

WRITTEN TESTIMONY OF JAY SPAAN, EXECUTIVE DIRECTOR, SELF-
GOVERNANCE COMMUNICATION & EDUCATION TRIBAL CONSORTIUM
OVERSIGHT HEARING ON
“EXAMINING 50 YEARS OF THE INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE ACT IN INDIAN COUNTRY”
BEFORE THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON NATURAL
RESOURCES

April 4, 2025

Chairman Westerman, Ranking Member Huffman, and Members of the Committee,

I am honored to represent the Self-Governance Communication and Education Tribal Consortium (SGCETC) today. Our mission is to support Tribal Self-Determination and Self-Governance by facilitating communication, education, technical assistance, collaboration, and resource sharing among Tribal Nations.

The enactment of the Indian Self-Determination and Education Assistance Act (ISDEAA) in 1975 marked a pivotal shift in federal policy, empowering Tribal Nations to take control of their affairs.¹ Before ISDEAA, the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS) administered most federal programs serving Tribal communities. ISDEAA establishes Self-Determination contracting and Self-Governance compacting, mechanisms that allow Tribal Nations to reassume administration of select federal programs. This shift has proven that Tribal governments are administering programs more effectively and efficiently than the federal government, enhancing economic development, improving healthcare, and reducing bureaucracy.

A Brief History of ISDEAA

ISDEAA ushered in a new era of federal policy recognizing Tribal sovereignty and the right to self-govern. Yet, Tribal Nations faced challenges in the late 1970s and early 1980s implementing this new authority—largely due to resistance from the federal bureaucracy to relinquish control over federal programs that federal agencies were accustomed to administering.

Revelations of corruption and mismanagement in the late 1980s, coupled with pressure from Tribal leaders for federal officials to relinquish control of federal programs that Tribal Nations administered using Self-Determination contracts, laid the groundwork for the strategic evolution of Tribal authority from Self-Determination to what is now known as Self-Governance compacting.

Self-Governance compacting is based on the idea that Tribal governments should receive both funding and the authority to design and implement federal programs that serve their communities without federal interference.

¹P.L. 93-638.

In 1988, Congress established a demonstration project to test Self-Governance, expanding Tribal authority and reducing federal oversight. Recognizing its success, Congress made Self-Governance a permanent option in 1994. Today, ISDEAA remains a cornerstone of Tribal Self-Governance, enabling Tribal Nations to tailor programs to their unique needs and improve community outcomes.

Success of Self-Determination and Self-Governance in Delivering Federal Programs

Tribal Nations have the autonomy to decide whether and how to administer federal programs using ISDEAA agreements. Nearly all federally recognized Tribal Nations have negotiated Self-Determination contracts with Interior and/or IHS, while over 380 Tribal Nations have entered into Self-Governance compacts to manage various federal programs.

Program Administration and Benefits

Through these mechanisms, Tribal Nations have successfully diversified federal programs and functions, including natural resource management, oil and gas inspections, land surveying, utility operations, infrastructure maintenance, law enforcement services, primary healthcare delivery, and social services administration. The success of ISDEAA is evident in its nearly 50-year history, demonstrating that local control and knowledge of community needs lead to more effective programs, enhanced administrative capacity, improved governance and leadership skills, and significant economic benefits.

Economic and Social Impact

Studies have shown substantial positive outcomes. The Harvard Project on American Indian Economic Development reported that from the late 1980s to 2022, the per capita income of Tribal citizens living on reservations increased by 61%, and the proportion of families with children living in poverty decreased from 47.3% to 23.5%.² Additionally, the U.S. Government Accountability Office (GAO) identified Self-Determination contracts and Self-Governance compacts as a best practice for quickly distributing funds to Tribal Nations, reducing administrative burdens for both Tribal governments and federal agencies.³

Key Advantages of ISDEAA Authority

ISDEAA provides Tribal Nations with flexibility to:

1. Redesign Programs: Tailor federal programs to meet local priorities.

²The Harvard Project on American Indian Economic Development, American Indian Self-Determination Through Self-Governance: The Only Policy That Has Ever Worked, Statement to The Commission on Native Children by Joseph P. Kalt (December 15, 2022).

