

**U.S. Department of the Interior  
Office of Self-Governance - Indian Affairs  
Self-Governance PROGRESS Act Negotiated Rulemaking Committee**



**MEETING MINUTES**

Advisory Committee Management Officer (CMO)—Margaret Triebusch  
Designated Federal Officer (DFO)—Vickie Hanvey

DATE: **November 6, 2023**  
Federal Register Notice: FRN 2023-72777  
Meeting Number: 9  
DFO Convened at: 1:06 p.m. ET  
DFO Adjourned at: 2:56 p.m. ET  
Location: Virtual Meeting via Zoom Link  
(Managed by Self-Governance Communication and Education Tribal Consortium)  
Broadcast via Federal Register Zoom (Public Access)  
Designated Notetaker: Janelle Naranjo, Office of Self Governance  
Facilitation: None

In accordance with the provisions of Federal Advisory Committee Act (Public Law 92-463, as amended), the meeting was open to the public.

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**CONSENSUS AGREEMENTS SUMMARY:**

The Self-Governance PROGRESS Act Negotiated Rulemaking Committee (the “Committee”) reached consensus on the following during the meeting:

1. Approval of the Committee’s April 20, 2023, plenary session meeting minutes.
2. Approval of Subpart C (Section 402(d) Planning and Negotiating Grants).
3. Approval of Subpart Q (Miscellaneous) and to be renamed to Operational Provisions.
4. Approval of the meeting schedule through February 2024.

**OPENING**

The meeting was convened by Designated Federal Officer (DFO) Vickie Hanvey at 1:06 p.m. ET.

**BLESSING**

Matt Kallappa, Federal Committee Member, Office of Self Governance, gave the blessing.

**ATTENDANCE:**

DFO Hanvey took a roll call of the primary and alternate Committee members, finding that a quorum was in attendance and that the meeting could proceed. See Appendix A for a list of all attendees.

<b>Committee Attendance</b>		
	Present	Absent
Tribal Primary Members	5	2
Federal Primary Members	5	1
<b>Total Primary Attendance</b>	<b>10</b>	<b>3</b>
Tribal Alternate Members	4	3
Federal Alternate Members	4	2
<b>Total Alternate Attendance</b>	<b>8</b>	<b>5</b>

DFO Hanvey gave an update that official appointment letters have been finalized for Federal Alternate Members Andrew Caulum, Office of the Solicitor; Nichole Hanna Bureau of Land and Minerals Management; and Natalie Washington, Bureau of Reclamation.

Melanie Fourkiller requested confirmation of a quorum as defined by the Protocols. DFO Hanvey, confirmed the Protocols define a quorum of no fewer than five Tribal Primary and four Federal Primary Members. In the absence of a Primary their designated Alternate will count towards a quorum. A quorum was confirmed.

**REVIEW OF APRIL 20, 2023, PLENARY SESSION #8 MEETING MINUTES**

The first item on the agenda was to review the draft meeting minutes from the Committee’s April 20, 2023, plenary session. DFO Hanvey reminded the Committee that there was a request by Melanie Fourkiller during the April plenary to report Tribal and Federal attendance in a similar manner and that adjustment had been made. In future minutes the members, facilitators and Designated Federal Officers attendance will be listed. All others in attendance will be included in the count for the public. She then asked if the members had time to review the meeting minutes or needed additional time.

Melanie Fourkiller inquired about deferring approval to the next meeting. DFO Hanvey stated preference to approve and make any adjustments at the next meeting. She also mentioned the minutes document state at the bottom, “These minutes will be formally considered by the Committee at its next meeting, and any corrections or notations will be incorporated in the minutes of that meeting.” Sharee Freeman also offered the option to approve the minutes later in the meeting in order to give members opportunity to review during break.

A motion was made by Melanie Fourkiller to approve the April 20, 2023, Meeting Minutes as discussed. The motion was seconded by Ron Allen.

