The DAWTC is comprised of 24 Tribal Leaders, 2 from each of the 12 IHS Areas.

On August 13, 2009, the IHS Director sent a letter to all Tribes requesting input on how to improve the IHS Tribal consultation process and indicated plans to form a Workgroup to review input and make recommendations. The DAWTC convened their first meeting in December, 2009 and again in January 2010 to review input the IHS received from Tribes and to discuss the current Tribal consultation process. The DAWTC developed detailed recommendations identifying actions for the IHS to implement to improve the consultation process. On January 15, 2010, the IHS Director sent a letter to Tribes to report progress and requested input on the DAWTC recommendations to improve IHS’ Tribal consultation process. The Workgroup has met subsequently both in-person and via conference call to advise the Director, IHS on various consultation-related issues. The IHS Tribal Consultation Summit originated from the recommendations developed by the DAWTC.

CURRENT ISSUES:

Tribal Consultation Summit Planning
IHS Tribal Consultation Summit
Direct Service Tribes Advisory Committee (DSTAC)
March 13-14, 2012

BACKGROUND:
The Direct Service Tribes (DST) Advisory Committee (DSTAC or Committee) was established to provide leadership, advocacy and policy guidance on behalf of DST. The Committee advises the IHS Director on the development of health policy, participates in IHS decision-making that affects the delivery of health care and regularly provides recommendations to the Agency.

Workgroup activities include:

- The DSTAC meets regularly with the IHS Director and top management officials to receive Agency updates and share program concerns;
- The Committee partners with the IHS on all levels of the organization to ensure health care needs and priorities are identified and addressed;
- The Committee participates in the IHS budget formulation process by identifying DST health priorities, presenting testimony to the IHS National Budget Formulation Workgroup and adopting resolutions to formally support budget recommendations;
- The Committee partners with IHS to host the Annual DST National Meeting which provides a forum for tribal leaders and health care administrators to focus on Agency priorities; partnerships and resources benefitting DST; and best practices for health, wellness and organizational activities;
- The DSTAC focuses on strategic planning to improve communication and develop goals and objectives;
- The Committee advocates for a knowledgeable, experienced executive to lead the Office of Direct Service and Contracting Tribes which is the IHS Office responsible for support, consultation, leadership and advocacy for DST; and
- The DSTAC represents DST needs and concerns on IHS Advisory Committees and Workgroups.

CURRENT ISSUES:
Planning for the Direct Services Annual Conference

Submitted by: Roselyn Tso, Director (Acting), Office of Direct Service and Contracting Tribes, IHS
IHS Tribal Consultation Summit
Tribal Self-Governance Advisory Committee (TSGAC)
March 13-14, 2012

BACKGROUND:

The TSGAC provides advice and assistance to the IHS Director on issues concerning the implementation of the Indian Self-Determination Education and Assistance Act (ISDEAA) Title V. The TSGAC represents Self-Governance Tribes by acting on their behalf to clarify issues that specifically affect the IHS Tribal Self-Governance Program (TSGP).

- Meeting quarterly with the IHS Director to receive agency updates and address program concerns;
- Partnering with IHS to host the Annual Tribal Self-Governance Conference as a forum to address self-governance health issues.
- Developing position papers to move IHS appropriations;
- Supporting ISDEAA Title VI expansion of Self-Governance within HHS;
- Implementing the Affordable Care Act/Indian Health Care Improvement Act and the Special Diabetes Program for Indians;
- Improving the IHS grant process;
- Applying and implementing the Contract Support Cost (CSC) policy consistently;
- Recommending the formation of a CSC Workgroup;
- Addressing IHS Office of Information Technology data, budget, and IT shares issues;
- Advancing and engaging in dialogue on TSGP budget priorities at the IHS Budget Formulation Workgroup meetings;
- Representing Self-Governance Tribes needs and concerns on IHS Advisory Committees and Workgroups

CURRENT ISSUES:

Planning for Self Governance Annual Conference

Submitted by: Hankie Ortiz, Director, Office of Tribal Self-Governance, IHS
BACKGROUND:

The IHS Contract Health Services (CHS) Program uses funds used to purchase services from private health care providers in situation where, no Indian health system direct care facility exists or the direct care element is not capable of providing required emergency and/or specialty care. CHS eligibility criteria and medical priorities are used to determine priorities for purchasing care. The CHS program uses Medicare-Like Rates to purchase inpatient care and uses alternate resources to ensure CHS is the payor of last resort. The rising cost of health care services and the increase need for CHS services has led to increased demand for CHS.

