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Robert F. Kennedy Jr.
Secretary
Department of Health and Human Services
200 Independence Ave. SW
Washington, DC 20201

Dear Secretary Kennedy,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we write to provide comments regarding the Department of Health and Human Services (HHS) agency reorganization efforts. Following the initial announcement that HHS would undertake a reorganization effort, USET SPF submitted a letter to HHS on April 18, 2025, expressing our concerns regarding the potential impacts on Tribal Nations and the Indian Health System. Our comments echo and expand upon these concerns. Although USET SPF agrees that federal functions should operate more efficiently and effectively, we are deeply concerned by the lack of transparency in the reorganization process so far and the decisions that have been made in the absence of Tribal consultation. As HHS continues to implement its policy priorities through reorganization, Tribal programs, services, and staff must be maintained and protected from efforts to reduce federal spending and personnel. We hope that HHS will consider these comments and work to implement its reorganization in a way that honors the federal trust and treaty obligations to provide for the "highest possible" health status for Tribal Nations and communities.

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.

[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).

HHS Must Conduct Formal Tribal Consultation on Reorganization

USET SPF reminds HHS of its legal and moral obligation to engage in robust government-to-government consultation with Tribal Nations on any federal actions that may have Tribal implications. Efforts at HHS to drastically reduce the federal workforce, majorly reorganize HHS divisions and functions, rescind funding and alter or eliminate federal programs all affect the delivery of health care and other federal obligations in Indian Country, both directly and indirectly. Yet, the Administration has failed to consult with Tribal Nations prior to taking any of these actions despite its legal mandate to do so and efforts by USET SPF and other Tribal organization partners to educate the Administration on these obligations.

While HHS has convened listening sessions to solicit feedback from Tribal Nations regarding reorganization, USET SPF emphasizes that listening sessions are insufficient for this purpose and a violation of HHS's duty to engage in Tribal consultation. HHS's own Tribal Consultation Policy states that to achieve the goals of eliminating health disparities among American Indians and Alaskan Natives (AI/AN), ensuring maximum access to critical health and human services, and advancing the "social, physical, economic and health status" of AI/AN people, "it is essential that [Tribal Nations] and HHS engage in open, continuous, and meaningful consultation." The policy also states that "[t]rue and effective consultation shall result in information exchange, mutual understanding, and informed decision-making on behalf of the Tribal governments involved and the federal government."

Given the clear goals and requirements within the HHS Tribal Consultation Policy, as well as the critical implications for Tribal Nations, USET SPF is disappointed in HHS's decision to hold "listening sessions" rather than formal Tribal consultation on reorganization. During the listening sessions this week, HHS officials refused to answer questions from Tribal representatives or share any additional information beyond that found in the original 2-page reorganization announcement. Without specific information about the future of Tribal programs and funding or how HHS plans to restructure the Divisions, Tribal representatives cannot engage in informed decision-making or provide useful input. The original reorganization announcement prompted numerous questions from Tribal Nations that remain unanswered following these listening sessions, which only serve to reinforce the uncertainty around Tribal programs, services, and funding felt across Indian Country. HHS has stated that these efforts are not meant to affect its legal obligations to Tribal Nations, but it is impossible to know how a reorganization effort of this magnitude could affect delivery of those obligations without proper Tribal consultation, including meaningful dialogue.

Further, USET SPF is discouraged that HHS has not yet scheduled or indicated it will schedule regional annual Tribal consultations in 2025. The HHS Tribal Consultation Policy states that annual regional consultations "shall be held, at least but not limited to, annually or biannually" with the purpose of providing an "opportunity to receive [Tribal Nations'] priorities for budget, regulation, legislation, and other policy matters." Indian Country shares many common priorities, but regional differences in circumstance, tradition, and experience may create differing priorities among HHS regions. Given that the number of HHS regions has already been reduced from 10 to 5, we fear that without dedicated space to raise issues and priorities at the regional level, certain perspectives in Indian Country may be given less weight in national discussions. USET SPF urges HHS to maintain the practice of annual regional consultations as part of its obligation to engage in Tribal consultation.

