



December 19, 2025

## **Testimony of the United South and Eastern Tribes Sovereignty Protection Fund for the Record of the House Natural Resources Subcommittee on Indian and Insular Affairs Hearing on “Modernizing the Implementation of 638 Contracting at the Indian Health Service”**

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we write to provide the House Natural Resources Subcommittee on Indian and Insular Affairs testimony for the record of the hearing titled “*Modernizing the Implementation of 638 Contracting at the Indian Health Service*” held on December 11, 2025. As the Indian Health Service (IHS) is actively consulting with Tribal Nations on a proposed agency realignment centered around Tribal self-governance, USET SPF acknowledges the Subcommittee for holding a hearing on this important topic. Our testimony focuses on the importance of protecting, promoting, and expanding Indian Self-Determination and Education Assistance Act (ISDEAA) authorities within and outside of IHS, as well as on our concerns and considerations for the proposed IHS realignment process.

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<sup>1</sup>. 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.

### **Introduction**

In 1975, Congress enacted ISDEAA to authorize Tribal Nations to enter into agreements with the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS) to receive federal funds and manage federal programs. Since enactment of ISDEAA, a more appropriate sovereignty era of federal Indian law and policy was ushered in to support Tribal self-determination and self-governance. It cannot be overstated how

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<sup>1</sup> 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).

critical ISDEAA has been for advancing towards more appropriate Tribal-federal diplomatic relations and supporting our efforts in Nation building and rebuilding through self-determination and self-governance.

As we celebrate 50 years of implementation of ISDEAA and its beneficial governance, social, and economic impacts for Tribal Nations, USET SPF emphasizes to the Committee that Tribal Nations have a proven track record of directly managing BIA, IHS, and Department of Transportation self-determination and self-governance funding agreements. There is demonstrated history and documented success that Tribal Nations utilize these federal dollars in a way that best serves our citizens and communities. The success of Tribal Nations participating in ISDEAA self-determination and self-governance agreements has shown that not only does it support our inherent sovereignty, but it also has significant beneficial socioeconomic effects for our neighboring non-Native communities as well as regional and national impacts. Further, we emphasize that the implementation of ISDEAA is a critical component of upholding federal trust and treaty obligations to support the inherent sovereignty and self-determination of Tribal Nations. The purpose and intent for enacting ISDEAA was to reverse the disastrous federal Indian policy era of termination, which inappropriately abrogated federal trust and treaty obligations and our inherent sovereignty to manage our own affairs.

Most importantly, 638 contracting and compacting for healthcare services empowers us to create holistic health care programs that are responsive to our communities' priorities and circumstances. USET SPF, along with many Tribal Nations and organizations, has consistently urged that all federal programs and dollars be eligible for inclusion in self-governance contracts and compacts. We must move beyond piecemeal approaches directed at specific functions or programs and start ensuring Tribal Nations have real decision-making in the management of our own affairs and assets. It is imperative that Tribal Nations have the expanded authority to redesign additional federal programs to serve best our communities as well as have the authority to redistribute funds to administer services among different programs as necessary.

USET SPF is working toward the next era of federal Indian law and policy that advances Tribal Nation self-determination and is based on diplomatic respect for Tribal Nations' inherent sovereign rights and authorities. In this new policy era, all federal dollars would be delivered in fulfillment of trust and treaty obligations and eligible to be contracted or compacted under ISDEAA. Until this new policy era is realized, we urge the Committee and Congress to ensure all federal funding for Tribal-serving programs and services can be transferred between federal agencies, so that it may be received by Tribal Nations through contracts and compacts. USET SPF calls upon the Committee and Congress to join us in working toward a legacy of change for Tribal Nations, Tribal citizens, and the sacred trust relationship. There is a need for radical transformation in the recognition of our governmental status and the delivery of federal obligations for our people, which can be accomplished by expanding ISDEAA to all federal programs currently administered by the federal government on behalf of Tribal Nations.

Simultaneously, IHS, the Subcommittee, and the entirety of the federal government must not lose sight of the core trust and treaty responsibilities that undergird all of the United States' work with Tribal Nations, particularly the obligation to provide for the health and wellness of Tribal Nations and our citizens in perpetuity. As part of this obligation, IHS must prioritize the improving the quality of and access to direct care services while fulfilling its obligation to protect and expand Tribal self-governance authorities. Tribal Nations may exercise their sovereignty by choosing to access direct health care services at IHS for myriad

reasons, and the trust obligation requires IHS remain committed to providing quality, robust direct services regardless of the ways Tribal Nations choose to access healthcare.