³U.S. Government Accountability Office, COVID-19 RELIEF FUNDS: Lessons Learned Could Improve Future Distribution of Federal Emergency Relief to Tribal Recipients, GAO-23-105473 (Washington, D.C.: December 2022).

2. Integrate Resources: Reduce fragmentation by combining related resources at the Tribal government level.
3. Waive Federal Rules: Bypass certain federal agency rules that hinder local solutions.
4. Reduce Administrative Burdens: Decrease reporting requirements while increasing local accountability, allowing for a greater focus on program delivery.

Key Differences in Self-Determination and Self-Governance

Both Self-Determination and Self-Governance, as outlined in the ISDEAA, share a common goal: to empower Tribal governments by transferring control over federal programs, functions, services, and activities. This shift allows for more local decision-making and reduces bureaucratic hurdles. However, these two authorities have distinct approaches. Under Titles IV and V of ISDEAA, Self-Governance gives Tribal Nations the flexibility to administer and redesign federal programs according to their unique priorities and needs, with minimal federal interference. In contrast, Self-Determination, under Title I, typically requires Tribal governments to submit proposals for federal review and approval, which maintains a higher level of federal oversight and involvement in program implementation.

Extending ISDEAA Principles to More Federal Agencies

Over the past decade, Congress has extended the principles of Self-Determination and Self-Governance beyond their original scope. This expansion has empowered Tribal Nations by allowing them to engage more directly with additional federal agencies and programs.

- Department of Transportation: In 2015, the Fixing America's Surface Transportation Act enabled Tribal Nations to negotiate Self-Governance agreements for specific programs, enhancing their control over transportation projects.⁴
- USDA's Food Distribution Program: The 2018 Farm Bill introduced a Self-Determination Demonstration Project.⁵ The results have been overwhelmingly positive, with Tribal Nations reporting improved outcomes.
- Tribal Forest Management: Also in 2018, the Farm Bill established the Tribal Forest Management Demonstration Project.⁶ This initiative allows the USDA's Forest Service to negotiate project-specific Self-Determination contracts with Tribal Nations under the Tribal Forest Protection Act.

Tribal Nations are not only shaping their own futures but also contributing significantly to the strength and prosperity of the United States. Through effective governance,

⁴Section 1121 of the Fixing America's Surface Transportation Act, Pub. L. 114-94.

⁵Agriculture Improvement Act of 2018 (2018 farm bill; P.L. 115-334).

⁶Tribal Forest Protection Act of 2004 (TFPA), 25 U.S.C. §3115(a).

economic development, and cultural leadership, Tribal governments drive innovation, create jobs, and contribute billions of dollars to the U.S. economy. The success of the Tribal Self-Determination Era is clear: when decision-making authority is placed in the hands of those who best understand their communities, everyone benefits.

SGCETC offers the following suggestions for the Committee's consideration:

Extending ISDEAA Authority to Agriculture and Economic Development Sectors

Congress should consider establishing a new title under the ISDEAA that expands Self-Governance authority to key programs within the USDA. This expansion would include USDA nutrition programs, the Forest Service, the Farm Service Agency, meat processing inspection functions, rural development programs, and conservation initiatives.

Tribal Contributions to Agriculture

Tribal governments play a pivotal role in the U.S. agricultural sector, managing vast areas of farmland, rangeland, and natural resources. They are significant producers of cattle and bison across states like Montana, South Dakota, and Oklahoma. Additionally, Tribal communities operate successful farms growing a variety of crops, including 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 successful farming operations.

Benefits of Expansion

Since 1977, Tribal leaders and Congress have discussed the benefits of extending ISDEAA authority to USDA programs. Expanding Self-Governance in this sector is crucial for empowering Tribal Nations to manage their food systems effectively, implement nutrition assistance programs efficiently, create jobs, and enhance economic development.

