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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

GENERAL GOVERNMENT
DIVISION

DEC 17 1974

Mr. Norman Ross
Domestic Council
The White House
Washington, D.C. 20500

Dear Mr. Ross:

At the request of Senator Paul J. Fannin, the General Accounting Office is making a review of Federal benefits provided to American Indians (Indians, Eskimos, and Aleuts), including individuals, tribes, bands, groups, and businesses. In this regard, we need to determine the total obligations for each Federal program providing benefits to American Indians for fiscal years 1969 through 1974, and the portion of these obligations which benefited Indians.

Also, for those programs designed exclusively for Indians or programs which have funds set aside to be used only for the benefit of Indians, we need:

- a description of each program,
- information on the number of people involved in the operation of each program, and the number involved in program planning as opposed to program operations,
- the names of similar programs of other Federal agencies, regardless of whether or not these programs are designed exclusively for Indians,
- agency procedures for coordinating its program with similar programs of other Federal agencies, and
- a list of congressional committees and subcommittees, other than appropriations committees, that are involved in program oversight for the program.



12/20

Because the activities of the National Council on Indian Opportunity (NCIO) were designed exclusively to benefit American Indians, we would like to receive information on all NCIO obligations for the period under review. We have enclosed pro forma sheets for your use in providing the information we are requesting and instructions on how they should be completed. We would appreciate receiving the requested information within 45 days from the date of this letter.

If you have any questions concerning this matter, please contact the following representatives of the Resources and Economic Development Division on 343-4594.

Mr. Frank V. Subalusky, Assistant Director
Mr. David L. Jones, Supervisory GAO Auditor

Please forward the requested information to Mr. Subalusky at:

Interior South Building
Room 312
1951 Constitution Avenue, N.W.
Washington, D.C. 20245

Your cooperation and assistance in this matter is appreciated.

Sincerely yours,



Victor L. Lowe
Director

Enclosures - 3



THE WHITE HOUSE
WASHINGTON

1/31
2:00

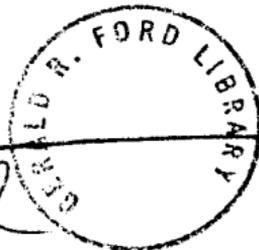
Reacquisition of
non-Federal land
within Pas boundaries

Sub-Marginal lands

Drinking Water

~~Atty~~

Amun's marginal
water transport system
no ground water



THE WHITE HOUSE

WASHINGTON

~~Employment~~
Coal & personal
explorations -
Strip - many

Coal leases

Great investigation
is being requested -
"Bry's opinion ~~ambitious~~"
Circumstantial protection
Basic geological data

THE WHITE HOUSE

WASHINGTON

School constructions
\$ 1017 appropriations

Health

Class judgment
payroll time

Class time in ICC

THE WHITE HOUSE
WASHINGTON

Money for Roads

DOT money to
States for transportation
of the handicapped.

Water rights & water
inventory

Further issues:
entrepreneur

THE WHITE HOUSE

WASHINGTON

Law enforcement

Land reforms
Indias

Retrospective
Pro-facilities

THE WHITE HOUSE

WASHINGTON

Indian tribes "K
public" with
their assets to
raise money.

"Keechel" bill?

THE WHITE HOUSE

WASHINGTON

January 9, 1975

MEMORANDUM FOR:

TED MARRS
NORM ROSS
ANNE RAMSEY

SUBJECT:

Indian Policy Issues
Following up our luncheon conversation.

With only memory (but no files) the attached list of issues occurs to me as some of the principal matters which a new sub-Cabinet policy coordination group should address. All of them are interdepartmental issues, crossing several agency boundary lines.

I think we should challenge Indian organizations to do some thinking and make their own contributions to the pros and cons in some of these issues, and also to add other issues which are on their minds.

A final note: supplementing my remarks at lunch I recommend that any sub-Cabinet group include representation as needed from multiple points in some Departments: Interior (BIA, Solicitor), HEW (ONAP, OE, Indian Health, perhaps others ad hoc), Agriculture (Forest Service, Rural Development), Justice (Civil Rights, Lands, on occasion CRS, LEAA, Solicitor-General's office), OMB (Natural Resources, Human Resources), Commerce (EDA, OMBE).



Bradley H. Patterson, Jr.