We also request that HHS immediately convene formal Tribal consultation on all current and future reorganization efforts so we may collectively work to mitigate potential negative impacts on the Indian Health System. Further, as the Administration works to implement the health provisions of the One Big Beautiful Bill Act, it is imperative that HHS engage in meaningful government-to-government consultation with Tribal Nations.

Preserve Tribal Programs Across HHS in Reorganization

One of USET SPF's major concerns with reorganization at HHS is the proposed elimination or reduction of programs that serve Tribal Nations and our communities. We remind HHS that the United States fulfills its trust and treaty obligations through both the direct delivery of Tribal programs and services and provision of federal funding to Tribal Nations and Tribal organizations serving Tribal Nations. This means that Tribal programs and services are not discretionary – they are legally mandated and must not be impacted by blanket efforts to reduce federal spending. As the result of centuries of chronic underinvestment in Tribal Nations, our communities suffer from the worst outcomes across all health indicators and have life expectancies ten years shorter than the rest of the United States population. It is therefore critical that all Tribal serving programs and services across HHS be protected from elimination or reduction in reorganization.

However, despite legal mandates for the provision of services and resources to Indian Country through the federal government, HHS has already and continues to implement policy priorities without regard for its obligations. For example, we understand that the Center for Mental Health within the Substance Abuse and Mental Health Services Administration has been closed. The Center housed the Circles of Care and Native Connections programs, which focused on youth mental health and suicide prevention. At a time when many Tribal Nations are facing a youth suicide crisis, eliminating these programs could have severe consequences in Indian Country. Additionally, it seems HHS has closed the Center for Indigenous Innovation and Health Equity within the Office of Minority Health. This center was critical in promoting public health and disease prevention in our communities. If these and other vital Tribal programs are eliminated or reduced, the deep health disparities in Tribal communities will only be exacerbated. HHS must fulfill its obligations to provide for the health and wellness of Tribal Nations by restoring eliminated programs and funding and protecting all other Tribal programs from future reduction efforts.

Protect Tribal Serving Staff in Reorganization

USET SPF appreciates early actions during HHS reorganization that have shielded IHS from significant impact, but HHS must take further action to protect programs and staff both at IHS and across the Department throughout the reorganization process. Early actions included lifting the hiring freeze on certain IHS direct healthcare providers and rescinding the termination of hundreds of IHS probationary employees. While these were necessary actions, they are not enough to insulate the Indian Health System from the effects of a Department-wide reorganization.

At IHS specifically, we request that HHS lift the hiring freeze on all IHS staff, including administrative positions. IHS already has an overall staff vacancy rate of 30% or higher, which inhibits the effective

delivery of healthcare resources. Any additional barrier or delay in filling vacant positions will only exacerbate existing issues. While physicians and other direct care providers are essential, administrative and support staff perform functions that keep the Indian Health System functioning. For example, without billing staff, critical funding from third-party insurance providers may not be collected, diminishing resources available for healthcare service delivery. We also request that HHS preserve the IHS organizational structure and retain functions like human resources, communications and finance within IHS. If HHS moves forward with plans to centralize these functions across other HHS Divisions, IHS functions must not be included to avoid potential impacts on service delivery.

Beyond IHS, HHS must exempt all staff involved in service and program delivery across all HHS Divisions from all reduction in force efforts and voluntary separation incentives. IHS is the primary federal entity tasked with fulfilling the trust obligation for health care, but Tribal Nations and communities are served and supported by staff in all HHS Divisions. The Indian Health System cannot afford to lose more staff, particularly staff in non-IHS Divisions with specialized knowledge and established relationships within Indian Country. If these critical staff are terminated, years of institutional knowledge will be lost and positive working relationships between Tribal Nations and HHS may be jeopardized. These Tribal serving staff across HHS are just as integral to delivery of the federal trust and treaty obligations as the programs and funding themselves. We strongly urge HHS to ensure that Tribal serving staff at all HHS Divisions are protected.