Recommendations for Immediate Action

In the absence of comprehensive expansion, Congress should ensure the success of existing Self-Determination authority within USDA by making permanent and expanding the scope of authority for the FDPIR Self-Determination Demonstration Project and directing USDA to prioritize funding for Tribal Forest Management Projects. In addition, Congress should support the bipartisan Promoting Regulatory Independence, Mastery, and Expansion (PRIME) for Meat Processing Act⁷ and the Improving Agriculture, Research, Cultivation, Timber, and Indigenous Commodities (ARCTIC) Act.⁸

⁷The Promoting Regulatory Independence, Mastery, and Expansion for Meat Processing Act proposes to amend ISDEAA to provide Tribal Nations with the opportunity to enter Self-Determination contracts with the FSIS for meat processing inspection, keeping processing local and available and facilities running smoothly and safely.

⁸The Improving Agriculture, Research, Cultivation, Timber, and Indigenous Commodities (ARCTIC) Act proposes to make permanent the FDPIR Self-Determination Demonstration Project and expands Self-Governance authority to certain Federal forestry and conservation programs.

Extending ISDEAA Authority to Additional Healthcare Programs

Tribal governments play a vital role in providing healthcare services through hundreds of facilities that serve both Tribal and non-Tribal communities. These facilities offer essential access to primary care, specialty care, and behavioral health services, particularly in rural and underserved areas. For example, the Jamestown S’Klallam Tribe operates the only comprehensive opioid treatment clinic in Clallam County, Washington, serving over 120 patients daily. Tribal healthcare systems also contribute to the national healthcare workforce by training medical professionals and partnering with universities.

Building on Success

Given the success of Self-Governance at IHS, Congress should consider expanding this authority to include more programs within the Department of Health and Human Services (HHS). This expansion would enhance healthcare delivery and reduce wasteful federal spending by allowing Tribal governments to manage programs more efficiently. Over the past 25 years, joint efforts between HHS, Tribal Nations, and Tribal-federal workgroups have explored this expansion, with studies confirming its feasibility. Enacting legislation to support this expansion would be a critical step forward.

Extending ISDEAA 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.⁹

Tribal Law Enforcement Successes

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.¹⁰ 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.

⁹“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).

¹⁰ 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>)

Benefits of Expansion

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 2013.¹¹ By granting 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.

Modernizing Indian Affairs Systems to Support Self-Governance

We urge the Committee to direct Interior's Indian Affairs to undertake comprehensive modernization efforts to support the continued growth of Self-Governance. This includes upgrading technology systems, enhancing data management and sharing capabilities, and streamlining overly complex processes associated with Self-Determination and Self-Governance.

Challenges with Current Systems

Tribal Nations face significant challenges due to outdated and complex systems within Indian Affairs. These inefficiencies hinder the expansion of Self-Governance and create barriers for Tribal Nations with existing ISDEAA agreements. Key administrative processes, from application to fund delivery and data collection, need simplification to ensure the long-term success of Self-Governance.

Examples of Challenges

- **Timely Funding:** Interior often fails to deliver funds within the required time frames, causing delays and financial strain for Tribal Nations. The Government Accountability Office (GAO) has highlighted these issues, citing vacancies and cumbersome approval processes as contributing factors.¹²
- **Inadequate Data Management:** The Office of Self-Governance (OSG) database lacks timely information, making it difficult for Tribal Nations to manage funds effectively. Tribal Nations have repeatedly called for the modernization of this system.
- **Inefficient Information Sharing:** Interior is often unresponsive to Tribal requests for information, leading to burdensome processes. For instance, BIA has used outdated methods like mailing CDs instead of providing electronic files, prolonging simple requests, and adding unnecessary administrative burdens.

¹¹In 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. The Commission is an independent national advisory commission comprised of nine members who have all served as volunteers in unanimously developing the Roadmap. The President and the majority and minority leadership of Congress appointed these commissioners.

¹²U.S. Government Accountability Office, INDIAN PROGRAMS: Interior Should Address Factors Hindering Tribal Administration of Federal Programs, GAO-19-87 (Washington, D.C.: January 2019).

