

**WRITTEN TESTIMONY OF JAY SPAAN, EXECUTIVE DIRECTOR, SELF-
GOVERNANCE COMMUNICATION & EDUCATION TRIBAL CONSORTIUM
OVERSIGHT HEARING ON
“INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT
SUCCESSIONS AND OPPORTUNITIES AT THE DEPARTMENT OF THE INTERIOR
AND THE INDIAN HEALTH SERVICE”
BEFORE THE U.S. SENATE COMMITTEE ON INDIAN AFFAIRS**

September 17, 2025

Chairman Murkowski, Vice Chairman Schatz, and Members of the Committee,

Thank you for the opportunity to testify today. I am honored to represent the Self-Governance Communication and Education Tribal Consortium (SGCETC), whose mission is to strengthen Tribal Self-Determination and Self-Governance by advancing communication, education, technical assistance, collaboration, and resource sharing among Tribal Nations.

The Indian Self-Determination and Education Assistance Act

Enacted in 1975, the Indian Self-Determination and Education Assistance Act (ISDEAA) transformed federal Indian policy by affirming the inherent right of Tribal Nations to govern their own affairs. Before ISDEAA, the Department of the Interior’s Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS) managed most federal programs for Tribal communities. Through Self-Determination contracts and Self-Governance compacts, Tribes have since demonstrated their ability to deliver services more effectively than federal agencies—strengthening local economies, improving healthcare, and reducing bureaucratic delays. Nearly every federally recognized Tribe now operates programs under ISDEAA, and more than 400 Tribes exercise under the Self-Governance authority. After 50 years, the success of ISDEAA is clear in demonstrating that when decision-making is returned to Tribal governments, outcomes improve.

Success of Self-Determination and Self-Governance

ISDEAA gives Tribal Nations the choice and flexibility to determine how federal programs are carried out in their communities while also incorporating core federal audit standards that provide structured financial oversight. Using these authorities, Tribes manage a wide range of programs and functions, from land and natural resource management to economic development, education, law enforcement and judicial, healthcare, and social services. Local control ensures programs reflect community priorities, builds administrative and leadership capacity, and generates measurable economic benefits.

For example, the Harvard Project on American Indian Economic Development found that between the late 1980s and 2022, per capita income for Tribal citizens living on reservations increased by 61%, while the share of families with children living in poverty fell from 47.3% to 23.5%.

Key Benefits of ISDEAA

ISDEAA enables Tribal Nations to:

1. Redesign Programs – Within parameters of the law, adapt federal programs to reflect local needs and values.
2. Integrate Resources – Coordinate funding streams to reduce fragmentation and strengthen services.
3. Waive or Modify Federal Rules – Waive or modify agency rules that hinder community-driven solutions, program performance, and outcomes.
4. Reduce Administrative Burdens – Streamline reporting and oversight, allowing more focus on service delivery.

Distinctions Between Self-Determination and Self-Governance

Both authorities share the goal of shifting control from federal agencies to Tribal governments. However, their approaches differ, and Self-Governance was a Tribally developed authority intended to address many of the challenges Tribes faced when using Self-Determination:

- Self-Governance (Titles IV and V): Offers Tribes broad flexibility to administer and redesign programs with minimal federal interference.
- Self-Determination (Title I): Allows Tribes to contract federal programs but typically requires federal review and approval of proposals, resulting in greater federal oversight.

These authorities empower and restore Tribal Nations' right to lead, innovate, and strengthen their communities.

Advancing Federal Priorities Through Tribal Self-Governance

This Administration has signaled that Tribal Self-Governance under ISDEAA aligns with many of their priorities, including reducing federal bureaucracy, strengthening local control, and improving government efficiency. By enabling Tribal Nations to manage federal programs themselves, Self-Governance removes unnecessary layers of federal oversight and empowers Tribes—who best understand their communities—to make decisions that deliver more effective results.

Self-Governance is not only a fulfillment of federal trust and treaty responsibilities; it is also a pragmatic strategy to achieve the Administration's goals of smaller, more responsive government. The U.S. Government Accountability Office (GAO) has recognized ISDEAA agreements as a model for the efficient distribution of federal funds.