The Director’s Workgroup on Improving the CHS Program has developed recommendations to improve the CHS program and has developed two sets of recommendations that include strategies to better determine unmet need, improve business operations of CHS programs, share best practices, provide more education of staff, Tribes, patients and outside providers, and review of the CHS distribution formula in FY2012.

Actions already take to improve the CHS Program based on the workgroup recommendations include: listening and best practice sessions, national trainings, updated template to document unmet need, outreach and education program development, updates to CHS website, and CHS policy review.

CURRENT ISSUES:

Additional consultation on new workgroup recommendations

Upcoming evaluation of distribution formula

Submitted by: Carl Harper, Director, Office of Resource Access and Partnerships, IHS
IHS Tribal Consultation Summit  
Data Sharing Agreement (DSA)  
March 13-14, 2012

BACKGROUND:

Many tribes have assumed management of their health systems through the Indian Self-Determination Education and Assistance Act (ISDEAA) compacts and contracts. They are not required by law or by contract to submit patient data to IHS, but most of them choose to do so, and to participate in the Government Performance and Results Act process. Once data is transmitted to IHS, such transmitted information becomes part of IHS System of Records and is subject to all of the protections, policies and procedures of applicable laws such as the HIPAA and Privacy Act. IHS has a long-standing practice of seeking tribal permission for any publication that presents information that is specific to a tribe, especially if the tribe is to be named in the publication.

A standardized data sharing agreement template has been developed to facilitate data sharing with Tribal Epidemiology Centers while ensuring compliance with the Health Insurance Portability and Accountability Act (HIPAA) and Privacy Act regulations. The data sharing template specifically provides Tribal Epidemiology Centers (TECs) access to de-identified data from IHS Epidemiology Data Mart/National Data Warehouse (NDW).

As a result of tribal consultation, a number of issues emerged that were outside the scope of the TEC DSA. A number of comments received from Tribes and Tribal organizations were to move beyond access to de-identified data and develop a DSA that includes Protected Health Information.

CURRENT ISSUES:

Request input and discussion on further needs for data sharing agreements
IHS Tribal Consultation Summit
Recruitment/Retention
March 13-14, 2012

BACKGROUND:

Recruitment and Retention (R/R) presents similar challenges in tribally operated programs and direct services programs. Responses to the challenges are unique however, in each system. Issues include limited funding, special issues in tribal contract negotiations, residual and retained federal responsibility, and parity with the federal pay system and other human resource processes.

IHS funds a full range of R/R strategies for health professionals, including: IT systems, use of federal websites and other media for advertising positions, extern/clinical rotation programs, interagency recruitment activities, and mentoring scholars to successfully place them at IHS and Tribal sites.

HR processes are also critical, and IHS is focusing internal reform activities on reducing hiring times, use of standard positions descriptions, more interaction and communication between HR officials and supervisors, and improvements to increase the number of qualified applicants considered by selecting officials. IHS is focusing on improvements in Human Resources and R/R and recently focused on these topics at the IHS National Combined Councils meeting.

CURRENT ISSUES:

Continued focus on recruitment and retention and human resource issues with both IHS and Tribal programs.

Planning for more in depth work on these issues at the IHS National Combined Council meeting in July, 2012.

