



USET

SOVEREIGNTY PROTECTION FUND

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USET SPF Resolution No. 2020 SPF:012


REQUEST THE NATIONAL INSTITUTES OF HEALTH TO ENGAGE IN MEANINGFUL CONSULTATION REGARDING AGENCY INITIATIVES AND TRIBAL CONSULTATION POLICY


- WHEREAS,** United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is an intertribal organization comprised of thirty (30) federally recognized Tribal Nations; and
- WHEREAS,** the actions taken by the USET SPF Board of Directors officially represent the intentions of each member Tribal Nation, as the Board of Directors comprises delegates from the member Tribal Nations' leadership; and
- WHEREAS,** the National Institutes of Health (NIH), an operating division of the U.S. Department of Health and Human Services (HHS), is the primary agency of the federal government responsible for biomedical and public health research; and
- WHEREAS,** beginning in April 2019, NIH announced that the agency wished to engage in Tribal consultation and requested input from Tribal Nations on three initiatives affecting Tribal communities: the "All of Us" Research Project; proposed provisions for a Draft NIH Data Management and Sharing Policy; and Intellectual Property, Inventions, and Patent Rights in Biomedical Research; and
- WHEREAS,** communications from NIH regarding efforts to engage with Tribal Nations and gather input regarding the three initiatives failed to include important consultation timelines as well as comment submission deadlines that are critical to the provision of Tribal advice and guidance; and
- WHEREAS,** in addition, NIH is in the process of developing its own Tribal Consultation Policy as well as a Tribal Consultation Protocol, which is meant to serve as an NIH internal document aimed at outlining the practical steps of implementing a Tribal Consultation Policy; and
- WHEREAS,** the actions of NIH regarding the development of a Tribal Consultation Policy have been opaque and confusing with a distinct lack of timelines and follow up with Tribal Nations; and input from the NIH Tribal Advisory Committee (TAC) has been ignored continuously; and
- WHEREAS,** as an operating division of HHS, NIH remains obligated to follow the HHS Tribal Consultation Policy which outlines a specific process for gathering Tribal guidance; and
- WHEREAS,** the HHS Tribal Consultation Policy states that "it is essential that Federally-recognized Indian Tribes and the HHS engage in open, continuous, and meaningful consultation," and includes an accountable process that ensures meaningful and timely input by Tribal Nations in the development of policies that have Tribal implications; and
- WHEREAS,** although adherence to HHS' Tribal Consultation Policy is not optional, NIH has been found to be in repeated violation of the policy by failing to incorporate Tribal guidance as well as failing to engage in transparent communication as the agency conducts policymaking on issues impacting Indian County; and

- WHEREAS,** the actions of NIH have been of great concern not just to USET SPF, but to Tribal leaders, and members of the NIH TAC who have commented on NIH’s conduct with regard to continued ineffective communications and insufficient consultation practices; and
- WHEREAS,** Tribal Nations and American Indian and Alaska Native individuals continue to face negative impacts from previously unauthorized and unpermitted use of genomic data without Tribal Nation informed consent; and
- WHEREAS,** it is incumbent upon NIH to assist Tribal Nations in their efforts to protect Tribal communities through mechanisms such as informed consent and approval from Tribal Nations on the collection, use, and sharing of Tribal data; and
- WHEREAS,** as an agency of the federal government, NIH is subject to processes that require the agency to conduct Tribal consultation in a meaningful and comprehensive manner; and
- WHEREAS,** NIH has a legal and moral trust obligation uphold the sovereign status of Tribal Nations, as we seek to protect, regulate, and maintain ownership over the data of our citizens and Nations, an obligation that supersedes other interests; and
- WHEREAS,** in December 2010, the United States recognized the rights of its First Peoples through its support of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), whose provisions and principles support and promote the purposes of this resolution; therefore, be it
- RESOLVED** USET SPF requests that the National Institutes of Health develop a protocol or guidance, through broad and extensive Tribal consultation, that addresses Tribal concerns and ensures the unique status of Tribal Nations are taken into account before initiatives within the agency and consultation policies are utilized in Tribal communities and among the American Indian and Alaska Native population; and be it further
- RESOLVED** USET SPF requests the National Institutes of Health work with Tribal Nations and the Tribal Advisory Committee to resolve outstanding concerns from Indian Country in order to ensure sovereignty is upheld and past abuses never happen again; and be it further
- RESOLVED** USET SPF requests the National Institutes of Health immediately take responsibility for the oversight of and issue a moratorium on the activities of any sub-grantees of the “All of Us” Research Program that continue to actively recruit citizens of Tribal Nations in direct violation of commitments made by the agency to cease the recruitment of American Indians and Alaska Natives.

CERTIFICATION

This resolution was duly passed at the USET SPF Annual Meeting held on the Sovereign Territory of the Mississippi Band of Choctaw Indians at which a quorum was present on November 7, 2019.


 Chief Kirk E. Francis, Sr., President
 United South and Eastern Tribes
 Sovereignty Protection Fund


 Chief Lynn Malerba, Secretary
 United South and Eastern Tribes
 Sovereignty Protection Fund

Because there is Strength in Unity