The Department of the Interior's Indian Affairs (IA) and the IHS have recently taken several important actions to support Tribal Self-Governance. For instance, IA announced it is reassessing which programs and activities should be classified as "inherently federal," with the goal of creating more opportunities for Tribes to assume direct responsibility for federal functions. This is urgently needed as we continue to hear

examples of federal officials using improper “inherently federal function” determinations to limit Self-Governance. In one recent case, a Tribe was interested in contracting additional BIA programs but it was hindered when the local BIA region told the Tribe that a negative amount of funding was available for contracting, claiming all other funding had to be retained by the BIA for “inherent federal functions.” Updating this guidance will hopefully prevent such obstacles in the future.

IA has acknowledged the need for regulatory reform where outdated or overly prescriptive rules restrict innovation. We believe that the current Welfare Assistance regulations, for example, are prime for reform as they predate the Self-Governance era and limit Tribes’ ability to design programs tailored to their citizens’ needs. Modernizing these regulations would result in opportunities for Tribes to develop more effective programs with less administrative burden.

IHS, for its part, has cited the growth of Tribal Self-Governance as a central factor driving its reorganization. Secretary Kennedy has affirmed that the Department of Health and Human Services is committed to strengthening Tribal sovereignty and shifting decision-making and resources closer to the communities they are meant to serve. Together, these efforts underscore the vital role of Self-Governance as a proven pathway to effective governance and stronger Tribal communities.

Misalignment Between Federal Commitments and Some Actions

While we are hearing positive statements and intentions to support and enhance Self-Governance, we see a troubling misalignment between what federal agencies say and some recent actions and proposals. Some policy and operational changes, proposed budget cuts, workforce reductions, unresponsive federal agencies, and federal staff spreading misinformation undermine the intent of Self-Governance and create barriers for Tribal Nations seeking to exercise the authority Congress has already provided.

Policy and Operational Changes. Tribes are concerned that BIA and IHS are making operational and policy changes that directly affect the implementation of Tribal Self-Governance without meaningful Tribal input or consultation. The following examples demonstrate changes that may hinder Tribal Self-Governance:

- In July 2025, the BIA issued a new Section 105(l) Facility Lease Guide calling for appraisers to compare Tribal facilities with “a minimum of three similar properties” when conducting a Fair Market Rental Analysis. This new guidance was issued without consultation, is ambiguous about what constitutes a “comparable” property, and ignores the unique economics of 105(l) leases, which benefit from a guaranteed federal tenancy. In many rural and remote Tribal and Alaska Native communities, no comparable facilities exist, forcing appraisers to use irrelevant data, inflating costs, and ultimately undervaluing Tribal properties in violation of ISDEAA’s requirement for fair compensation.
- As of May 19, 2025, Tribes are now required to provide a “justification” each time they draw down ISDEAA funds through the Automated Standard Application for Payments (ASAP). This bureaucratic requirement is a significant departure from past practice—Tribes were never asked to justify payment requests for funds that had already been negotiated and appropriated under binding agreements. The

requirement directly conflicts with ISDEAA, which guarantees that Tribes receive the full federal funding needed to operate programs, transferred in advance and without delay. In addition, ISDEAA already ensures accountability through application of Single Audit Act requirements which incorporate core federal audit standards that provide structured financial oversight. Tribes strongly urge DOI to discontinue the use of the ASAP system for ISDEAA funding and instead adopt a direct wire transfer process, consistent with federal law, Self-Governance agreements, and proven reporting practices already in place at IHS and the Department of Transportation. Agencies must avoid imposing new conditions or delays that undermine Tribal Self-Governance.

- IHS has taken unilateral actions that have raised concerns from Tribes, including revising its Intergovernmental Personnel Act (IPA) agreements and MOAs. These agreements are intended to allow federal employees to serve in Tribal health programs while maintaining federal employment status, but several Tribes are concerned that recent changes will result in IHS using them to shift costs onto Tribal governments. More troubling, IHS has adopted a position requiring Tribes to reimburse the agency for up to a year of severance pay when an IPA term ends or when a Tribe hires the employee directly, a practice that contradicts decades of precedent and may violate statutory prohibitions under 25 U.S.C. §§ 5325(b)(4) and 5388(d)(1)(C)(iv).