USET SPF shares important goals with HHS and this Administration such as reducing chronic disease prevalence and increasing access to healthy foods, but existing programs and resources that support those goals are being threatened by HHS reorganization efforts and our focus on shared priorities is being necessarily redirected to address these threats. We strongly urge HHS to work in close consultation with Tribal Nations on both current issues and ongoing priorities to ensure that delivery of the federal government's trust and treaty obligations to provide healthcare in Tribal communities is not wrongfully impacted by implementation of the Administration's priorities.

Expand Self-Governance Authorities at HHS

HHS reorganization presents an opportunity for the agency to reconfigure how it supports and delivers programs and services in Indian Country. Since 1975, the Indian Self-Determination and Education Assistance Act (ISDEAA) has authorized Tribal Nations and organizations to receive federal funds to administer programs and services that the federal government would otherwise be obligated to provide under the federal trust and treaty obligations. Within HHS, Tribal Nations can exercise our self-governance authorities at only the Indian Health Service (IHS) at this time. Tribal Nations and organizations have long advocated for HHS to expand self-governance authorities beyond IHS, as the IHS self-governance program has been an undeniable success. According to IHS, 62% of the annual IHS budget is transferred to Tribal Nations and organizations through ISDEAA contracts and compacts, and 68% of the 574 federally recognized Tribal Nations participate in self-governance at IHS either directly or through a Tribal organization/consortium. These contracts and compacts provide vital resources to Tribal Nations directly, allowing us to operate more effectively and tailor our health programs to our communities' priorities.

Self-governance expansion at HHS beyond IHS would support this Administration's and Tribal Nations' shared goals of reducing overly bureaucratic program management, improving program efficiency and effectiveness, and elevating the health status of Tribal communities. Tribal Nations have used our self-governance authorities to design healthcare programs that are culturally appropriate, innovative, and often more holistic than direct IHS services. Our programs often focus on traditional healing, cultural activities, and traditional foodways to address mental and physical health issues and mitigate chronic disease. Tribally operated self-governance programs have also demonstrated remarkable efficiency with resources, providing quality health care services to our communities with little funding and human capital.

However, as self-governance authorities at HHS are limited to IHS, Tribal Nations are severely limited in our ability to reconfigure programs and services in these ways. The majority of non-IHS programs and services delivered to Indian Country through HHS are done so via grant mechanisms, which do not allow Tribal Nations to redesign programs or leverage resources more effectively. Grant programs also strain Tribal resources and capacity and severely reduce efficiency by requiring that time and funding be dedicated to complying with bureaucratic processes rather than program delivery. To more meaningfully support the goals of improving AI/AN health status and increasing program efficiency, HHS must work with Tribal Nations to expand self-governance authorities to all HHS Divisions.

In 2013, the HHS Self-Governance Tribal Federal Workgroup (SGTFW) completed a study exploring the feasibility of expanding Tribal self-governance into HHS programs beyond those of IHS and concluded that the expansion of self-governance to non-IHS programs was feasible but would require Congressional action. In the years since, Tribal Nations have consistently urged HHS to engage actively in advocating for this change with Congress. Despite efforts to move forward in good faith with consensus opinions on expansion legislation, these efforts have been stymied by lack of cooperation by federal officials. Considering this Administration's goals of increasing local control over programs and services and reducing bureaucratic red tape, Tribal self-governance expansion at HHS would provide opportunities to demonstrate success in those areas. USET SPF urges HHS to work in partnership with Tribal Nations to advance our shared priorities by expanding Tribal self-governance authorities to all HHS programs and services.

Support for Other Non-Competitive Funding Mechanisms

While self-governance authorities are the most flexible mechanism through which Tribal Nations can receive federal funds, USET SPF also strongly supports other non-competitive funding mechanisms like formula-based funding. Competitive grant mechanisms – with their reporting requirements, "means testing," and overall administrative burdens – fail to honor Tribal sovereignty and federal trust obligation by creating unnecessary barriers to the services and resources to which we are entitled.