INDIAN POLICY ISSUES



(As the "agenda" of a sub-Cabinet group on Indian affairs)

1. Adding Land to Indian Reservations

When Indians claim or desire parcels of federal land presently outside the boundaries of existing Indian Reservations and want them added to Reservations or otherwise put into trust status, what criteria, terms or standards should be established for deciding which of these claims or desires are justified and for governing testimony, vetoes or administrative actions? Forest Service, BLM, military or other agency surplus -- are the lands involved. White House long ago asked Interior to do a study of this question, with research on how many parcels were involved and what the policy options are. Study has been mostly done but not looked at formally outside of Interior. Meanwhile Agriculture, remembering the alleged "non-precedents" of Blue Lake, Yakima, Yavapai Apache etc, is sweating out a constant nibbling away at Forest Service acres and wondering where the long-promised standards are. The new Congress will undoubtedly again present us with a full hopper of special land-transfer bills and again testimony will be required.

A special category: CENA. Do we agree as a policy matter how to handle CENA's requests for Eastern Indians eligibility or Reservations?

2. Tribal Sovereignty over Non-Indian Fee Lands Within the Boundaries of Indian Reservations

Many reservations are characterized by inholdings of private, non-Indian fee lands within Reservation boundaries. Tribal Councils are trying to pass zoning, taxing, water rights and other ordinances and have long stated that we support tribal "self-determination", but no one has really examined the question of tribal authority over these non-Indian lands. The Senate-passed version of the land-use planning bill incorporated a Jackson amendment specifying that tribal land-use planning authority would extend to the non-Indian fee land; the House called for a "study" but the bill died in the House Rules Committee. It is a constitutional as well as a policy question: if non-Indians are absolutely excluded from all participation in the processes of Indian tribal governments, can those same governments pass laws affecting non-Indians' property and rights? Patterson did the outline of a policy paper on this subject and Reid Chambers has worked on the issue but that is all.



3. Indian Civil Rights

Should the Indian Civil Rights act be amended to require that local Tribal rules and processes be exhausted before federal remedies are imposed? Some Indian leaders believe that we are moving too quickly to impose Federal and Federal Court solutions without insisting on first using and exhausting tribal governmental channels and arrangements. Should PL 280 be amended?

4. Should We Create an Independent Agency for Indian Affairs?

If Interior should become a DENR, where should BIA go? Some Indian people (Mrs. Harris) are already asking that we consider creating an independent agency but we have not heard from the other major Indian organizations and we should have their views before we move on the matter. If Indian leaders generally began to push for this, what elements of the Executive Branch would a new agency contain (ONAP? Indian Health? any of Labor or OMBE or Justice's Lands Division or HUD or SBA?) All we are sure of at present is that it would not be part of the Executive Office.

5. Appellate Strategy re Indian Claims

Should Justice be instructed (at the most) to cease appealing Indian Claims Commission decisions except in the cases of egregious errors or (at the least) to coordinate its appellate strategy with Interior (which it never does now) with disagreed issues coming to OMB/White House?

6. Indian Education

What is the outcome of the joint BIA-USOE study of possible duplication in funding Indian education? What action should be taken on the recommendations?

Whould there not be a review of what is happening with the new Johnson-O'Malley regulations?

What kinds of regulations (and policy issues in them) will the newly-passed bill require?



7. Trust Counsel

Before this bill moves very far on the Hill, the House Committee staff will want to know whether we will accept some changes in our bill, e. g. to set standards or "triggering points" under which the Counsel and staff will take over Indian legal matters from Justice with other Indian cases staying with Justice. We need to ascertain what we will accept here.

8. Water Rights

Do we need to amend the existing legislation on Indian water rights to overcome any possible treats to these rights stemming from the Eagle County decision? (Justice has done some bill-drafting on this point.)

9. Indian-Non Indian Relationships

Aside from the issue in # 2, what is the situation, and what policy questions does it present, in places like South Dakota between Indian and non-Indian populations? There are reports of continuing tension between these two sets of communities. Where are we on strengthening tribal law enforcement? On using the Community Relations Service? On ascertaining the proper division of responsibility between State, local and tribal law enforcement groups? On coordination among them?

10. Great Plains Coal

Where are we on supporting the creation of Indian tribal business entities to manage the leasing (production maybe?) of coal on Indian Reservation lands? Coordination needed here among BIA, Interior/ Solicitor, EDA and OMBE.

11. Recognition of Indian Tribal Governments as Service Providers

There is an important but unresolved internal controversy about the extent to which this Administration wants to treat recognized Indian Tribal Governments as the direct recipients of Federal assistance programs (e. g. as they are now for General Revenue-Sharing, Manpower Special Revenue-Sharing, Housing and Community Development) or as units of



government which will receive federal assistance only through State governments (Assistance for Aging, for Social Services). We are following two sets of inconsistent policies and we should resolve this inconsistency.

