



Dr. Guy Gorman, Sr. Care Home closure averted with Council, program coordination

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WINDOW ROCK, Ariz. — On Friday, Navajo leaders discussed the closure of the Dr. Guy Gorman, Sr. Care Home in Chinle, Arizona. At Monday’s Spring Session of the 24th Navajo Nation Council, Delegate Vince James brought the issue of the closure to the attention of the Council. The issue of the 80-bed facility closure, which serves Navajo elders, was previously taken to President Nez. When no action was taken to assist the care home, Chief Executive Officer Wayne Claw brought the issue to Speaker Seth Damon and members of the Council, who immediately acted to establish direct coordination with the facility and Navajo Nation programs.

Claw issued a notice to Navajo Nation leaders that the nursing home would need to close by Jul. 1, 2020 because it had not received payment under an existing contract with the Nation. The Navajo Nation receives federal and state funding to provide to care homes through the Navajo Nation Long Term Care Program. During Friday’s discussion, the Office of the Controller reported that a payment had been successfully issued for a total of \$126,258.98 to the care home earlier that day.

Navajo Nation Controller Pearline Kirk began Friday’s discussion with an overview of long-standing issues the Office of the Controller faces with procurement and contracts. Kirk said that, in general, the Office of the Controller is experiencing a backlog of contracts that must be processed after the fact. These are contracts for which work has already been completed or the product has already been delivered. The controller tracks all contracts developed by the Navajo Nation’s various programs.

Additionally, Kirk said that under the Navajo Nation’s Procurement Policy, the controller cannot pay on a contract if the funds were not entirely encumbered at the outset. Contracts, like the Chinle care home, must go through a contract modification process, which has been interrupted by the closure of the Executive Branch. Kirk said the Division of Social Services submitted a contract modification 13 days ago. As of today, the Navajo Nation’s purchasing department processed the modifications.

Kirk provided recommendations to avoid the contract payment issue in the future. She said the oversight of these contracts and programs needs to improve, adding that the Office of the Controller needs to be involved in the review process before the president of the Navajo Nation executes, or signs, contracts handled by the Navajo Nation. Additionally, when it comes to insurance, she said vendors need to be reviewed to protect against potential liabilities and gaps in insurance coverage.

“We really need the cooperation of the programs to do this,” said Kirk. “To me, this was a learning experience.”

Navajo Nation Division of Social Services Executive Director Deanna Neswood-Gishie also provided a report to the group. Neswood-Gishie said the division, through its Department of Family Services, administers the Long Term Care Program. Along with an update on the processing of the contract documentation, Neswood-Gishie explained recent changes to the payments to the Chinle care home. She said, previously, DSS paid the care home \$156.63 per client per day. Effective Jan. 1, 2020, that amount increased to \$182.05 per client per day.

The increased support required a contract modification of approximately \$1.3 million that needed to be processed before payment could be issued. However, Neswood-Gishie said there were several issues that complicated the modification process. The program worked to update the contract with the current name of the facility because an old name was used previously. This resulted in new permits that had to be updated and reissued for occupancy, then submitted to the Office of the Controller.

Neswood-Gishie added that DSS contracts 20 beds in the facility with federal Public Law 93-638 contract funding and the rest are contracted under Arizona Health Care Cost Containment System (AHCCCS) support.

“I want to thank Mr. Claw for his continued work for our Navajo elders,” said Neswood-Gishie.

“I’m glad something is finally being done,” said Dr. Guy Gorman, Sr. Care Home Chief Executive Officer Wayne Claw. In presenting the issues the care home has experienced under the current administration, Claw said they used to get contracts in November. Those would be finalized by December. Now, they get the documents months later because of the transition period of the new administration.

Claw said, as of last night, none of the care home’s residents have tested positive for the coronavirus. He said staff has been working overtime that is not paid from either AHCCCS nor the Navajo Nation. With all the recent support being granted to the Nation, Claw added, the facility needs more support to properly provide for staff.

“We hear everyday about the people on the front line. My nurses are front line workers,” said Claw.

Shawnevan Dale with the Navajo Nation Insurance Services Department (ISD) stressed the importance of ensuring the Navajo Nation’s contracts are properly supported with insurance coverage. Dale said the Navajo Nation gets named in thousands of legal complaints per year, a large number of which are attributed to falls. In the case of the Chinle care home, Dale said ISD needed to ensure any insurance issues were resolved as a matter of ensuring Navajo elders are protected.

Dale said about 40 percent of the contracts that go through the ISD have already been executed. In one example, Dale said some chapter renovation projects were completed shoddily before the program reviewed the contract. In those cases, chapters have no recourse when the contractor demands payment.

In responding to the discussion on the Navajo Nation’s internal contract review process, Council Delegate Vince James pointed out that the same 164 Review Process has been a problem in contracting since the time that President Nez, himself, was a council delegate.

“I don’t know why the 164 goes to the president. But I do agree, we need to step up with this whole problem,” said Delegate James. He presented issues with the current 164 process being carried out with physical documents when the Nation has access to electronic records systems.

“Some vendors don’t even want to provide services to the Nation anymore. That’s where we end up with a lot of issues with our departments, and in this case it’s the Chinle care home,” said Delegate James. “Our elders are our priority. We shouldn’t have any of the CEOs of these services coming out to notify us of closure plans.”

Delegate James said that the Nation is capable of developing and approving a five-year plan for its various funds, like the Permanent Trust Fund 5-Year Expenditure Plan. “I don’t see why we cannot do that for our Nation’s nursing homes,” said Delegate James.

The Navajo Nation Department of Justice noted that, though the previous ‘164B’ step in the 164 process that requires the Office of the Controller’s involvement is no longer part of that review, programs are still encouraged to submit contracts to the controller.

