



USET

SOVEREIGNTY PROTECTION FUND

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Transmitted Electronically to:
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May 9, 2022

Ms. Elizabeth Fowler
Acting Director
Indian Health Service
5600 Fishers Lane
Rockville, MD 20857

Dear Acting Director Fowler,

We write on behalf of United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) to provide comment to the Indian Health Service (IHS) in response to its April 15, 2022 “Dear Tribal Leader” letter initiating consultation with Tribal Nations regarding a new 5-year grant cycle for the Special Diabetes Program for Indians (SDPI) beginning in Fiscal Year (FY) 2023. Despite the continued necessity of this program and ever diminishing purchasing power, funding for SDPI has not increased since 2004. Most recently, Congress authorized funding for the SDPI as part of a 3-year authorization ending on September 30, 2023, with flat funding of \$150 million per fiscal year. It remains unclear whether, when, and at what funding level SDPI will be reauthorized beyond FY 2023.

USET SPF is a non-profit, inter-tribal organization advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.¹ USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues.

FY 2023 will be the beginning of a new 5-year grant cycle for SDPI. Accordingly, the IHS will publish a new notice of funding opportunity (NOFO) and grant application process. USET SPF is aware that IHS has been directed to make the upcoming NOFO open to all federally recognized Tribal Nations on a ‘fully competitive’ vs. ‘limited competition’ basis, in accordance with the recent [Executive Order on Promoting Competition in the American Economy](#). Though we have been informed that IHS has requested a waiver from this Executive Order, our understanding is that it has been denied. While we support access to SDPI for all federally recognized Tribal Nations, it is our long-standing position that this cannot come at the expense of existing grantees.

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), 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), Mi’kmaq Nation (ME), 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).

Because there is Strength in Unity

In addition, about a year ago, IHS headquarters started questioning the longstanding USET SDPI grant structure (USET as the primary grant recipient, 20 member Tribal Nations as subrecipients). At that time, IHS gave indication that it had interest in making our subrecipients direct applicants. However, to this date, IHS has not provided any further information. Depending on how and whether the IHS implements a change to our historical approach and model, there exists the possibility that a change could harmful ramifications for our Tribal Nation sub-recipients and USET itself. The diabetes programming and infrastructure, including staff, that our member Tribal Nation subrecipients have built over more than twenty years now face an uncertain future.

Trust and treaty obligations necessitate IHS exemption from ‘Competitiveness’ Executive Order.

IHS, and other Indian Country funding and programs administered by the Department of Health and Human Services (HHS) in fulfillment of trust and treaty obligations are unique, and fall outside the scope of Executive Order 14036. In implementing this Executive Order across the Department without first consulting Tribal Nations, Health and Human Services (HHS) is in violation of its own consultation policy. Nashville Area Tribal Nations urge an IHS-wide exemption—at a minimum—from the Executive Order and maintain that Tribal consultation is required if it is to be implemented within IHS or any other federal agency serving Tribal Nations. Further, a grants-based model and mentality runs counter to federal obligations to Tribal Nations, as well as Tribal sovereignty. The President has stated many times that this Administration is committed to upholding and supporting Tribal sovereignty. IHS and HHS should focus on this directive, rather than adding further complication to an already complicated federal grant program.

IHS should expand access to SDPI while holding existing grantees harmless.

We continue to be frustrated by the persistent flat funding of SDPI, in spite of a wealth of reliable data showing both its efficacy and continued necessity, as well as rising medical inflation. We note that IHS continues to request only flat funding for the program. With medical costs only expected to rise, IHS must do more to ensure that existing programs are not further impacted by our declining purchasing power. Further, Tribal Nations that have yet to participate in SDPI, including those who have recently received federal acknowledgement, are unable to access funding without impacting existing grantees. As IHS considers a ‘fully competitive’ process for the upcoming SDPI grant cycle, it must seek opportunities to find additional funding within the existing authorization in a way that does not impact existing grantees, including through greater efficiencies in federal support activities. When the current funding authorization for SDPI expires in FY 2023, we urge IHS to join Tribal Nations in advocating for an increase in funding to the program, both to ensure access for all federally recognized Tribal Nations and to account for medical inflation. We further ask that you join us in supporting modernization for SDPI in the form of Indian Self-Determination and Education Assistance Act authorities as opposed to continuity of a regressive grant model.

Preservation of the USET funding model.

We strongly urge IHS to maintain USET’s SDPI Primary Grantee status to preserve services to current subgrantees and other federally recognized Tribal Nations that wish to operate under the USET Umbrella. This model was developed at the direction of our member Tribal Nations and continues to ensure meaningful access to SDPI for eligible Tribal Nations in our region. Suddenly disallowing this model would throw into jeopardy the programs that our 20 member Tribal Nation subgrantees have spent decades to develop.

In the event IHS decides against USET’s long-established relationship as a Primary Grantee, IHS must provide immediate clarity for current USET subgrantees and others in the Nashville Area who may be affected by this decision. While we appreciate that a representative from IHS’ Division of Diabetes Treatment and Prevention joined our Area consultation on May 4th, she could not provide much of the

clarity USET and its member Tribal Nations are seeking, including whether our subgrantees would need to apply on their own for FY 2023, whether there would be technical assistance available to them, and whether the funding cycle would be 'limited' or 'full' competition. Regardless of IHS' decision, our Area, at the very least, deserves certainty in application methodology and support structure. Further, USET needs formal written confirmation and assurance of its ability to continue to provide the supportive value add role that it has played all these years. We ask that IHS make this information available as soon as possible.

SDPI Funding Formula

While USET SPF does not have any recommended changes to the national funding formula, we strongly recommend preserving the adjustment for small Tribal Nations by retaining the existing formula to include Tribal Size Adjustment (TSA) at 12.5%. The adjustment for small Tribal Nations has provided a critical increase in level resources for many USET SPF member Tribal Nations. Elimination of the TSA would have a detrimental impact on these Tribal Nations.

Further, regarding the consideration of utilizing more recent user population and diabetes prevalence data within the funding formula, USET SPF supports utilizing updated user population and diabetes prevalence data and looking at base funding allocation for newly recognized Tribal Nations. We again underscore that SDPI funding be distributed in a manner that reflects and prioritizes the disease burden and is integrative to all Tribal Nations seeking SDPI program funding, should the funding formula change.

Conclusion

While SDPI has been an enormous benefit to Indian Country, flat funding continues to impede both the provision of services and access to the program. In accordance with the trust obligation and in partnership with Tribal Nations, IHS must join Indian Country in supporting a much-needed funding increase when Congress considers reauthorization beyond FY 2023. The continued success of SDPI is dependent upon an IHS that is willing to fight for program resources and support Tribal sovereignty. In the meantime, if IHS intends to make SDPI fully competitive, it should ensure that funding will be available for newly eligible Tribal Nations without impacting existing grantees. Finally, we urge the preservation of the USET funding model in order to ensure continued access to SDPI for our 20 Tribal Nation subgrantees. 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,



Kirk Francis
President



Kitcki A. Carroll
Executive Director