12. Indian Civil Disobedience

Senior White House and Interior officials should satisfy themselves that appropriate intelligence-gathering is being conducted by Justice to give maximum early warning of civil disobedience and maximum support to later prosecutions (notable, recent, less-than-satisfactory performances were the BIA building occupation, Wounded Knee trials). We should be consulted on results of Justice's general study of political trials.

13. Indian Judicial System Reform

One of the complaints at Pine Ridge which in part led to the Wounded Knee confrontation was the feeling on the part of individual Indians that the Judicial and Executive Branches of their tribal government were in part combined, and that they had no separate, judicial appellate channel. For how many tribes is this still true? What reform is needed, what legislation?

14. Indian Cultural Autonomy

Did the Oklahoma feathers issue open up more than just an example of poor federal coordination -- is there also a question involving administrative or even legislative alleviation? (The NTCA drew up a position-paper on this subject but in the end it was not clear as to what specific executive or statutory remedies were being requested.)

15. A-95 Procedure and Indian Projects

An issue has been left fuzzy here -- Indian projects are exempt from the actual clearance requirement but data on contemplated Indian projects must go to State and local governments for information. If objections come in in response to such informational alerts, how are the objections handled? What weights are assigned and who decides?

16. Urban Indians

Who has the ball here and who does not? How far runs the federal responsibility -- outreach? advocacy? facilitation into local service-points? creating duplicate facilities? How shall federal agencies coordinate their urban efforts in the field? Role of Regional Councils? Urban Indian Advisory Committees? Effectiveness of efforts up to now?

THE WHITE HOUSE

WASHINGTON

July 6, 1976



Dear Mr. Begay:

The President asked me to reply to your March 12 letter concerning the allocation of funds for all Federal domestic programs through State governments.

The Federal Government uses a variety of methods in supporting domestic programs, including formula grants to States and/or local governments, project grants directly to individual local institutions, and direct support for individual persons and families. The selection of methods for any particular program area may depend on the nature and extent of the Federal participation in that program area, the nature of the program area itself, and other factors. Because of these variations in program designs, the participation by units of governments in Federal programs varies among these programs. In this regard, federally-recognized tribal governments are no exception since their participation can range from direct receipt of Federal assistance by the tribal government, as in the case of General Revenue Sharing, to little or no direct participation as in the case of certain Federal income maintenance programs. In between these two extremes, there are multiple patterns that have been developed, including instances where Federal legislation has designated State governments as primary recipients of Federal assistance for use in programs serving all State citizens, including Indians and non-Indians alike. There are, as you are aware, other instances in which special provisions have been made for direct Federal assistance to Indian tribes in programs which otherwise are operated by States. In short, there is no one method used for all programs because programs differ in purpose.

In his fiscal year 1977 budget message to the Congress, President Ford stressed the need to achieve a balance

"between Federal control and direction to assure achievement of common goals and the recognition that State and local governments and individuals may do as well or better without restraints". One of the decisions made by the President to achieve this balance is his proposal to replace fifty-nine grant programs with broad block grants to States in the areas of health, education, child nutrition, and community social service programs. This proposal continues the policy of consolidating and simplifying Federal grant programs.

It should be emphasized, however, that these program consolidations and simplifications are not intended to reduce Federal support for Indian communities or to redefine the relationships between the Federal Government and Indian reservation communities. First, none of the major Federal programs specifically directed toward Indian communities are affected by these four program consolidations.

Secondly, there are provisions within the four consolidation proposals which will help assure access and participation by Indian communities, e.g., compliance with civil rights laws; required development of State plans for the use of Federal funds and public comment on those plans; and compliance audits and annual evaluations of the implementation of the plans.

A somewhat new approach to assuring equitable treatment of Indian persons and communities is embodied in the Older Americans Amendments of 1975 (P.L. 94-135). That Act provides that when the Commissioner on Aging determines that members of a tribe are not receiving benefits from the State equivalent to benefits provided to other State citizens he has authority to grant such funds directly to a tribal organization or other entity to serve those Indian persons.

The Indian Self-Determination Act, P.L. 93-638 provides that, to the extent feasible, preferences be given to Indians and Indian organizations and enterprises in training, employment, subcontracts, subgrants in any contract or grant

made pursuant to a Federal law authorizing contracts with or grants to Indian organizations or for the benefit of Indians.