**Consensus on the motion was tested by DFO Hanvey, with no Committee members objecting. Accordingly, a consensus was reached to approve the April 20, 2023, plenary session meeting minutes.**

**REVIEW OF TIMELINE WITH EXTENSION OF AUTHORITY**

DFO Hanvey provided a review on the status of Committee work on Subparts. As of the last meeting of April 20, 2023, nine Subparts have been completed. She shared the following table on screen with the Committee and provided a general overview of the status of the committee moving forward.

DISCUSSION PURPOSES ONLY

		<b>PROGRESS Act Negotiated Rulemaking Committee</b>			
T O T A L	C o n s e n s u s	Phase	Committee Consensus	Subpart	Section
		13	1	Phase 1	2/2/2023
14	1	Phase 1	2/2/2023	Subpart N—Retraction	
19	1	Phase 1	2/2/2023	Subpart S—Conflicts of Interest	
2	1	Phase 1	4/20/2023	Subpart B—Selection of Additional Tribes for Participation in Tribal Self-Governance	
10	1	Phase 1	4/20/2023	Subpart J—Waiver of Regulations	
5		Phase 1	In process	Subpart E—Annual Funding Agreements for Bureau of Indian Affairs Programs	
7		Phase 1	In process	Subpart G—Negotiation Process for Annual Funding Agreements	
12		Phase 1	In process	Subpart L—Federal Tort Claims	
1	1	Phase 2	3/30/2023	Subpart A—General Provisions	
8	1	Phase 2	3/30/2023	Subpart H—Limitation and/or Reduction of Services, Contracts, and Funds	
15	1	Phase 2	3/30/2023	Subpart O—Trust Evaluation Review	
16	1	Phase 2	4/20/2023	Subpart P—Reports	
3		Phase 2	Final review	Subpart C—Section 402(d) Planning and Negotiation Grants	
17		Phase 2	Final review	Subpart Q—Miscellaneous (Operational) Provisions	
18		Phase 2	In process	Subpart R—Appeals	
		Phase 2		Appendix A to Part 1000	
4		Phase 3	Need draft	Subpart D—Other Financial Assistance for Planning and Negotiations Grants for Non-BIA Programs	
6		Phase 3	Need draft	Subpart F—Non-BIA Annual Self-Governance Compacts and Funding Agreements	
9		Phase 3	Need draft	Subpart I—Public Consultation Process	
11		Phase 3	Need draft	Subpart K—Construction	
			Need draft	PREAMBLE	
9				Model Compact of Self Governance Between the Tribe and the Department of the Interior	

Subparts E, G, L, and R are in process. Will need to pick up to continue for completion. The subcommittee has completed Subpart C - Section 402(d) Planning and Negotiation Grants and Subpart Q to be renamed as Operational Provisions and ready to be reviewed by the full committee.

Still need to work on drafts and exchange Subpart D – Other Financial Assistance, Subpart F, Subpart I Public Consultation Process, Subpart K Construction Process, and the Preamble.

DFO Hanvey turned the discussion over to Regina Gilbert, ADFO to review the timeline with the extension of authority. Regina stated that she had updated the original timeline she had prepared when the Committee began. In addition, the Tribal Members had shared a timeline with the Leadership Team. There needs to be a comparison of the two but generally speaking it appears that the Committee is on the same page to have the drafting completed by February 2024. In order to stay on schedule, the Federal members have committed to setting a goal of having two or three subparts ready for approval by the full Committee each meeting that has been scheduled.

The Office of Regulatory Affairs and Collaborative Action is the liaison to the Office of the Federal Register. So, to get the ball moving, Regina has already discussed with the team to start looking at the final consensus subparts, reviewing formatting, numbering, citations, etc. This should facilitate keeping the process moving forward.