Submitted by: Richard Church, Director, OPHS and Athena Elliott, Director, OMS, IHS
IHS Tribal Consultation Summit
Long Term Care (LTC)
March 13-14, 2012

BACKGROUND:
The Indian Health Care Improvement Act (IHCIA) contains new authorities for long term services and supports, including explicit authority for home and community-based services, long term care, assisted living, and hospice. The IHCIA allows for sharing of services between Tribal long term care programs and IHS and Tribal programs operating under contract or compact. The IHCIA also authorizes the use of underutilized IHS facilities for the swing beds, long term care, or similar care. The Director initiated consultation with a DTLL on January 6, 2012, accompanied by a summary of Key Ideas and Next Steps from a stakeholder conference held in November 2010, and requested input on priorities for implementation. Challenges and issues include:

- No new funding to implement the LTC provisions in the IHCIA
- Tribes can bring their long term care services and supports into their self-governance compacts and therefore have Federal Tort Claims Act coverage
- Tribes have expressed interest in developing a negotiated rate with Centers for Medicare and Medicaid Services (CMS) for LTC services provided under these authorities.
- The existing regulatory environment places Tribes, with relatively small elder populations, at a disadvantage and limits access to services. The IHCIA does not require licensure but does require that the services meet all applicable standards. Reimbursement through State Medicaid programs requires that Tribes submit to state licensure and certificate of need processes. Is there a way to adapt the regulatory framework for Tribes.
- A significant number of young and middle aged adults require long-term services and supports.
- There is need and opportunity in better coordination between IHS and VA in the deliver of long-term services and supports for AI/AN veterans.

The IHS, CMS, and Administration on Aging (AoA) signed a Memorandum of Understanding to provide technical assistance to Tribes, IHS, and Urban Indian health programs for the provision of long term services and supports. Monthly webinars have begun, a web-site has been developed to share information and resources, a listserv for sharing of information is in development, and a conference for sharing of best practices and technical information will be held on March 21-23 in Denver, Colorado.

CURRENT ISSUES:
Consultation on Long Term Care implementation priorities

Submitted by: Bruce Finke, MD, Nashville Area Elder Health Consultant, IHS
IHS Tribal Consultation Summit
Contract Support Costs (CSC)
March 13-14, 2012

BACKGROUND:

The Contract Support Costs (CSC) Workgroup is charged with reviewing the IHS Contract Support Costs Policy, including the procedures that were adopted in 2007 to address new and expanded Tribal contracts and compacts.

On October 11, 2011, the IHS Director sent a letter to all Tribes requesting nominations to formally establish the CSC Workgroup. On January 6, 2012, two Tribal officials were selected from each of the IHS Areas to form the Workgroup. The CSC Workgroup convened its first meeting on January 31 and February 1. The CSC workgroup plans another meeting in the near future.

A consultation was initiated on March 2, 2012 to request input from Tribes on two issues: confirmation that Tribes are comfortable with sharing their individual Tribal CSC data with all other Tribes; and input on whether the FY2012 CSC funding increase should be for existing contracts/compacts only or whether a portion (up to $10 million, as authorized by the appropriations act) should be allocated for new and expanded contracts/compacts.

CURRENT ISSUES:

Consultation on 2007 CSC Policy

Recent letter to Tribes requesting input/consultation on CSC issues
IHS Tribal Consultation Summit
Health Care Facilities Construction
March 13-14, 2012

BACKGROUND:

Health care facilities are an integral and important contributor to all the Agency’s priorities and specifically increasing access to care and improving its partnership with Tribes. The IHS Facilities appropriations include Health Care Facilities Construction, Maintenance and Improvement, Sanitation Facilities Construction, Facilities and Environmental Health Services, and Equipment line items. The IHS Health Care Facilities Construction program includes activities related to the current Health Care Facilities Construction Priority System, Joint Venture Construction Program, Small Ambulatory Care Facilities Grants, Youth Regional Treatment Centers, Dental Facilities Program, and Quarters Construction.

In March, 2011, HHS sent a Report to Congress on the estimated need for Tribal and Indian health care facilities. The report included the current priority list of facilities that will cost approximately $2.5 billion to complete. When added to the estimates identified in 2001-2006 of approximately $5.9 billion, the total estimated cost is $8.4 billion. Annual appropriations have allowed some progress on the Health Care Facility Construction Priority List, however the need is still great.

