



United South and Eastern Tribes, Inc.

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USET Resolution No. 2013:019

REQUESTING REAPPOINTMENT OF THE NASHVILLE AREA REPRESENTATIVES TO THE CENTERS FOR DISEASE CONTROL AND PREVENTION TRIBAL CONSULTATION ADVISORY COMMITTEE

- WHEREAS,** United South and Eastern Tribes Incorporated (USET) is an intertribal organization comprised of twenty-six (26) federally recognized Tribes; and
- WHEREAS,** the actions taken by the USET Board of Directors officially represent the intentions of each member Tribe, as the Board of Directors comprises delegates from the member Tribes' leadership; and
- WHEREAS,** the United States (U.S.) Government and each federally recognized Indian Tribe work to build a government-to-government relationship grounded in numerous historical, political, legal, moral, and ethical considerations; and
- WHEREAS,** it is essential that Indian Tribes and the federal government engage in open, continuous, and meaningful consultation; and
- WHEREAS,** the importance of meaningful Tribal consultation with Indian Tribal Governments was affirmed through Presidential Memoranda (1994, 2004 & 2009) and Executive Order (2000); and
- WHEREAS,** the U.S. Department of Health and Human Services (HHS) was the first to develop and implement a Tribal Consultation process under Presidential Executive Order; and
- WHEREAS,** a variety of committees/workgroups have been established to facilitate meaningful Tribal consultation to promote Tribal participation and create effective policy for Indian Country; and
- WHEREAS,** on December 17, 2012, the Centers for Disease Control and Prevention (CDC) unseated several members of its Tribal Consultation Advisory Committee (TCAC) because the Agency does not believe that those members meet the requirements of the Federal Advisory Committee Act (FACA) intergovernmental exemption in order to participate on the CDC-TCAC, despite the fact that the Nashville Area's primary representative is an employee of a Tribal Government and the alternate is an employee of USET; and
- WHEREAS,** the FACA intergovernmental exemption, the Unfunded Mandates Reform Act of 1995, and Executive Order 13175, require that federal agencies "develop an effective process to permit elected officers or state, local, and Tribal governments (or their "**designated employees**" with authority to act on their behalf) to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates"; and
- WHEREAS,** both the Nashville Area primary and alternate representatives have been designated with this authority by their Tribe and Tribal organization respectively; and
- WHEREAS,** USET's legal team has prepared a memorandum on its interpretation of the FACA intergovernmental exemption and whether it precludes employees of Tribal Governments and Tribal organizations as defined by the Indian Self-Determination and Education Assistance Act (ISDEAA) from representing member Tribes in meetings with government officials; and

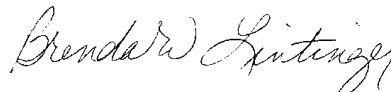
- WHEREAS,** the conclusion is that FACA and the Unfunded Mandates Act **do** allow Tribal employees to represent their Tribes and that employees of Tribal organizations under the ISDEAA qualify to participate both under the intergovernmental exemption not only based on USET's status as a P.L. 93-638 Tribal organization, but also because it serves its member Tribes as a Washington, D.C. representative; and
- WHEREAS,** these issues are further clarified by President Clinton's Executive Order 13175 (November 6, 2000), which requires consultation with Tribal Governments regarding policies that have Tribal implications; the Executive Order defines "Tribal Officials" as "elected or duly appointed officials of Indian Tribal governments or authorized *Intertribal organizations*"; and
- WHEREAS,** it is noted that the definition used in the HHS and CDC Tribal Consultation Policies are the same as the Executive Order; therefore, be it
- RESOLVED** the USET Board of Directors recognizes that officials of Tribal Governments and "Intertribal organizations" may represent Tribes in meetings with Centers for the Disease Control and Prevention officials and on the Centers for the Disease Control and Prevention Tribal Consultation Advisory Committee; and, be it further
- RESOLVED** the nomination and appointment of such representatives is the sovereign right of Tribal Governments and necessary to comply with the controlling statute and a matter of good policy; and, be it further
- RESOLVED** the USET Board of Directors requires that the Centers for Disease Control and Prevention reappoint the following Nashville Area representatives to the Tribal Consultation Advisory Committee:
1. Primary Representative-Connie Hilbert, Tribal Health Director, Mohegan Tribe of Connecticut
 2. Alternate Representative-Tihtiyas (Dee) Sabattus, Tribal Health Program Support Director, USET.

CERTIFICATION

This resolution was duly passed at the USET Impact Week Meeting, at which a quorum was present, in Arlington, VA, on Thursday, February 7, 2013.



Brian Patterson, President
United South and Eastern Tribes, Inc.



Brenda Lintinger, Secretary
United South and Eastern Tribes, Inc.

"Because there is strength in Unity"