These examples highlight a troubling pattern of federal agencies making unilateral policy or operational changes that will undermine Tribal Self-Governance authority.

Proposed Budget Reductions. Self-Governance cannot succeed without full and stable funding for the federal programs and functions that Tribes assume under ISDEAA agreements. GAO reported in 2019 that a lack of adequate federal resources has been a long-standing concern that can limit the number of programs Tribes take over using Self-Determination contracts and Self-Governance compacts.¹ In addition, the U.S. Commission on Civil Rights previously report noted that the authority Tribes have to take over the administration of federal programs is useful to the extent that adequate funds are made available to the Tribes to operate the program.²

While Congress holds the ultimate power of the purse, the President's Budget Request sets the Administration's priorities and shapes the debate for each fiscal year. For FY 2026, the DOI's Budget in Brief asserts that the budget "supports efforts to advance self-governance and self-determination." Yet, the numbers released to date reflect the Administration's intent to significantly cut the very programs Tribes currently administer—or are poised to assume—under Self-Governance. Chronic underfunding will erode the core goals of Self-Governance, harming programs administered directly by BIA as well as Tribal programs already operating under ISDEAA. Moreover, such cuts severely restrict the ability of additional Tribes to enter Self-Governance and successfully assume administration for BIA programs. Expanding pathways to Self-

¹ U.S. Government Accountability Office, INDIAN PROGRAMS: Interior Should Address Factors Hindering Tribal Administration of Federal Programs, GAO-19-87 (Washington, D.C.: January 2019).

² U.S. Commission on Civil Rights, A Quiet Crisis: Federal Funding and Unmet Need in Indian Country, (Washington, D.C.: July 2003).

Governance while slashing the resources that make those pathways viable is self-defeating.

Workforce Reductions. We recognize that the Trump Administration has articulated a goal of reducing federal bureaucracy and streamlining government operations, including through workforce reductions. While efficiency is important, making such cuts without considering the unique responsibilities of the BIA and the IHS poses significant risks to the success of Tribal Self-Governance. Even when Tribes take over federal programs under ISDEAA, federal agencies remain indispensable partners in ensuring success. Without sufficient personnel in key roles, negotiations are stalled, funding transfers are delayed, and Tribes are left without the technical support they need.

In one recent example, a Self-Governance amendment was stalled because the Office of General Counsel had been downsized and could not review it in a timely manner. In another, Tribal organizations were left without a point of contact to negotiate indirect cost rates after the closure of an HHS office, creating real risks that funding for critical programs could be delayed. Tribes do not believe these are isolated incidents—they likely reflect a pattern. If the federal government is sincere in its support for Self-Governance, it must ensure that efforts to reduce the federal workforce do not come at the expense of the very functions that make Self-Governance possible.

Concerns about Federal Responsiveness and Preparedness. In 2019, GAO reported to Congress that the BIA often fails to provide Tribes with the information needed to negotiate Self-Governance agreements, and that the information it does share is inconsistent across regions and frequently lacks documentation or justification.³ Unfortunately, Tribes continue to report that requests for meetings with BIA and IHS and information from these agencies are met with weeks or even months of delay—leaving them without the timely support required to move forward. It is unclear whether these delays reflect intentional stalling or the result of understaffing in key offices, but the effect is the same—an undermining of the ability of Tribes to exercise Self-Governance authority.

The IHS Tribal Self-Governance Advisory Committee (TSGAC) recently raised concerns that IHS efforts to centralize or consolidate administrative functions—such as shifting negotiations and support from Area Offices to Headquarters—could unintentionally slow critical Self-Governance processes. Reduced access to federal staff responsible for negotiations, document processing, and technical assistance often delays approvals and forces Tribes to submit “final offers,” a mechanism intended only for failed negotiations. TSGAC stressed that any realignment must not create new barriers to exercising ISDEAA rights and urged IHS to ensure that negotiations, funding transfers, and technical assistance are timely, accurate, and aligned with Tribal—not federal—timelines.