### **IHS Must Meaningfully Solicit and Incorporate Tribal Input in Realignment**

USET SPF agrees with IHS and Members of the Committee that IHS must be modernized to make the agency more accountable, efficient, and responsive. In the years since ISDEAA's enactment, IHS has shifted from an exclusively direct care service provider to a multifaceted agency providing care through a complex network of federally operated, Tribally operated, and Urban Indian Organization programs and facilities. While IHS must continue to provide robust direct care services as the primary entity charged with fulfilling the federal trust and treaty obligations to provide for the health of Tribal Nations and our citizens, it is also true that the scope of IHS's work in Indian Country has changed over time. The majority of the IHS budget is delivered via 638 contracts and compacts and USET SPF agrees that IHS must adapt in ways to meet Tribal self-governance authorities in a timely and efficient manner. However, these changes must be mutually agreed upon and created in close consultation with Tribal Nations to ensure that our priorities for both direct service and Tribal self-governance are reflected and accounted for in the realignment process. Unfortunately, USET SPF has identified several concerns with the Tribal consultation process for IHS realignment thus far. Through both rounds of consultation, IHS has consistently limited consultation opportunities to a few locations and has failed to share proposed plans with Tribal Nations in a timely manner. IHS announced in November that it would hold the second round of consultation in just four physical locations – none of which were planned in the Nashville Area. After pressure from Tribal leaders to add locations and a virtual consultation option, IHS announced on December 5<sup>th</sup>, 2025, that it would add four more in-person consultation options and a virtual consultation. Unfortunately, the Nashville Area was again left out of the consultation schedule, which significantly limits the ability of Tribal Nations to provide feedback. USET SPF sent this [letter to IHS sharing our concerns about the lack of consultation opportunities in our Area.](#)

Further, IHS finally released the first details of the proposed realignment plan as part of the December 5<sup>th</sup>, 2025, letter – only 10 days before the first in-person consultation. This violates IHS's own Tribal Consultation Policy which states that IHS should provide this information at least 30 days prior to the start of consultation, so Tribal Nations may adequately prepare to provide input and engage with IHS. Sharing the full details of the realignment proposal earlier in the process is not only best practice but will help ensure that consultation is productive and results in mutually agreed upon outcomes.

USET SPF is also concerned with IHS's proposed realignment timeline. In the presentation slides created by IHS (dated December 2025), IHS indicates it intends to complete Tribal consultation in January and begin the "transition to a future state" in February and March 2026, despite the fact that the consultation period does not end until February 9<sup>th</sup>, 2026. We worry that this timeline would prevent IHS from meaningfully incorporating Tribal input into the realignment process. IHS must reconsider this timeline and commit to meaningfully considering and including Tribal input into the realignment plan.

## **Realignment Must Avoid Over-Centralizing Functions and Protect Area Office Decision-making Power**

USET SPF is particularly concerned with proposals in the realignment plan to change the Area Office structure, including proposals to centralize many functions currently performed by the Area Offices and strip them of decision-making authority. This is concerning as IHS assured Tribal Nations for months that realignment would not majorly affect Area Offices. While USET SPF agrees that steps could be taken to improve Area Office performance across the IHS system, the current proposals to transition Area Offices into mere liaising entities and shift ISDEAA negotiations to Headquarters are not in line with Tribal priorities and may cause significant delays in negotiations, resulting in delayed funding to Tribal communities.

The success of the entire IHS system, but particularly self-governance contracting and compacting activities, largely hinges on functions and relationships at the Area Offices. Taking all managerial and supervisory responsibilities from the Areas and centralizing them at IHS Headquarters may not have the intended effect. IHS states that these changes are intended to increase accountability and standardization amongst the Areas, but it seems unclear how IHS will achieve these goals if those with decision-making power are so far from the communities they serve and the facilities they oversee. If IHS truly wishes to improve accountability and efficiency and maintain a robust nation-to-nation relationship with Tribal Nations, USET SPF believes IHS should invest in Area Offices and create processes to ensure responsiveness at the Area level. Tribal Nations have created and maintained strong working relationships with staff at the Area Offices for many years, and suddenly stripping the Areas of all authority will likely have deleterious impacts on operations and the trust Tribal Nations have in the IHS.