Despite the legal obligation to "provide all resources necessary" to ensure the "highest possible health status" of Tribal Nations and citizens, chronic underfunding of the Indian Health System has led to severe health disparities for Tribal communities. USET SPF maintains that the trust and treaty obligations require federal funds be distributed in a manner that upholds Tribal Nations' sovereign status and accounts for the diversity of circumstances and priorities across Indian Country. Tribal Nations require flexible, consistent, and substantial funding to create health programs that are responsive to the unique circumstances facing

our communities, and this cannot be achieved through competitive grant mechanisms. Rather, HHS and its Divisions must prioritize non-competitive, formula-based funding mechanisms for all Tribal programs operated by HHS.

Health Priorities Shared Between Indian Country and the Administration

Tribal Nations and the Administration share several important health priorities, such as chronic disease prevention and promoting a holistically healthier population through efficient use of resources and increased local control over programs.

The Special Diabetes Program for Indians (SDPI) is an example of these priorities in action. The SDPI is one of the most effective public health programs in the United States and has saved the federal government millions of dollars in diabetes-related healthcare costs. With a budget of only $150-160 million annually for 574 Tribal Nations, the program successfully reversed trends and decreased diabetes rates and complications in Tribal communities for the first time since this data was first collected. SDPI has achieved this success largely through funding consistency and the flexibility Tribal Nations have in designing culturally relevant programs that fit our communities. This Administration could build on this model's success by supporting increased resources for the programand extending Tribal self-governance authorities over our SDPI programs. Tribal Nations are well positioned to take over administration of the program as we have demonstrated considerable success through efficient use of resources, and the change would lead to better outcomes on the local level. USET SPF urges HHS to take this opportunity to advance another shared priority and build on the SDPI's success in building healthier Tribal communities.

Our shared priority of creating healthier Tribal communities will also require increased investment in resources for behavioral health and substance use disorder prevention. USET SPF agrees with this Administration that addressing the root causes of mental health and substance use disorders is critical aspect of promoting thriving communities, particularly in Indian Country where our communities suffer disproportionately from mental health and substance use disorders. To advance this goal, we urge the Department to advance proposals that empower Tribal Nations to create programs that fit our circumstances and priorities. For example, we strongly support the proposal in the FY 2026 President's Budget Request to fully fund the Behavioral Health and Substance Use Disorder Program for Native Americans at the full $80 authorized amount. This program is another opportunity for the Administration to support a healthier Indian Country by focusing on the root causes of prevalent issues in our communities while simultaneously advancing Tribal sovereignty through increased authority to create programs tailored to our communities and priorities.

Increased Staffing Resources for the Indian Health System

As previously mentioned, IHS and the Indian Health System as a whole is chronically underfunded and under-resourced. IHS specifically struggles with provider recruitment and retention due to the unique circumstances in Indian Country. Our communities are largely rural and remote, and lack of funding often means we cannot offer competitive salaries and benefits, heavily impacting our ability to recruit and maintain outside providers. High provider vacancy rates mean our people are not receiving adequate care

and services, as the providers we already have are often overstretched and unfilled specialty provider positions result in certain types of care being wholly unavailable without seeking care outside our communities. Given the fact that AI/AN people suffer from the worst health disparities by most metrics, it is imperative that HHS support policies and programs that improver provider recruitment and retention in Indian Country.

However, it is imperative that these efforts focus on increasing human and personnel resources at IHS and Tribal health programs. USET SPF is concerned by past statements from HHS leaders suggesting that artificial intelligence (AI) programs could be used to support and provide healthcare in Tribal communities. Not only is AI an insufficient replacement for a trained human healthcare provider, but it also has the potential to violate Tribal data sovereignty rights. AI healthcare is a relatively new and untested resource, and Tribal communities should not be testing grounds, particularly given our widespread health disparities. Tribal Nations also already struggle to retain authority over our communities' healthcare data, and we fear implementation of AI healthcare would only exacerbate this issue. In addition, some of the very reasons that make healthcare delivery in Tribal communities difficult – rurality, lack of widespread electricity or broadband access – would hinder implementation of AI healthcare programs. USET SPF urges HHS to prioritize improving healthcare provider recruitment and retention in Indian Country and listen to us when we say we do not need or want AI healthcare in our communities.