Finally, we would also note that from fiscal year 1972 through fiscal year 1977, Federal grant outlays will have averaged less than a quarter of State and local government expenditures. What this means is that no matter what arrangements are made concerning the Federal monies, Indian communities need to assure that they, as State citizens, taxpayers, and voters have equal access to the non-federally funded programs which are operated by States and local governments.

I trust the above information addresses your concerns and thank you for your letter.

Sincerely,



Theodore C. Marrs
Special Assistant to the President

Mr. Eugene Begay
Executive Director
United Southeastern Tribes, Inc.
Oaks Tower
1101 Kermit Drive
Nashville, Tennessee 37217



September 18, 1976



Mr. Brad Patterson
The White House
Washington, D. C.

In discussion with several tribal leaders, all have concurred with the early retirement approval by The President. Most have already made their positions known.

Telegrams are also enroute promoting the timeliness of even stronger action along the lines indicated in my previous correspondence, and projecting it still further.

Many problems need attention on the Indian scene. The disasters reported in the management of funds at Indian reservations are as much the fault of the system and the divisiveness of separate federal agency reporting systems as it is the lack of management experience and lack of internal controls within tribal groups. A unified reporting system and funding management program as promised in Joint Funding Simplification would do much to improve the entire picture. The option of local tribal choice of lead agency would destroy the creation of a monolithic "Indian Agency", while still providing uniform management procedures.

You had earlier commented that the BIA's contracting provisions under Indian Self-Determination Act would grant greater control. They do, but not to the tribe. An entire BIA empire is being built around the regulations - to the exclusion of stimulating other avenues of local creative effort, or of developing broad cooperative arrangements with other agencies. Indeed, the contract provisions being imposed on the tribes are more restrictive and demanding than the performance required by the Bureau of itself.

In the telegrams coming forward from tribal leaders mention is made of "local planning efforts, departmental program agreements, with annual review and reevaluation procedures set up in concert with relevant tribal leadership at all levels." Nothing new on the surface of it. However, the current single-minded move to totally "Indianize" the BIA is driving out empathetic people and functions designed to stimulate cooperation, and attitudes are developing among some outside resource agencies (and in some cases where former BIA employees have flown) to "let the Indian SOB's do it themselves". Planning and cooperative functions are being destroyed, and racism is emerging - thus the need to re-emphasize broader philosophies and mutual planning.

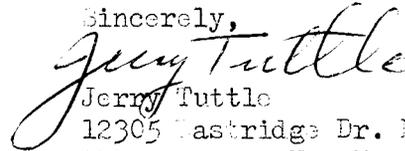
The provision of "departmental program agreements" within the telegrams is an idea attempting to get all federal agencies to commit themselves to a course of action and performance with Indian tribes just as the Indian tribes are required to do with BIA contracts. Thus everybody knows what is expected of them and how they should act to achieve mutually planned goals.

Telegrams, I am told, went out from (1) Wendell Chino as both Chairman of NTCA and Mescalero Apache Tribe; and (2) Delfin Lovato, Chairman of the All Indian Pueblo Council. Charles Trimble of NCAI has yet to react to it, as has Peter McDonald with the Navajo (he had earlier telegraphed his approval of HR 5465).

Mr. Brad Patterson
September 18, 1976
Page 2

Bob Lewis says "hi". He would very much like to see you in Albuquerque and review the status of things and his ideas and see if you have some additional suggestions. I, too, would like to see you.

Sincerely,



Jerry Tuttle
12305 Lastridge Dr. N.E.
Albuquerque, New Mexico 87102
Home Tele.: 298-9536
Office - Mon 513 (505) 766-3610

TELEGRAM

President Gerald R. Ford
The White House
Washington, D. C.

Dear President Ford:

In the interest of true Indian Self-determination I am requesting you to:

1. Sign the HR 5465 bill into law for early retirement of non-Indian employees of BIA and IHS.
2. Require that all vacated positions not filled within one year be placed within the ^{positions - ceiling reserve} ~~"ceiling bank"~~ for retrieval at the discretion of Indian tribal leadership.
3. Promote the flow of all lapse monies created by the vacancies to Indian reservations for local discretionary use.
4. Require for FY1977 that all BIA and IHS programs be combined with all other Indian-related programs into Joint Funding Simplification for more manageable local control and accounting.

The option for choice of lead agency to direct the coordination of these funds should be in the hands of the local tribal leadership.

5. Project the erection of local planning, agency program agreements, annual review and evaluation of all departments with relevant Indian leadership at all levels of Federal responsibility.

Your affirmative response to these requests would be appreciated.

