



USET

SOVEREIGNTY PROTECTION FUND

Nashville TN Office
711 Stewarts Ferry Pike, Ste. 100
Nashville TN 37214
P: (615) 872-7900
F: (615) 872-7417

Washington DC Office
400 North Capitol St., Ste. 585
Washington DC 20001
P: (202) 624-3550
F: (202) 393-5218

Transmitted via ruralpolicy@hrsa.gov

October 23, 2020

Tom Morris, MPA
Associate Administrator for Rural Health Policy
Health Resources and Services Administration
5600 Fishers Lane
Rockville, MD 20857

Dear Associate Administrator Morris,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we write to provide comment to the Health Resources and Services Administration (HRSA) Federal Office of Rural Health Policy (FORHP) regarding the agency's request for comment on Revised Geographic Eligibility for Federal Office of Rural Health Policy Grants. In FORHP's request, the agency is seeking input on proposed changes to the rural classification methodology for designating areas eligible for rural health grant programs. Due to HRSA's current narrow definition of "rural," many Tribal Nations have been unable to access HRSA rural health resources. This has been particularly problematic for Tribal Nations who sought, but were ultimately rejected from, HRSA's targeted rural allocations within COVID-19 relief funding. Barriers in access to HRSA funding must be viewed as a violation of the federal trust and treaty obligations to provide health care to Tribal Nations and Native peoples. With this in mind, USET SPF strongly recommends that FORHP work closely with Indian Country to ensure that Tribal communities have equal access to all federal resources to which we are entitled by designating all Tribal Nations as "rural" under HRSA's final rule. In addition, we join our partner organizations in expressing concern over the impact of expanding the definition to include additional non-Tribal entities.

USET SPF is a non-profit, inter-tribal organization advocating on behalf of 33 federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico¹. Both individually, as well as collectively through USET SPF, our member Tribal Nations work to improve health care services for American Indians. Our member Tribal Nations operate in the Nashville Area of the Indian Health Service (IHS), which contains 36 IHS and Tribal health care facilities. Our patients receive health

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Aroostook Band of Micmac Indians (ME), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe—Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan (VA), Nansemond (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi (VA) and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

care services both directly at IHS facilities, as well as in Tribally-operated facilities under contracts with IHS pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA), P.L. 93-638.

All Tribal Nations Should be 'Rural' for the Purposes of HRSA Funding

As FORHP considers modifying its methodology of designating rural areas, the agency must recognize and prioritize its trust and treaty obligations to Tribal Nations. As an agency of the federal government within the Department of Health and Human Services, HRSA is charged with delivering upon the United States' obligation to provide health care to all Tribal Nations and our citizens. Regrettably, HRSA's current narrow definition of 'rural' results in arbitrary and unnecessary barriers to accessing HRSA funds for Tribal Nations. The COVID-19 public health emergency has only underscored and exacerbated this issue, as Tribal Nations sought access to Tribal set aside relief funding through HRSA only to be turned away because our territories did not meet HRSA's strict definition.

USET SPF reminds FORHP and HRSA that Tribal Nations and our homelands predate the founding of the U.S. However, because U.S. policies progressively forced relocation and reservations upon Tribal Nations and Native people, our communities are now subject to "urban" and "rural" designations which are inappropriately utilized to determine the types of resources that will be made available to us. The federal trust obligation applies to all Tribal Nations equally. With this in mind, all federal funding, including HRSA rural health care resources, must be provided to all Tribal Nations on an equal basis and should not be dependent on locations that were forced upon our people, or the status of jurisdictions that have grown up around our ancestral homelands. We urge HRSA to deem all Tribal Nations 'rural' for the purposes of agency funding.

Concerns with Expansion of Rural to Non-Tribal Entities

While HRSA's definition of rural should automatically include Tribal Nations, USET SPF joins others in expressing concern with the agency's plan to make more entities eligible in the absence of additional funding. Those Tribal Nations who are eligible under the definition of rural face a competitive grant process that acts as an additional barrier for access to HRSA funds. Expansion of the definition will further exacerbate this problem, as the funding ultimately available to Tribal Nations will be reduced. In the event that HRSA does move forward with this change, we call for the establishment of a Tribal set-aside in funding to, at the very least, retain the current level of access for Indian Country.

Grant Funding does not Fulfill the Trust Obligation

USET SPF continues to be concerned that HRSA funds, and other federal resources, are delivered to Tribal governments and Tribal programs through the grant-based mechanisms. Not only is this an abrogation of the federal trust responsibility to force Tribal Nations to compete for federal dollars, the competitive grant process often precludes Tribal Nations from having access to those dollars at all. Grant funding fails to reflect the unique nature of the federal trust obligation and Tribal sovereignty by treating Tribal Nations as non-profits rather than governments. USET SPF, along with Tribal Nations and organizations, has consistently urged that all federal programs and dollars be eligible for inclusion in self-governance contracts and compacts. This includes funding delivered through HRSA. We urge the agency to work closely with Indian Country to determine how its fund might be delivered through self-governance contracting and compacting.

Conclusion

USET SPF reminds HRSA that its trust and treaty obligations to Tribal Nations are unique from its responsibility all other populations it serves. These legal and moral obligations require the agency to prioritize our access to its programs and resources. That this access is not available to us equally and is further hindered by the competitive grant process is a violation of these sacred promises, contributing to

and exacerbating the deep health disparities faced by our communities. We urge HRSA to work with Indian Country to rectify the inequities in its funding distribution to Indian Country—starting with Tribal Nation eligibility. Should you have any questions or require further information, please contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at LMalerba@usetinc.org or 202-624-3550.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Francis', with a long horizontal stroke extending to the right.

Kirk Francis
President

A handwritten signature in black ink, appearing to read 'Kitcki A. Carroll', with a stylized, cursive script.

Kitcki A. Carroll
Executive Director