Maintain Support for Critical Public Health and Epidemiology Resources

The widespread health challenges and disparities in Indian Country underscore the importance of investing in public health and epidemiological resources for Tribal communities. Tribal Nations and communities have suffered disproportionately from infectious disease and environmental health concerns for centuries, and as a result place a high emphasis on improving public health monitoring and promotion. Given the chronic lack of investment in Tribal public health by the federal government, Tribal Nations have worked to build our own public health infrastructure, and Tribal Epidemiology Centers (TECs) are a vital aspect of our public health systems. TECs are generally operated at the regional level and provide critical environmental and infectious disease monitoring as well as programs and services that promote healthier communities. As TECs are operated by and for the Tribal communities we serve, their work is more tailored to the health priorities and circumstances of the Tribal Nations in each region. But in order to operate effectively, TECs require increased funding resources and better access to data at the federal and state levels. Without adequate access to real-time infectious disease and environmental threat data, TECs are severely hindered in their ability to provide this information to the communities they serve, which in turn can impact Tribal response to emergencies or other public health issues that arise. Tribal Nations and TECs are also designated as Public Health Authorities (PHAs) under federal law and regulations, and as such are legally entitled to access federally held, non-publicly available data sets that support public health monitoring.

In addition, to better access to data and increased funding for TECs, Tribal Nations and communities require access to physical public health resources. Proper access to treatments and preventative measures is a critical aspect of an effective public health system, and we urge HHS to support better access to these resources for Tribal Nations.

Maintain Tribal Affairs Offices and Tribal Advisory Committees

USET SPF urges HHS to retain all Tribal Affairs offices across all HHS Divisions throughout this reorganization process, as well as maintain all Tribal advisory committees and workgroups. Tribal Affairs offices are a vital part of the delivery of Tribal programs and services, serving as essential bridges between Tribal Nations and HHS. These offices and their staff are also often subject matter experts and are critical sources of information and support during policy development and implementation. Beyond retaining these offices in reorganization, USET SPF urges HHS to elevate these offices into HHS leadership offices to ensure that Tribal issues and priorities are appropriately addressed.

We also request that HHS maintain Tribal advisory committees (TACs) and workgroups in reorganization. While we acknowledge that efforts to consolidate Divisions may impact the form of currently existing TACs and workgroups, we believe HHS must retain these conduits for information exchange and guidance in some form in each Division. While not a replacement for formal Tribal consultation, these TACs provide direct connection between Tribal Nations and agencies, as well as more regular opportunities for information and feedback exchange on policy priorities, regulatory activities, and ongoing issues, particularly at the regional level. Sporadic Tribal consultation on specific issues is insufficient, Tribal Nations must have regular, dedicated opportunities to elevate our issues within each HHS Division.

Conclusion

As HHS continues to implement the Administration's policy priorities and pursues reorganization efforts, Tribal programs, services, and staff at IHS across all HHS Divisions must be insulated from negative impacts. These resources are delivered in fulfillment of legal obligations resulting from our unique government-to-government relationship with the United States and must not be impeded or eliminated by other HHS-wide efforts to reduce spending or shrink the size of the federal workforce. HHS must also honor its responsibility to engage in Tribal consultation on reorganization and all future activities that have Tribal implications. USET SPF stands ready to support HHS in its efforts to ensure that its actions only serve to elevate the health status of Tribal Nations and our communities. Should you have any questions or require additional information, please do not hesitate to contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at (615) 838-5906 or by email at lmalerba@usetinc.org.

Sincerely,

Kirk Francis
President

Kitcki A. Carroll
Executive Director