Ron Allen reiterated Reginas discussion that it should be the goal of the Drafting Subcommittee to have two, if not three subparts ready for approval per plenary session. Melanie Fourkiller agreed that the initial drafting work should be done by February 2024 but inquired about other timelines that had been outlined. Regina indicated that the draft timeline incorporates the internal offices surname process, steps for OMB review because they not only review during the proposed rule stage but during the final rule stage. Also built in time for tribal consultation which requires a 30-day advance notice. Melanie asked if there had been internal discussions regarding the vetting and review process to ensure there are no snags in the process. Regina responded that now that the extension is approved, she will begin to coordinate to have a smooth review transition and let everyone know we are looking at early 2024.

DFO Hanvey mentioned that Matt Jaffee, Drafting Subcommittee member, had previously volunteered to assist with converting the red-line versions into clean documents which was a tremendous help. She requested if Matt would be interested in working with her off-line to review the consensus subparts in order to start moving them through the process. Matt responded that he would be happy to assist with that process.

## **REVIEW OF SUBCOMMITTEE WORK**

Although several Committee members also serve on the Drafting Subcommittee, DFO Hanvey requested if a Tribal subcommittee member would like to provide an overview of the Subcommittee work.

Melanie Fourkiller provided a general update on the work being done by the Drafting Subcommittee. She explained that the Subcommittee has reached consensus on Subparts C (Planning and Negotiation Grants) and Subpart Q (Miscellaneous- to be renamed Operational Provisions).

Sharee Freeman suggested that a more in-depth presentation be made of Subpart C for the benefit of the public or those who have not participated in the Subcommittee meetings. Phil Baker Shank, Drafting Subcommittee member, volunteered and went through the Subpart question by question.

Melanie Benjamin moved for a consensus vote to approve Subpart C. Gerry Hope seconded this motion.

**Consensus on the motion was tested by DFO Hanvey, with no Committee members objecting. Accordingly, a consensus was reached to approve Subpart C (Planning and Negotiation Grants).**

Matt Jaffee, Drafting Subcommittee member, volunteered to present Subpart Q (Miscellaneous to be renamed to Operational Provisions) question by question.

Melanie Benjamin moved for a consensus vote to approve Subpart Q. Gerry Hope seconded this motion.

**Consensus on the motion was tested by DFO Hanvey, with no Committee members objecting. Accordingly, a consensus was reached to approve Subpart Q (Miscellaneous to be renamed to Operational Provisions).**

## **OTHER MATTERS TO BE RAISED**

Single Audit: Melanie Fourkiller wanted to make a brief comment about a theme that occurs between Subpart B and Subpart Q that we just reviewed and also Subpart C and that is the requirements of the Single Audit Act as is applied to the threshold for smaller tribes that are operating a relatively limited number of federal programs versus those that are beyond the threshold. And we have chosen not to at this point address Tribes that are below the OMB threshold for requiring a Single Audit Act Report, and I think that's at least my part, very deliberate that we didn't want to impose requirements on small tribes that are not required by the PROGRESS Act or the Single Audit Act.

DFO Hanvey reminded the Committee that she had emailed out a notice that OMB is seeking comments to raise the threshold. The old statute made reference to the threshold but didn't indicate a dollar amount, however the PROGRESS Act states a threshold of \$500,000. The Committee has already discussed a technical amendment would default to the threshold as established by OMB. The existing OMB threshold is at \$750,000 and proposed to be increased to \$1 million.

Schedule and Assignments: Melanie Fourkiller deferred to Sharee Freeman to review upcoming schedule and assignments. Sharee proceeded to review status and assignments of subparts outstanding. Sharee anticipated that the next subcommittee meeting could maybe have prepared Subpart G, which has been separated into three subparts, and Subpart E (Annual Funding Agreement). In addition, possibly Subpart L (Federal Tort Claims) and Subpart R (Appeals).

Melanie Fourkiller indicated that the Tribal members would be working on drafts of Subpart D (Other Financial Assistance for Planning and Negotiations Grants for Non-BIA Programs), Subpart F (Non-BIA Annual Self-Governance Compacts and Funding Agreements) and Subpart K (Construction).