TSGAC cautioned that removing responsibilities from Area Offices risks weakening accountability and undermining established Tribal-Area relationships. Some Areas function well and should be strengthened, while others need targeted improvement.

³ U.S. Government Accountability Office, INDIAN PROGRAMS: Interior Should Address Factors Hindering Tribal Administration of Federal Programs, GAO-19-87 (Washington, D.C.: January 2019).

Recent actions, such as withdrawing human resources functions and altering hospital oversight, have already diminished Area capacity and fueled concerns about the potential elimination of Area Offices altogether. As more Tribal Nations assume direct operation of IHS programs, TSGAC emphasized that any realignment must occur in close consultation with Tribes and uphold the principle that federal actions should strengthen Self-Governance and the delivery of essential health services.

Spreading Misinformation to Undermine Tribal Efforts. We are concerned about reports of federal employees spreading misinformation to discourage Tribal leaders from pursuing Self-Governance. Nearly fifty (50) years after ISDEAA became law, such conduct represents a direct contradiction of federal commitments to Tribal Self-Governance. Federal leadership at both BIA and IHS must send a clear and unambiguous message that these practices will not be tolerated, and that timely responsiveness is non-negotiable if Self-Governance is to succeed.

Tribal Self-Governance Authority Beyond DOI and IHS

Over the past decade, Congress has broadened the reach of Self-Determination and Self-Governance, empowering Tribal Nations to work directly with additional federal agencies and assume greater control over diverse programs.

- Department of Transportation (2015): The Fixing America's Surface Transportation Act authorized Tribal Nations to negotiate Self-Governance agreements for specific transportation programs, giving Tribes greater authority over planning and implementation of infrastructure projects.
- USDA Food Distribution Program (2018): The Farm Bill launched a Self-Determination Demonstration Project, which has produced overwhelmingly positive results, with Tribal Nations reporting improved program outcomes and stronger local food systems.
- Tribal Forest Management (2018): The same Farm Bill also established the Tribal Forest Management Demonstration Project, enabling the USDA Forest Service to enter into project-specific Self-Determination contracts with Tribes under the Tribal Forest Protection Act.

These authorities demonstrate that Self-Governance works across multiple federal agencies. Tribal Nations are not only capable of managing federal programs—they are delivering better results, strengthening communities, and proving the effectiveness of Self-Governance as a model for federal-tribal partnership.

Extending Tribal Self-Governance Authority to Agriculture and Economic Development Sectors

Congress should establish a new title under the ISDEAA to extend Self-Governance authority to key U.S. Department of Agriculture (USDA) programs. This expansion should include nutrition programs, the Forest Service, the Farm Service Agency, meat inspection functions, rural development initiatives, and conservation programs.

Tribal governments are central to the U.S. agricultural sector, managing millions of acres of farmland, ranchland, and natural resources. They are major producers of cattle

and bison in states such as Montana, South Dakota, and Oklahoma, and operate successful farming enterprises producing wheat, potatoes, corn, soybeans, wild rice, alfalfa, and specialty crops. For example, the Ak-Chin Indian Community in Arizona operates one of the state's largest and most productive agricultural enterprises.

The idea of expanding ISDEAA authority to USDA is not new—Tribal leaders and Congress have discussed its potential since 1977.⁴ What is new is the urgency. Empowering Tribal Nations with Self-Governance authority over USDA programs would strengthen Tribal food systems, improve the delivery of nutrition assistance, support conservation and land management, create jobs, and drive economic growth in Indian Country.

Extending Tribal Self-Governance Authority to Additional Healthcare Programs

Tribal governments are essential providers of healthcare, operating hundreds of facilities that serve both Tribal and non-Tribal communities—often in rural and underserved areas where access to care is otherwise limited. These facilities deliver primary care, specialty care, and behavioral health services, while contributing to the national healthcare workforce through training programs and partnerships with universities. For example, the Jamestown S'Klallam Tribe operates the only comprehensive opioid treatment clinic in Clallam County, Washington, serving more than 120 patients each day.