At the recent IHS National Tribal Budget Formulation Meeting in February, 2012, Tribes requested an opportunity to consult on the Health Care Facility Construction Priority System and to discuss the previously proposed Area Distribution methodology.

CURRENT ISSUES:

Consultation on Health Care Facility Construction Priority List

Submitted by: Robert McSwain, Deputy Director for Management Operations, IHS
IHS Tribal Consultation Summit
IT Shares Improvement Project
March 13-14, 2012

BACKGROUND:

This session will follow up on two Dear Tribal Leader Letters dated March 19, 2009 and August 16, 2010. These letters were in response to Tribal concerns about a proposal made in 2008 to change Information Technology service packages and tribal shares.

During 2011, twelve Area IT Listening Sessions were conducted around the country, to discuss IT programs, services, function and activities (PSFA) and to receive recommendations from the Tribes on how IHS should revise its approach. Information about and documents from the Listening Sessions are posted on: http://www.ihs.gov/TribalShares/.

On September 30, 2011, the Information Systems Advisory Committee (ISAC) delivered to the IHS Director a proposed “IT Tribal Shares Improvement Plan.” The Director has reviewed the plan and is preparing a Dear Tribal Leader Letter encouraging tribes to review the proposed plan and offer any additional comments before the plan is implemented. The IT Tribal Shares Improvement Plan:

- Explicitly affirms that OIT programs, services, functions and activities, or portions thereof, shall be available for transfer as tribal shares.
- States that proposed changes to OIT Tribal Share options or PSFA will be reviewed and approved by ISAC prior to going out to Tribes for formal consultation.
- Offers several recommendations for how OIT PSFA should be redefined and cataloged, and for reorganization of OIT to more effectively support the improvement plan.
- Offers several recommendations to ensure that Tribal consultation is integrated into IT planning and decision-making.
- Recommends the utilization of electronic communication tools and workspaces to invite and encourage Tribal consultation and collaboration.

CURRENT ISSUES:

Upcoming Consultation on the ISAC Recommendations/Tribal Shares Improvement Plan

Submitted by: Howard Hays, MD, MSPH, Chief Information Officer (Acting),
IHS Office of Information Technology
BACKGROUND:

The Federal Advisory Committee Act (FACA) was enacted in 1972 to address the growth and operation of the “numerous committees, boards, commissions, councils and similar groups which have been established to advise officers and agencies in the executive branch of the Federal Government.” FACA prescribes procedures that govern how agencies may constitute, convene and use committees of people who are not Federal employees. Under FACA, with limited exceptions, any group that has one or more members who are not Federal employees, established or utilized by a Federal agency to provide group advice to the agency, must comply with FACA. FACA applies to all meetings of such groups, regardless of whether they are held in person or through electronic means.

On November 9, 2011, the IHS Director sent a letter to all Tribes to begin formal consultation with Tribes regarding issues surrounding the FACA and to solicit input and assistance to help the IHS ensure that all IHS advisory groups comply with FACA so that the work product of these essential advisory groups can withstand legal scrutiny. On February 2, 2012, the IHS Director sent a letter to all Tribes to clarify the Agency’s position and to request further input on this topic for the next 60 days. The letter noted that the consultation is not an effort to exclude Tribal technical staff and employees; the law allows them to officially represent their Tribes. The letter requested additional input on several questions.

Government-wide implementing regulations have listed several categories of committees that are not covered by the FACA. 41 C.F.R. § 102-3.40. The category most relevant to the IHS is the one for Intergovernmental committees that meet the requirements of the FACA exemption in the Unfunded Mandates Reform Act of 1995, 5 U.S.C. § 1534(b). 41 C.F.R. § 102-3.40(g). The Unfunded Mandates Reform Act FACA exemption applies to meetings held exclusively between Federal officials and elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf), acting in their official capacities, and such meetings are solely for the purposes of exchanging views, information, or advice relating to the management or implementation of Federal programs established pursuant to public law that explicitly or inherently share intergovernmental responsibilities or administration.