While DFO Hanvey was pulling up the meeting schedule, Sharee Freeman addressed the facilitation contract with FMCS was being reviewed by the Leadership Team. OSG has an agreement with Self-Governance Communication and Education Tribal Consortium (SGCETC) to manage the Zoom link and travel for Tribal members. Melanie Fourkiller stated that the Tribal caucus has discussed making sure that there are options in terms of bringing them back in the event that there is an impasse and to be able to mediate that impasse. She doesn't foresee that at this point but perhaps they can be useful in bringing us to a conclusion. What we are doing has been productive and would like to continue "as is", then we'll see if we need their services at some point. Sharee stated there would be an update provided at the next meeting.

DFO Hanvey moved into announcing meeting dates identified and shared the schedule below. A draft Federal Register Notice would combine plenary dates to meet the publishing deadline over the holidays. Dependent upon the next CR (November 17<sup>th</sup>), the Federal team is planning to continue with this schedule through February. If a meeting needs to be canceled, we can do that but continue with the other dates as scheduled. Also, the White House meetings may be the first week of December but has not been confirmed. She requested a motion to approve the identified Committee meetings through February.

Melanie Fourkiller moved for a consensus vote to approve the meeting schedule. Sharee Freeman seconded this motion.

**Consensus on the motion was tested by DFO Hanvey, with no Committee members objecting. Accordingly, a consensus was reached to approve the meeting schedule through February 2024.**

Committee & Subcommittee Schedule											
	Save the date VIRTUAL	Save the date VIRTUAL	SGAC HYBRID In-person (Virtual option)	Save the date VIRTUAL	DOJ HYBRID In-person (Virtual option)	Save the date VIRTUAL	DOJ HYBRID In-person (Virtual option)	Save the date VIRTUAL	DOJ HYBRID In-person (Virtual option)	DOJ HYBRID In-person (Virtual option)	
				FRN Done	FRN Done				FRN Done	FRN Done	
S											S
M	11/20 1-5pm SubCommittee			12/18 1-5pm SubCommittee	1/15 Travel (Holiday)			2/5 Travel		2/26 Travel	M
T	11/21 1-5pm SubCommittee			12/19 1-5pm SubCommittee	1/16 9am to 5pm SubCommittee	1/30 1-5pm SubCommittee		2/6 9am to 5pm SubCommittee		2/27 9am to 5pm SubCommittee	T
W				12/20 Full Committee 1-5pm ET Virtual	1/17 9am to 5pm SubCommittee	1/31 1-5pm SubCommittee		2/7 9am to 5pm SubCommittee		2/28 9am to 5pm SubCommittee	W
Th		12/7 1-5pm SubCommittee	12/14 1-5pm SubCommittee		1/18 1-5pm ET Hybrid 1/2 Day Subcommittee Full Committee	2/1 1-5pm SubCommittee		2/8 1-5pm ET Hybrid 1/2 Day Subcommittee Full Committee		2/29 1-5pm ET Hybrid 1/2 Day Subcommittee Full Committee	Th
F		12/8 1-5pm SubCommittee	12/15 9am to 5pm SubCommittee		1/19 Travel			2/9 Travel		3/1 Travel	F

SubCommittee: DFO Hanvey announced that Sharee Freeman requested those on the Federal team will continue to meet with a Teams invite for the remainder of scheduled period today in preparation for Subcommittee work.

Melanie Fourkiller also announced that the Tribal team will stay on the Zoom link for the remainder of allotted time for the day. Melanie also thanked everyone for progress made. Glad to have two approved additional subparts and to have negotiations through February to move on to bigger and better things.

Sharee Freeman expressed thank you for your participation and glad to be back and look forward to the work with positive attitude and good spirits.

**PUBLIC COMMENT**

Beginning at 2:48 p.m. ET, members of the public were given an opportunity to comment via a Zoom link or by calling in by telephone. No members of the public were present in person. DFO Hanvey stated that no virtual comments have been received by the public at any plenary sessions to date. She reminded everyone that members of the public may also submit written comments to the Committee.