The success of Self-Governance within the Indian Health Service (IHS) demonstrates that Tribal management strengthens healthcare delivery and improves outcomes. Congress should build on this record by extending Self-Governance authority to additional programs within the Department of Health and Human Services (HHS). Expanding Tribal authority would improve efficiency, reduce wasteful federal spending, and ensure healthcare programs are tailored to community needs.

For more than 25 years, HHS, Tribal Nations, and joint Tribal-federal workgroups have studied and affirmed the feasibility of such an expansion. Enacting legislation to extend Self-Governance across HHS programs is the logical next step in strengthening healthcare access, advancing Tribal sovereignty, and achieving more effective federal-Tribal partnerships.

Extending Tribal Self-Governance Authority to Law Enforcement Programs

We recommend that Congress consider expanding Self-Governance authority under ISDEAA to include law enforcement programs within the Department of Justice. With over 234 Tribal law enforcement agencies and 400 Tribal justice systems operating across the U.S., Tribal governments are already crucial in maintaining public safety through policing, judicial systems, and emergency response services.⁵

⁴ Senate Select Committee on Nutrition and Human Needs Report on Recommendations for Improved Food Programs on Indian Reservations (May 16, 1977).

⁵ Opportunities and Challenges for Improving Public Safety in Tribal Communities,” Statement of Bryan Newland, Assistant Secretary for Indian Affairs, United States Department of the Interior, Before the United States House Committee on Natural Resources Subcommittee on Indian and Insular Affairs (Nov. 14, 2023).

Tribal law enforcement agencies have demonstrated remarkable success in addressing critical issues. For instance, the Tulalip Tribe's Police Department recently collaborated with federal and local partners to seize over 61,000 counterfeit fentanyl pills during "Operation Clean Sweep," effectively targeting fentanyl distribution networks.⁶ Additionally, Tribal governments have shown their commitment to mutual aid by supporting emergency response efforts, such as the Navajo Nation's deployment of firefighters to assist with Los Angeles area wildfires.

Expanding Self-Governance to law enforcement could significantly reduce the high rates of violent crime in Indian Country, as recommended by the Indian Law and Order Commission in 2013.⁷ By elevating Tribal governments more control over law enforcement programs, we can enhance their ability to tailor solutions to their unique needs, improve community safety, and foster stronger partnerships with federal and state agencies.

Conclusion

In conclusion, ISDEAA has been instrumental in improving the health and economic well-being of Tribal communities. But that success is undermined when federal agencies raise barriers when imposing unilateral policy and organizational changes, shift federal costs onto Tribal governments, cut the very funding that makes program assumption possible, and eliminate the workforce required to uphold federal obligations.

To strengthen Self-Governance for the next fifty years, we urge Congress to ensure full and stable funding for ISDEAA agreements, reclassify CSC and 105(l) payments as mandatory appropriations, require BIA and IHS to engage in meaningful Tribal consultation before adopting policy or structural changes, protect workforce levels at key agencies, and expand Self-Governance to additional agencies and programs. Tribal Nations have proven they can deliver federal programs more effectively and efficiently when given the tools to succeed; it is time for federal agencies to fully support—not obstruct—this vision of Self-Governance.

SGCETC appreciates the opportunity to share Tribes' views and information on Self-Governance under the ISDEAA authority with the Committee. Chairman Murkowski, Vice Chairman Schatz, and Members of the Committee, this completes my prepared statement. I would be pleased to respond to any questions.

⁶ Tulalip Tribal Police Department, Media Release: "Tulalip Police Department's Drug Task Force Seizes Over 61,000 Counterfeit Fentanyl Pills Operation Clean Sweep," February 20, 2024. (<https://www.tulaliptribalpolice.org/MediaReleases>)

⁷ In 2010, Congress passed, and the President signed, the Tribal Law and Order Act, P.L. 111-211 (TLOA), which created the Indian Law and Order Commission.