Chairman Daniel Tso said the Health, Education, and Human Services Committee met with Mr.

Claw, President Nez, the Division of Social Services and the Office of the Controller. He said HEHSC voted to issue a directive concerning the Chinle care home. At the time, Chairman Tso said, Chief of Staff Paulson Chaco of the Executive Branch told HEHSC that they were doing everything they could. He acknowledged a degree of finger-pointing that took place.

“We’re finally putting in the last pieces of the puzzle right now,” said Chairman Tso. He continued by pointing out that the Annie Wauneka Life Care Inc. residential care facility is facing a similar problem. The Office of the Speaker has been working with the ISD to help resolve similar issues after Rosalie Tsosie of the Annie Wauneka facility approached Speaker Damon and delegates at the beginning of the month.

Chairman Tso continued by reviewing the different roles each program was in charge of carrying out in order to process the contract for the Chinle care home. “We are the government right now, we have to make it work,” said Chairman Tso.

Office of the Speaker staff asked all the parties in the discussion for their recommendations to help create better policy or contracts to ensure Navajo elders never experience a lapse in their care home services.

“What we do is ensure compliance,” said Kirk. She stated the Navajo Nation maintains over 4000 grant agreements that each have their own rules. For many Navajo programs, the compliance framework is decided between either federal funding rules or the Navajo Nation’s accounting policies, or both.

“You don’t want anything discretionary. You don’t want the president signing whatever contract,” said Kirk. She said that the former Signature Authorization Sheet (SAS) 164B process was an internal compliance tool. Program managers, she said, likely believe that once a contract is signed by the president of the Navajo Nation, that contract automatically gets converted to a payment, even when it violates the compliance controls.

“We’ve got to do something to replace that former 164B process,” said Kirk. She said that, ultimately, even under the existing procurement process, if all the work that is done when an after-the-fact contract is turned in is done before the contract is executed, the whole process is very simple. Kirk noted that there’s no current backlog at Accounts Payable, which issues payments, and contracts can be paid out in 30 to 40 days without problem if a program properly carries out the process.

Neswood-Gishie added that DSS has transitioned many employees since the change in administration. Those staff, she said, are receiving the necessary training to better handle the paperwork relating to its social services contracts. Neswood-Gishie thanked Delegate James for his recommendation for a five year contract, noting that the Chinle care home has a three year contract with the Nation, currently.

Delegate James added a recommendation to all programs, including the Office of the Speaker, to research the payment processes of funding sources. “We have over 25 to 30 different steps in the process that we have to go through on the Navajo Nation,” said Delegate James. “My recommendation would be to start the research from there, to shorten the process. Is it necessary that we have the 164 review? Is it important? Is there a system that the federal government has?” Delegate James noted that many federal programs have just a few steps to complete the distribution of funding.

“Who has control here? Is it our auditors? Or is that control inside the Nation?” said Delegate James.

Council Delegate Wilson Stewart, Jr. spoke about responsibility and accountability when it comes to the way contracts are reviewed and processed internally. “We should all have one database where the Legislative, Executive and Judicial Branches are tied in,” said Delegate Stewart. That system of accountability could reveal where documents are being held up in the system.

In addressing the possibility of a five-year contract, Kirk said that in addition to being possible, there would still need to be modifications every year that would need to follow the same procurement process.

The Navajo Nation has been trying to transition to the modern 6B procurement process for the last ten years. Kirk said that the Office of the Controller provides procurement training to assist those that need help understanding the process.

The new process virtually eliminates compliance issues. "I'm happy to report today that my staff has been working with our veterans staff to get them trained on 6B. There are programs out there that are good at submitting their paperwork on time and you never hear about them having problems," said Kirk.

In responding to Delegate James' question regarding auditors, Kirk said that federal auditors are a critical component in the Nation's relationship with federal funding agencies. She said the Office of the Controller helps to manage the procurement process with the goal of lowering the Nation's high-risk status with funding agencies. Currently, the federal government views the Nation as a high-risk, which means funding is often awarded on a reimbursement basis. A better risk rating would allow the Nation to receive federal funding more directly.

In review, the Department of Justice noted that Title 2 of the Navajo Nation Code requires that sufficient funds must be made available before a contract is approved. The DOJ attorney said that for multi-year contracts, the funding levels for each year must be clearly stated in the contract to help in this process.

Director Neswood-Gishie stated her support for the multi-year contract and added that a new contract should implement a different way of specifying funding amounts to better accommodate required modifications.

The Dr. Guy Gorman, Sr. Care Home contract with the Navajo Nation will expire in 2021. The Office of the Speaker staff continued to address establishing a five-year contract that incorporates the recommendations of the Department of Risk Management, Department of Justice, the Office of the Controller, Dr. Guy Gorman, Sr. Care Home and the members of the 24th Navajo Nation Council.

In closing, DOJ reiterated that it is the responsibility of vendors that contract with the Navajo Nation to maintain a certificate of insurance and to ensure there is no gap between coverage.

In the near future, the Office of the Speaker will coordinate a follow-up discussion with more key staff that are involved in the Navajo Nation's contracting and procurement process.

In Feb. 2018, the Navajo Nation Council provided \$4.2 million in supplemental funding from the Unreserved, Undesignated Fund Balance to assist with the construction of the Dr. Guy Gorman, Sr. Care Home, which is operated by Navajoland Nursing Home, Inc. Former Navajo Nation President Russell Begaye signed the legislation into law, which supported a \$21,448,516 appropriation by the Navajo Housing Authority to fully replace the former Chinle Nursing Home. The Navajo Nation currently facilitates contract funding to operate the facility from state and federal funding sources.

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