USET
SOVEREIGNTY PROTECTION FUND

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Benjamin Smith
Acting Director
Indian Health Service
5600 Fishers Lane
Rockville, MD 20357

Dear Acting Director Smith,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we submit these comments to the Indian Health Service (IHS) regarding the proposed IHS strategic realignment. We appreciate the opportunity to provide feedback on this important topic, but we underscore our disappointment with the level of information IHS provided prior to the consultation and our concern with the proposed timeline for realignment. While USET SPF supports initiatives that will improve delivery of care and operational efficiencies, these initiatives must be developed in close consultation with Tribal Nations to avoid unintended consequences and ensure any new structures and processes are reflective of Tribal priorities, as well as federal trust and treaty obligations. Additionally, if IHS intends to make changes to the advisory committee structure, it must preserve avenues for bidirectional information exchange and input from Tribal subject matter experts. USET SPF hopes these comments will be useful as IHS considers the proposed strategic realignment.

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).

Transparency in Consultation Process and Respect for Tribal Input

IHS must be more transparent in the realignment consideration process and must ensure that Tribal input is properly considered and integrated into the final realigned design.

First, USET SPF requests that IHS share insights and information gained from the interviews conducted with federal staff in advance of the Tribal consultation sessions. IHS indicated in the consultation that it has conducted said interviews but declined to share any specific information beyond the general topics covered. We believe it would be informative for Tribal Nations to hear what challenges, opportunities, inefficiencies, and potential solutions were identified by IHS staff, such that we might compare experiences and offer context from the Tribal side of IHS operations. Tribally operated health program staff were not involved in this interview process, and we believe it is inappropriate that Tribal input was not solicited in the earliest stages of realignment consideration.

USET SPF also fears that the realignment design and implementation timeline is too short for Tribal input to be properly considered and integrated. IHS indicated at the consultation that it intended to conclude the realignment design in July and August 2025 and begin implementation in September 2025. Considering that the Tribal consultation period does not conclude until August 28, 2025, it seems impossible for IHS to meaningfully integrate Tribal input into a design that could be implemented as early as September. IHS must extend the timeline for realignment. Further, IHS has not shared any specific information regarding the realignment design, which has prevented Tribal Nations from providing specific, useful input. At present, any realignment design that IHS has developed is unrepresentative of Tribal priorities and concerns. USET SPF requests that IHS should treat this consultation period as an initial engagement and conduct another round of Tribal consultation when a proposed design has been developed, such that Tribal Nations may provide input before any specific plan is implemented.

Realignment Must Uphold and Protect Tribal Self-governance and Self-Determination

USET SPF acknowledges that the goals of this realignment effort are to improve patient care and outcomes, improve efficiency, and strengthen oversight and accountability. We agree that there are persistent operational issues affecting delivery of care and administration of services across IHS, but the solutions to these issues must be considered and developed in close consultation with Tribal Nations and be supportive of the shift toward increased Tribal self-governance and self-determination and self-determination over health programs.

Importantly, in recognition of the Indian Health System's shift toward increased Tribal self-governance and self-determination and self-determination, IHS should prioritize Tribal self-governance and self-determination expansion at the agency as it considers a realigned structure. USET SPF urges IHS to make all programs and services under its jurisdiction eligible for self-governance and self-determination contracting and compacting. For example, Tribal Nations and organizations have long advocated for IHS to make its behavioral health programs eligible for self-governance and self-determination contracting and compacting. Expansion of self-governance and self-determination authorities to behavioral health and all other programs at IHS would better acknowledge Tribal sovereignty and be a step toward a more respectful government-to-government relationship between IHS and Tribal Nations. Doing so would allow Tribal

Nations to tailor behavioral health programs to meet our communities' needs and priorities, which in turn will improve outcomes, and more efficiently steward funding and resources.

IHS realignment must also prioritize creating a structure that is more supportive of Tribal Nations as we seek to exercise our self-governance and self-determination authorities. As more and more Tribal Nations elect to assume administration of all or part of their health programs from IHS via Indian Self-Determination and Education Assistance Act (ISDEAA) compacts and contracts, the agency has had to adapt its operations to provide more administrative functions while still supporting direct care services. IHS has worked to increase its capacity for negotiating agreements, distributing ISDEAA payments, and providing technical assistance to Tribal health entities, and cites these responsibilities as the driving force behind realignment. USET SPF acknowledges the need for IHS to adjust its structure to better support these functions, but we caution against proposals that would shift IHS's federal functions away from the Area Offices into a more centralized structure.