USET SPF is also concerned with the proposals to restructure the ISDEAA negotiation process at IHS and worries that the information provided by IHS ahead of the consultations is unclear and may not fully represent the changes that would happen as a result of realignment.. One of the most important functions at the Area Offices is negotiating and amending ISDEAA contracts and compacts. This process is currently done almost exclusively at the Area level through staff called Area Lead Negotiators (ALNs). These ALNs often have strong working relationships with Tribal Nations in their area which help ensure that local context and priorities are understood and considered through the negotiation process. While IHS continues to claim in the executive summary and Frequently Asked Questions (FAQ) documents that negotiation activities will remain at the Area level, these statements appear to be somewhat misleading. When taking all the information across the documents together, it seems as though IHS plans to keep the ALNs themselves “in the field” but all oversight and managerial functions will take place at Headquarters. Further, IHS intends to create negotiation teams which may result in ALNs being assigned to negotiations in Areas to which they have no connection, effectively negating any benefit to keeping the ALNs physically at the Area level. Additionally, as the Subcommittee heard from the witnesses, Headquarters is frequently the cause of delays and bottlenecks in the ISDEAA negotiation process and has been known to undercut Area negotiation decisions under the current structure. It is unclear how centralizing these functions at Headquarters would solve this problem. Indeed, it seems as though removing the ability of Tribal Nations to track down and contact negotiators (by, for example, visiting their Area Office) or their ability to work with someone who understands the Area would only serve to exacerbate delays and miscommunications.

USET SPF strongly encourages IHS to reconsider these proposals and work with Tribal Nations to determine ways to strengthen Area performance across the system. We acknowledge that variations in

Area performance contribute to many issues, but the relationships and institutional knowledge held at the Area level must not be compromised. Tribal Nations in the Nashville Area enjoy a strong working relationship with our Area staff, and we wish to see all Areas perform at a high level. Unlike other IHS Areas, Tribal Nations in the Nashville Area are not experiencing extensive failures in the provision of care or services at the Area level. In fact, the Nashville Area Tribal Nations have consistently advocated for Area Office presence, in the face of proposals to reduce or eliminate the Nashville Area Office. Tribal Nations and Area personnel have worked hard to establish and maintain a strong, transparent relationship based in mutual respect and a deep understanding of federal obligations. Rather than centralizing critical functions at Headquarters, IHS should consider actions that would support Area performance, such as creating uniform ISDEAA negotiation guidance like the Bureau of Indian Affairs (BIA) or investing in training and capacity building at the Area level.

### **Congress Must Increase IHS Funding and Resources**

It is undeniable that IHS is strapped for resources and this strained environment is likely contributing to the agency's desire to centralize functions and resources at Headquarters. The current IHS operating budget is around \$7 billion; however, the IHS National Budget Formulation Workgroup estimated that full IHS funding would be closer to \$73 billion. Per capita spending on IHS patients is up to 50% less than per capita spending on non-Native patients in the United States. This lack of resources affects all aspects of IHS operations, from direct service provision to recruitment and retention. It makes sense that, in the absence of additional funding to improve processes across the system, IHS would see potential value in clawing back resources from the Area level to support system-wide improvements. However, Tribal Nations are concerned about multiple realignment proposals, and we worry that some proposed changes have the potential to create additional issues. To achieve an IHS realignment process that truly reflects Tribal priorities and addresses root causes of many of these issues, Congress must significantly increase funding and resources at the IHS.

A fully funded IHS budget, ideally achieved through mandatory appropriations, is the only way to see true, meaningful improvement in the Indian Health System. Many of the issues IHS is trying to solve for in this realignment are directly caused or exacerbated by lack of funding. Delays in contract negotiation and execution are often the result of chronic understaffing at IHS – a problem caused largely by lack of resources to recruit and retain professionals at both the Area and Headquarters levels. The same can be said for delays in the Section 105(l) leasing process or delays in negotiating contract support costs (CSC). Increased IHS funding would allow IHS to better recruit and retain professionals, thus mitigating the issues IHS is trying to solve with reorganization and ensuring improved accountability and efficiency.

USET SPF strongly agrees that steps must be taken to modernize and improve the IHS system, but we maintain our position that the U.S. will continue to fail to honor its promises and legal responsibilities until the IHS has full and mandatory appropriations in perpetuity. In order to correct past wrongs and support a better future for the health of Tribal Nations and our communities, Congress must work with IHS and HHS to create and implement a full and mandatory funding proposal for all parts of the IHS budget in close consultation with Tribal Nations.