The public comment session was closed at 2:52 p.m. ET after no members of the public logged into the Zoom meeting or called in for comment.

## **ADJOURNMENT**

The meeting was adjourned by DFO Hanvey at 2:56 p.m. E.T.

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## **CERTIFICATION**

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

 1/4/2024

Sharee Freeman,  
Director Office of Self-Governance, Assistant Secretary – Indian Affairs.  
Chair, Self-Governance PROGRESS Act Negotiated Rulemaking Committee

These minutes will be formally considered by the Committee at its next meeting, and any corrections or notations will be incorporated in the minutes of that meeting.

## **Attachments**

Appendix A—Attendees

Attachments (to be posted to the website ( <https://www.bia.gov/service/progress-act> )

## Appendix A—Attendees

TRIBAL REPRESENTATIVES		
Present	PRIMARY Tribal Representatives	
	Name	
	Affiliation	
	✓ W. Ron Allen	Chairman/CEO Jamestown S’Klallan Tribe
	✓ Melanie Benjamin (joined after roll call)	Chief Executive Mille Lacs Band of Ojibwe
	Richard Peterson	President Central Council Tlingit and Haida Indian Tribes of Alaska
	✓ Michael Dolson	Councilman The Confederated Salish and Kootenai Tribes of the Flathead Nation
	✓ Melanie Fourkiller	Director of Self-Governance Choctaw Nation of Oklahoma
	Russel (Buster) Attebery	Chairman Karuk Tribe
	✓ Karen Fierro	Self-Governance Director Ak-Chin Indian Community
ALTERNATE Tribal Representatives		
✓ Sandra Sampson	Board Treasurer Confederated Tribes of the Umatilla Indian Reservation	
Jennifer Webster	Councilwoman Oneida Nation	
✓ Gerry Hope	Transportation Director, Former Tribal Leader Sitka Tribe of Alaska	
Jody LaMere	Councilwoman Chippewa Cree Tribe of the Rocky Boy’s Reservation	
Lana Butler	Secretary Sac and Fox Nation	
✓ Will Micklin	Second Vice President Central Council Tlingit and Haida Indian Tribes of Alaska	
✓ Annette Bryan	Council Member Puyallup Tribes of Indians	
FEDERAL REPRESENTATIVES		
Present	PRIMARY Federal Representatives	
	Name	
	Affiliation	
	✓ Sharee Feeman	Director Office of Self-Governance, AS-IA
	✓ Jody H. Schwarz	Attorney-Advisor Branch of Self-Governance and Economic Development, Office of the Solicitor
	✓ Kelly Titensor	Native American Affairs Advisor Bureau of Reclamation
	✓ Byron Loosle	Division Chief National Conservation Lands, Bureau of Land and Minerals Management.
	✓ Scott Aikin	National Native American Programs Coordinator U.S. Fish and Wildlife Service Head Quarters.
	Rose Petoskey	Senior Counselor to AS-IA Office of the Assistant Secretary—Indian Affairs.
	ALTERNATE Federal Representatives	
✓ Matt Kallappa	Northwest Field Office Manager Office of Self-Governance, AS-IA	
✓ Andrew Caulum	Attorney-Advisor Branch of Self-Governance and Economic Development, Office of the Solicitor	
✓ Nathalie Washington	Native American Affairs Advisor Bureau of Reclamation	
Nicole Hanna	Tribal Liaison Bureau of Land and Minerals Management.	
Dorothy FireCloud	Native American Affairs Liaison National Park Service	
✓ Samuel Kohn	Senior Counselor to ASIA Office of the Assistant Secretary—Indian Affairs.	



**Designated Federal Officers (DFOs) Present**

Vickie Hanvey, DFO  
Regina Gilbert, ADFO

**Members of the Public (19)**