USET
SOVEREIGNTY PROTECTION FUND

711 Stewarts Ferry Pike
Suite 100
Nashville, TN 37214
P: (615) 872-7900
F: (615) 872-7417
www.usetinc.org

Transmitted via consultation@ihs.gov

January 22, 2021

Elizabeth A. Fowler
Acting Director
Indian Health Service
5600 Fishers Lane, Mail Stop 08E86
Rockville, MD 20857

Dear Acting Director Fowler,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we provide the Indian Health Service (IHS) with comments in response to the Agency's request for input on next steps for health information technology (IT) modernization as requested in a Dear Tribal Leader Letter (DTLL) dated December 10, 2020. Based on the update provided by IHS during the listening session held on January 14th, steady progress continues to be made on the modernization of health IT within the Agency. While progress has been made, USET SPF underscores the importance of including Tribal Nations throughout the process. Through the health IT modernization process, the federal government must ensure it upholds its trust obligations of providing healthcare Tribal Nations in a manner that does not burden the chronically underfunded Indian health system.

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 Mexico[1]. Both individually, as well as collectively through USET SPF, our member Tribal Nations work to improve health care services for Native people. Our member Tribal Nations operate in the Nashville Area of the Indian Health Service, which contains 36 IHS and Tribal health care facilities. Our patients receive health 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.

For over 35 years, the Indian Health System has utilized the Resource and Patient Management System (RPMS) to capture clinical and public health data. However, due to a chronic failure to invest in health IT by

[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 Indian Nation (VA), Nansemond Indian Nation (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 Indian Tribe (VA), and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

the federal government, the Indian Health System has to either adapt to an often dysfunctional, outdated RPMS or purchase commercial off-the-shelf systems in order to manage our clinical and public health data. Rather than comprehensive IT updates, RPMS has been subject to "patch fixes" over the years and has fallen woefully short in attempting to deliver the functions and capabilities enjoyed by the mainstream American health care system. As the Department of Veterans Affairs (VA) began to move from its current electronic health record (EHR) (VistA), IHS was forced to determine if the agency should consider a new EHR since the agencies participated in cost-sharing for necessary periodic updates. Since that time, IHS and the Department of Health and Human Services (HHS) have been exploring certain options for IT modernization within the Indian Health System; stabilize RPMS, renew RPMS, selectively replace RPMS, and fully replace RPMS.

In IHS' DTLL, the Agency proposed that a full replacement of RPMS would represent "the most appropriate, realistic, and sustainable solution for IHS health IT," and invited input on this recommendation. According to information provided by IHS during the listening sessions, a new EHR would not be fully implemented until 2023. As IHS moves toward a final decision, it is essential that IHS continues to keep in mind varying health IT necessities across Indian Country, including those who exclusively utilize RPMS, as well as those who have moved to a commercial off-the-shelf program. With this in mind, USET SPF provides additional considerations for IHS.

Adequate Funding for EHR Modernization and Subsequent Updates

According to information provided on the listening session hosted by IHS, the cost for transition from RPMS is broadly estimated at $8 billion over 10 years. However, while the administration has sought the level of funding necessary to meet the costs for health IT modernization, authorized funding has not met those requests and funding for health IT continues to impact other IHS budget items. We remind IHS that it is critical that adequate funding for health IT modernization be requested by the Administration and authorized by Congress in a way that ensures funding is sufficient but does not come at the expense of other critical IHS programs. Additionally, the Administration and Congress must ensure Tribal Nations have access to ongoing and adequate resources to support IT modernization in the coming years, including training, tech support, upgrades, and sufficient communication from health IT support staff.

Additionally, Tribal Nations must not be burdened with costs associated with transitioning to a new EHR nor the subsequent costs for maintenance. It remains unclear if Tribally-operated facilities who utilize RPMS will be financially liable for updates associated with an EHR upgrade. Funding for a replacement EHR must be made available to Tribally-operated facilities as these costs may require millions of dollars that would have to come out of Tribal coffers, should we not have access to new IT modernization funding. This would impact our ability to utilize our resources to provide essential services to our communities, such as housing, childcare, law enforcement, food assistance, and others.

Prioritize Improved IT Features and Interoperability

Any new health IT system must include features addressing previous issues that the Indian Health System has faced when using the current version of RPMS. In consultation with Tribal Nations, IHS must determine how improvements can be provided for certain EHR functions, including simplified reporting and data extraction, a centralization of patient health information, usable templates, and updated alerts/notifications. Sufficient and ongoing training must be provided to Tribal providers and healthcare professionals on these features, as well as any updates moving forward.

USET SPF further underscores that interoperability with other systems must be prioritized to ensure Tribal healthcare providers are able to have access to real-time, life-saving data. This includes access to state, other Tribal healthcare facilities, off-the-shelf, federal EHRs, and non-Tribal EHRs. We remind IHS that the

agency has a trust obligation to all Tribal Nations and that all facilities, regardless of the EHR utilized, must have access to the life-saving functions and capabilities available in a modernized IT system, including interoperability.

Preservation of Tribal Historical Data and Analytical Capabilities
RPMS currently houses a significant amount of historical data. To preserve and ensure Tribal healthcare providers have access to this critical data, USET SPF underscores that all historical data must be able to be uploaded to a new EHR.

Additionally, an upgraded health IT system must maintain and improve upon current RPMS quality measurement tools and functions that allow IHS and Tribally-operated facilities to track and evaluate certain analytics and assist the agency and Tribal Nations with various reporting requirements. Comprehensive data collection and analytics must be available in disease surveillance as Tribal Nations require this information when quantifying health issues within our communities, such as COVID-19 and the opioid crisis.

Diversity in Infrastructure Across Indian Country
Existing infrastructure, especially broadband infrastructure, that would facilitate a Health IT upgrade, including broadband, varies across Indian Country. Therefore, it is crucial that IHS accommodate an EHR replacement that can be functional for as many scenarios as possible where infrastructure is and is not available.

Conclusion
IHS must be cognizant of and prepared to address a diverse set of circumstances and requirements when implementing the replacement of RPMS and beyond. USET SPF asserts that the federal government has fallen short of its trust obligation to Indian Country by under-resourcing our health IT. In partnership with Tribal Nations, IHS must work to ensure that the entire Indian Health System is brought into the 21st century. This includes working to upgrade and maintain our health IT systems. 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 615-838-5906.

Sincerely,

Kirk Francis
President

Kitcki A. Carroll
Executive Director