Centralizing functions like agreement negotiations and technical assistance has the potential to create additional delays for Tribal Nations desiring to take over administration of their health programs from IHS or renegotiate existing self-governance and self-determination agreements. As Tribal Nations already often experience delays in communications and technical assistance when working with IHS, any internal structural changes such as centralization that may worsen these issues is unacceptable. Realignment at IHS must not hinder Tribal Nations from seeking to exercise our sovereignty through ISDEAA contracts and compacts. Rather, it should include efforts to streamline processes and reduce administrative burden for Tribal self-governance and self-determination programs. Existing administrative requirements were largely developed unilaterally by Congress and federal officials and often hinder our ability to effectively and efficiently administer self-governance and self-determination programs. USET SPF urges IHS to streamline these requirements in close consultation with Tribal Nations and advocate with Congress, where required, to ensure administrative requirements are respectful of Tribal priorities and sovereignty.

However, as IHS prioritizes supporting and advancing Tribal self-governance and self-determination, it must not leave direct service Tribal Nations behind. As the primary entity charged with fulfilling the federal trust and treaty obligations to provide for American Indian and Alaskan Native (AI/AN) healthcare, IHS has a duty to provide quality direct healthcare services to Tribal Nations who have not yet or do not wish to pursue self-governance and self-determination programs. This includes Tribal Nations who recently gained federal recognition. Realignment must equally prioritize improving the provision of direct care while working to improve administrative processes. Direct health care services through IHS will likely always be a critical aspect of the Indian Health System, and any efforts to restructure the IHS must keep the duty to provide high quality, accessible healthcare services for AI/AN people at the forefront.

IHS Must Not Consolidate or Restructure Nashville Area

IHS should not pursue any efforts to consolidate or majorly restructure the current IHS Nashville Area. The Nashville Area is one of the largest IHS Areas in terms of geographic span, serving upwards of 35 Tribal Nations across more than 25 states, and the Tribal Nations in the region are vastly diverse in terms of population, size, rurality, and other factors. An attempt to combine the NAO with another IHS Area would result in a very large and diverse Area that would likely struggle with resource allocation and service

delivery. The Nashville Area staff also possess a high degree of cultural competency from experience working with Tribal Nations in the region, allowing them to provide more specific support and technical assistance. Tribal Nations in the Nashville Area have also spent decades building relationships with Area staff. Eliminating or consolidating the Office would result in the loss of years of relationship building and cultural knowledge. If forced to start over with new, unfamiliar Area staff, Tribal Nations in the Nashville Area would be at a disadvantage when seeking technical assistance and support.

As a major goal of these restructuring efforts is improved patient care, IHS should resist creating larger Areas with significantly more Tribal Nations to serve. Doing so would more than likely result in more inefficiencies, service delays and strain on the Area Office staff. The Indian Health System is already chronically underfunded and under-resourced and further stretching those resources will only exacerbate current issues. USET SPF welcomes opportunities to discuss Area deficiencies and how services and resources may be improved, but we caution against any reflexive, haphazard reconfiguration of the current Area system. Many of the current issues exist because of chronic underfunding and federal policies and procedures that do not fit the Indian Health System, and we urge IHS to investigate these root causes before undertaking any major Area restructuring efforts.

IHS Advocacy for Continued Exemptions from HHS Reduction in Force/Restructuring Concerns

It is also critical for IHS to advocate for continued exemptions from the reduction in force (RIF) efforts and other significant aspects of the proposed Department of Health and Human Services (HHS) reorganization. IHS already has a high staff vacancy rate and cannot afford to lose any more staff. USET SPF, along with the Coalition for Tribal Sovereignty, maintain that the federal employees necessary to carry out Tribal programs and services are an essential part of the federal trust and treaty obligations. As such, IHS has a duty to advocate with HHS to extend exemptions from RIFs and other voluntary separation efforts to all IHS staff. In addition, IHS must advocate with HHS for a full exemption from the Department-wide hiring freeze. There are critical administrative and support staff roles at IHS facilities that need to be filled to ensure continued operations. USET SPF urges IHS to engage actively in efforts to secure exemptions from RIFs and the hiring freeze.