CURRENT ISSUES

Consultation on implementation of FACA

Submitted by: CAPT Sandra Pattea, Deputy Director for Intergovernmental Affairs, IHS
IHS Tribal Consultation Summit
Veterans Affairs (VA) and Indian Health Service (IHS)
March 13-14, 2012

BACKGROUND:

The VA-IHS Memorandum of Understanding (MOU) was signed on October 1, 2010. This MOU provides for coordination, collaboration, and resource-sharing between the VA and IHS to benefit American Indian/Alaska Native (AI/AN) Veterans, and to enhance the efficient operations of both health care organizations, in support of our shared mission. The IHS and VA sent a letter to Tribal leaders on November 12, 2010 requesting input on priorities for implementation.

On March 5, 2012, IHS and VA sent a letter to Tribal leaders to initiate consultation on the VA reimbursement for services provided by IHS and Tribal health facilities to eligible AI/AN veterans, along with a summary document highlighting the main points of a proposed draft agreement developed by VA and IHS. Input is due in 30 days from the date of the letter.

CURRENT ISSUES:

VA/IHS MOU Implementation

Consultation on VA reimbursement of IHS – main points of draft agreement

Submitted by: Francis Frazier, Deputy Director, Office of Public Health Support, IHS
BACKGROUND:

ICD-10: All reimbursement claims submitted to Medicare and Medicaid must utilize version 10 of the International Classification of Diseases (ICD-10) by the CMS-designated compliance date – currently October 1, 2013. Providers that have not made the transition to ICD-10 by the compliance date will not be able to bill CMS for services provided to patients. Current issues include:

- HHS has announced its intent to re-evaluate the compliance date for ICD-10; the length of delay is not yet determined.
- All coding and billing staff will have to be “re-educated” to learn the ICD-10 code set.
- Efficiency of coding staff is expected to be impacted. Facilities likely need to plan for increased coding staff.
- Clinicians will require training to understand the differences between ICD-9 and ICD-10, and to improve clinical documentation to support ICD-10 coding
- The transition to ICD-10 requires extensive changes to health information systems, including the IHS Resource and Patient Management System (RPMS).

 Meaningful Use: The Meaningful Use (MU) initiative provides for financial incentive payments from Medicare or Medicaid to Eligible Hospitals and Eligible Providers who adopt certified electronic health record (EHR) systems and show that they are using those systems in a meaningful way. Hospitals and providers that have not demonstrated meaningful use of EHR technology by 2016 will see a reduction in Medicare payments. The IHS Resource and Patient Management System (RPMS) is certified for Stage 1 MU as a Complete EHR for Inpatient and Ambulatory settings. Current issues include:

- The Proposed Rules for Stage 2 Certification and Meaningful Use have just been released for public comment.
- The final Rules will not be released until the summer of 2012; just over one year will remain for EHR system modifications to be completed and certified for Stage 2.
- Although Stage 2 will be similar to Stage 1 in many ways, there will be a number of new requirements for health information exchange and for patient access to health records that will necessitate many new business processes in hospitals and clinics.

CURRENT ISSUES:

Update on Plans for implementation ICD-10 and Meaningful Use and action needed now

Submitted by: Howard Hays, MD, MSPH, Chief Information Officer (Acting),
IHS Office of Information Technology
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<td>NDW</td>
<td>National Data Warehouse</td>
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<tr>
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<td>OMB</td>
<td>Office of Management and Budget</td>
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<tr>
<td>PSFA</td>
<td>Program, Services, Functions, and Activities</td>
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<tr>
<td>RPMS</td>
<td>IHS Resource and Patient Management System</td>
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<tr>
<td>R/R</td>
<td>Recruitment and Retention</td>
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<td>SGM</td>
<td>Special General Memorandum</td>
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<td>Tribal Self-Governance Advisory Committee</td>
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