## Congress Should Expand 638 Authority Within and Outside of IHS

As the Subcommittee knows and has heard from numerous Tribal Nations, ISDEAA contracting and compacting has been remarkably successful across Indian Country, and Tribal Nations want to build upon this success through self-governance expansion within and outside of the IHS. For years, Tribal Nations and organizations have pushed IHS to administer behavioral health grants and the Special Diabetes Program for Indians (SDPI) through 638 contracting. USET SPF urges Congress to use its oversight authorities to compel IHS to distribute behavioral health grants via ISDEAA contracts and compacts, as well as its authority to implement Tribal self-governance authorities over the SDPI and other IHS programs.

Self-governance authority over the SDPI program may require an act of Congress to implement. Currently, program dollars are delivered through grant mechanisms which fail to honor the federal trust obligation by treating Tribal Nations as grantees rather than sovereign governments. With the authority to receive SDPI funds directly through ISDEAA contracts and compacts, Tribal Nations will be able to use SDPI dollars more efficiently as less staff time will be needed to complete grant-related tasks and can be dedicated to program delivery. This authority would also allow Tribal Nations to better tailor SDPI programs to meet the priorities of our communities.

While Congress may need to take additional action to authorize ISDEAA authorities over the SDPI, behavioral health resources at IHS could already be distributed this way. However, despite [Tribal Nations and organizations](#), as well as Congress, urging IHS to distribute these funds via ISDEAA contracts and compacts during the initial round of consultation on these programs and in the years since, IHS ultimately chose to administer the funds via grants and has maintained the current funding structure for years.

Importantly, Congress, in the past, has explicitly directed IHS to transfer funds for these programs through ISDEAA contracts and compacts. In [the Committee report for the Consolidated Appropriations Act of 2018](#), Congress stated that it “encourage[s] the transfer” of funds provided for the Substance Abuse and Suicide Prevention Program and for other mental health related programs “through Indian Self-Determination Act compacts and contracts and not through separate grant mechanisms.” The report went on to state that this would ensure that administrative costs would be covered through the contract support cost process.

However, IHS has elected not to act on this directive and continues to distribute this funding in the form of grants, to the detriment of Tribal Nations and communities. Beyond the benefit of contract support costs, transferring mental health and substance use disorder response funds through self-governance contracts and compacts enables Tribal Nations to exercise our sovereignty more meaningfully with increased control over program design, implementation and integration. It also allows us to more effectively respond to priorities in our communities as less time is spent on burdensome grant applications and reporting requirements and more focus can be given to patient care and services. USET SPF urges Congress to use its oversight authority to ensure IHS is responsive to Congressional directives and Tribal Nation requests to distribute current and future behavioral health resources through ISDEAA contracts and compacts.

Outside of IHS, USET SPF urges Congress to work with the Department of Health and Human Services (HHS) to expand self-governance authorities to other Divisions and programs within HHS. USET SPF strongly supports legislative proposals that would create a demonstration project at HHS aimed at expanding ISDEAA authority to more programs within the Department. A feasibility study conducted in 2013 found that self-governance expansion at HHS is possible, but would require Congressional action,

and efforts to advocate for this change with HHS and Congress have stalled over the years. With the Administration's current focus on government efficiency and increased local control over programs and services, it is the perfect opportunity to renew Tribal self-governance expansion efforts at HHS. USET SPF urges the Subcommittee to work with Tribal Nations and HHS to extend ISDEAA authorities to all agencies and programs at HHS to serve Tribal Nations, Tribal citizens, or Tribal communities.

## **Conclusion**

Tribal self-governance authorities at IHS are some of the most important tools Tribal Nations have for exercising our sovereignty over programs and services in our communities. ISDEAA contracting and compacting at IHS has allowed us to create stronger, more robust and efficient healthcare programs that are truly responsive to our communities' priorities. IHS has a crucial role to play in the administration of ISDEAA authorities, and USET SPF hopes that together, Tribal Nations, IHS, Congress, and the Administration can develop and implement a realignment strategy, guided by Tribal consultation, that meets the priorities of Indian Country and creates a better system for healthcare delivery. We urge Congress to use its oversight authorities over IHS to ensure that realignment is properly consulted on and Tribal input is meaningfully incorporated in the final plan. We also urge Congress to protect and expand ISDEAA authorities both within and outside of the IHS.

USET SPF appreciates this opportunity to provide the Subcommittee with testimony for the record on this critical topic, and stand ready to support Congress, IHS, and the Administration in efforts to create a better, stronger Indian Health System.