Further, USET SPF acknowledges that the IHS realignment process is separate from the HHS reorganization efforts, but both are partially concerned with streamlining enterprise operations like human resources (HR), finance, and information technology (IT). HHS has proposed to centralize HR, finance and communications across all HHS Divisions. We request that IHS advocate with HHS to retain HR, communications, finance, IT and other functions within the IHS organizational structure to ensure IHS can continue to serve Tribal Nations effectively. As IHS has already undertaken considerable efforts to centralize and streamline these functions within the agency (the “One IHS” model), any attempt to reorganize these functions again would only create further inefficiencies and hiring delays. While there are certainly additional improvements that could be made to these functions within IHS, it is important to retain the subject matter expertise and deep knowledge of Indian Country of current staff. Consolidating these functions with other HHS Divisions would likely cause the loss of some of these staff and their expertise. IHS must advocate with HHS to retain these functions within the agency.

IHS Advocacy for Full and Mandatory Funding

USET SPF appreciates IHS's focus on improving services through realignment but urges the agency to join Tribal Nations in advocating for full and mandatory funding for IHS as a primary way by which IHS can improve service quality and delivery. The Indian Health System is chronically underfunded, and this lack of resources paired with other harmful federal policies have resulted in AI/AN people experiencing the greatest health disparities among all populations in the country. These intolerable levels of disparities have also resulted in unacceptably high mortality rates for Native peoples. While USET SPF agrees that there are internal improvements at IHS that could be made to enhance service delivery, addressing the root causes of our health disparities and uplifting AI/AN health status will require substantially increased and sustained resources. USET SPF urges IHS to engage actively in advocacy efforts to secure full and mandatory funding for the agency.

Chronic underfunding has hindered IHS from effectively fulfilling its part of the federal trust and treaty obligations to provide for AI/AN healthcare, and as the primary entity charged with fulfilling those obligations, IHS has a duty to advocate for the necessary resources.

Preservation of IHS Advisory Committee Functions

While USET SPF agrees that actions could be taken to improve the efficiency and efficacy of Tribal advisory groups and committees (TACs) at IHS, we caution against combining all 9 current TACs into one "mega-committee," as has been suggested by IHS leadership. One large "mega-committee" that would cover all issues, policies, regulations, and program changes would likely be unwieldy and could result in some issues not being discussed as rigorously as they should be. The purpose of several IHS TACs is to provide IHS with more specific input on certain aspects of its work with Tribal Nations and facilitate information sharing between IHS and Tribal subject matter experts. If all current TAC functions were to be combined into one committee, much of the robust information and feedback received from Tribal leaders, technical advisors, healthcare professionals, and other subject matter experts will likely be lost. There simply would not be enough time to cover topics in the depth required.

IHS TACs also serve as essential avenues for bidirectional information exchange. The input Tribal representatives provide IHS is critical, but the information Tribal Nations receive from IHS through these TACs is just as important. Consolidating the TACs would likely severely reduce opportunities for Tribal Nations and organizations to get information from and ask questions to IHS officials.

USET SPF agrees that some committees could possibly be combined to reduce the administrative and financial burden of convening meetings, but the essential functions and purposes of each TAC must be maintained in committees with sufficient capacity to advise on these functions.

Conclusion

USET SPF appreciates this opportunity to provide initial input on the IHS realignment efforts. We hope IHS will honor the request to conduct additional Tribal consultation on the proposed restructured design prior to implementation. IHS must also ensure that a final realignment proposal is reflective of Tribal input and

priorities, including self-governance and self-determination expansion to all IHS programs. This realignment effort is an opportunity for IHS to make positive changes that will improve its support to Tribal Nations, and USET SPF hopes that IHS will commit to meaningful, robust Tribal consultation to ensure that these efforts do not go to waste. USET SPF stands ready to support IHS in these realignment efforts, and we look forward to future opportunities to engage on this topic. 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