Recommendations for Improvement

To address these challenges, SGCETC recommends the Committee direct Indian Affairs to complete the following:

1. **Implement Technology Upgrades:** Modernize systems to ensure timely access to critical information and efficient fund distribution.
2. **Enhance Data Management:** Improve the OSG database to provide accurate and timely data, facilitating better financial management.
3. **Streamline Communication Processes:** Ensure that BIA and OSG respond promptly to Tribal requests, using efficient and modern communication methods.

By addressing these inefficiencies, Congress can support the continued growth of Self-Governance and empower Tribal Nations to manage their affairs more effectively.

Ensuring Contract Support Costs for Non-BIA Programs

We urge Congress to consider amending the ISDEAA to make Contract Support Costs (CSC) available for non-BIA programs within Interior. Currently, ISDEAA allows Tribal governments to negotiate ISDEAA agreements with both BIA and non-BIA agencies, which has proven beneficial for Tribal Nations and the public. However, a significant barrier remains: Tribal Nations cannot recover CSC, the reasonable administrative and overhead costs associated with these contracts. This limitation creates a structural impediment to Tribal-Federal co-management agreements and contradicts the intent of ISDEAA. Each year, Congress provides CSC in a separate appropriation for "such sums as may be necessary," but this funding is currently restricted to BIA and the Bureau of Indian Education. This inconsistency discourages partnerships and undermines the effectiveness of ISDEAA.

Recommendation for Amendment

We recommend amending the CSC provision to include non-BIA programs to address this issue. This can be achieved by revising the appropriation language to ensure consistent application across the Department of the Interior. A proposed amendment could read:

"For payments to tribes and tribal organizations for contract support costs associated with Indian Self-Determination and Education Assistance Act agreements with any agency within the Department of the Interior for fiscal year 2026, such sums as may be necessary."

This change would align with the original intent of ISDEAA, promote more effective partnerships, and support the continued success of Tribal Self-Governance initiatives.

Empowering Tribal Governments to Address Natural Disasters

We strongly urge Congress to consider enacting the Tribal Emergency Response Resources Act (TERRA Act), a bipartisan legislation that will significantly enhance Tribal governments' ability to respond to natural disasters and related threats. By streamlining access to critical federal resources, the TERRA Act aligns with the principles of Tribal

Self-Determination and Self-Governance, allowing Tribal Nations to manage disaster responses more efficiently.

This legislation proposes the following key improvements:

- **Simplified Access to Federal Resources:** Tribal governments will work with a single program office at the BIA to identify and integrate eligible programs from multiple federal agencies into a unified plan. This approach reduces bureaucratic complexity by requiring only a single annual report.
- **Flexible Funding Options:** Tribal Nations can receive plan funds through existing ISDEAA contracts or compacts, ensuring a seamless integration with current administrative structures.
- **Expedited Processes:** The TERRA Act includes expedited review, permitting, and fee-to-trust procedures to address disaster resilience needs promptly.

Benefits and Support

The TERRA Act enjoys broad support in Indian Country because it empowers Tribal governments to address disaster-related concerns *urgently and efficiently*, free from unnecessary bureaucratic hurdles. By allowing Tribal Nations to determine how best to protect their communities without excessive justification, this legislation further enhances Tribal Self-Governance and Self-Determination. It aligns with the long-standing goal of ISDEAA to place decision-making authority in the hands of those who best understand their communities' needs.

Conclusion

In conclusion, ISDEAA has been instrumental in improving the health and economic well-being of Tribal communities. However, there is still room for improvement. By addressing administrative inefficiencies and expanding the scope of Self-Governance, Congress can further empower Tribal Nations to manage their affairs effectively. We urge continued support for these efforts to ensure the long-term success of ISDEAA.

SGCETC appreciates the opportunity to share information on Self-Determination and Self-Governance with the Committee. Chairman Westerman, Ranking Member Huffman, and Members of the Committee, this completes my prepared statement. I would be pleased to respond to any questions that you may have.