



USET

SOVEREIGNTY PROTECTION FUND

Nashville TN Office
711 Stewarts Ferry Pike, Ste. 100
Nashville TN 37214
P: (615) 872-7900
F: (615) 872-7417

Washington DC Office
400 North Capitol St., Ste. 585
Washington DC 20001
P: (202) 624-3550
F: (202) 393-5218

Transmitted via hhsplan@hhs.gov

October 27, 2017

Eric D. Hargan
Acting Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Acting Secretary Hargan,

On September 27, 2017, the Department of Health and Human Services (HHS) published a request for comment on the HHS Draft Strategic Plan Fiscal Year (FY) 2018 – 2022, an update of its Strategic Plan, which seeks to “address complex and ever-evolving health, public health, research, and human service issues.” On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we write to provide comments and offer HHS guidance to finalize a Strategic Plan that is reflective of the full commitment and federal trust obligation to Tribal Nations.

USET SPF is a non-profit, inter-tribal organization representing 27 federally recognized Tribal Nations from Texas across to Florida and up to Maine¹. Both individually, as well as collectively through USET SPF, our member Tribal Nations work to improve health care services for American Indians. Our member Tribal Nations operate in the Nashville Area of the Indian Health Service, which contains 36 Indian Health Service (IHS) and Tribal health care facilities. Our citizens 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.

Overall, USET SPF has deep concerns with the lack of inclusion of Tribal Nations and American Indians and Alaska Natives (AI/ANS) in the language and objectives of the Draft Strategic Plan. As it is currently written, Tribal Nations are mentioned only a handful of times, with the Plan failing completely to include any reference to the federal government’s trust responsibility to deliver quality health care to Tribal Nations. As an agency of the federal government, HHS, including all Operating Divisions (OPDIVS) under HHS, are charged with delivering upon this trust responsibility. HHS strategic planning must be reflective of these federal trust obligations by providing full consideration of Tribal Nations within the Strategic Plan. HHS must revise the existing language to reflect that the trust responsibility of HHS and its OPDIVS, including the legal obligation to provide healthcare to AI/ANS.

Commitment to Tribal Consultation

The goals outlined within the Strategic Plan must reflect HHS’ own Tribal Consultation Policy, which states that HHS “has a long-standing commitment to working on a government-to-government basis with Indian Tribes and

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), 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), 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), 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), and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

to work in partnership with AI/ANs.” As it is currently written, the draft Strategic Plan does not provide guidance on, or any mention of HHS’ agency-wide commitment to Tribal consultation under the trust responsibility. To ensure that Tribal health care issues are fully addressed, HHS must include language within the Strategic Plan that is reflective of language in the agency’s Tribal Consultation policy, particularly, “eliminating health and human service disparities of Indians, ensuring that access to critical health and human services is maximized, and to advance or enhance the social, physical, and economic status of Indians.”

Commitment to Continued AI/AN Access to HHS Programs

USET SPF encourages HHS to include language within the Strategic Plan that reflects the crucial role that all programs under HHS provide in Indian Country and reinforces HHS’s commitment to access for AI/ANs. Tribal Nations access various programs within HHS, such as Medicare, Medicaid, the Children’s Health Insurance Program (CHIP), and Temporary Assistance to Needy Families (TANF), among many others. Despite the essential services these programs provide within Indian Country, there is no mention within the Strategic Plan of the important role they have within Tribal communities. Moreover, as it is currently written, the Plan appears to support concepts, such as work requirements and other barriers to healthcare access, that run counter to the execution of the trust responsibility. We understand that these goals may be appropriate for the U.S. general population. However, it is critical to note the unique nature of the relationship between Tribal Nations and the federal government. The federal government does not have this relationship with any other population in the U.S. These programs are another mechanism the federal government employs to fulfill its trust obligations to provide vital services, including healthcare, to AI/ANs. Access to these programs must be protected for the AI/AN population.

HHS Strategic Plan – Section-by-Section

As HHS moves to finalize the Strategic Plan, the agency must include a commitment to Tribal Nations. USET SPF provides the following comments and guidance to HHS for the goals outlined in the HHS Strategic Plan:

- Objective 1.2: Expand safe, high-quality healthcare options, and encourage innovation and competition.
 - Under this goal, HHS describes the agency’s goal to reduce disparities in healthcare and to “incentivize safe, high-quality care”. The agency seeks to accomplish this by leveraging healthcare technology as well as the comprehensive usage and collection, analyzation, and application of data. However, the Strategic Plan fails to include consideration of Tribal Nations or strategies associated with those goals to expand safe, high-quality healthcare options to Indian Country.
- Objective 1.3: Improve Americans’ access to health care and expand choices of care and service options.
 - In this goal, HHS expresses its objective to “design healthcare options that are responsive to consumer demands, while removing barriers for faith-based and other community-based providers”. It is disappointing that HHS fails to include or address the disparities that exist within Indian Country when it comes to access to healthcare options and strategies that seek to address these disparities. HHS must include and provide strong consideration to address the disparities that exist within Indian Country, particularly in protecting Medicaid for AI/ANs, which is a vital resource in ensuring access to healthcare for Tribal Nations.

In addition, it is unacceptable that Tribal Nations, who ceded millions of acres of land and natural resources to U.S., are not given the same consideration as faith-based and other organizations within the Strategic Plan. Faith-based organizations and other non-governmental organizations do not have a trust obligation or responsibility to provide healthcare services to Tribal Nations. Nor does the U.S. have a trust responsibility to these entities. Tribal Nations must be included in the Plan wherever applicable, including in opportunities for states, localities, and non-governmental organizations.

- Objective 1.4: Strengthen and expand the healthcare workforce to meet America's diverse needs.
 - The recruitment and retention of quality healthcare providers has been a challenging issue within HHS, particularly at IHS, for many years. The Strategic Plan fails to consider the detrimental effects these challenges have had on the Indian Health System. HHS must include language addressing this critical issue, and the need to recruit and retain quality and culturally competent healthcare providers who serve Tribal Nations.

USET SPF is encouraged to see that HHS suggests that Tribal best practice models for providing care outside of a facility be examined to better understand opportunities to strengthen the healthcare workforce. Like rural communities, Indian Country is experiencing extensive healthcare provider shortages. However, the Plan fails to acknowledge these substantial shortages, which continue to have a deleterious impact on the quality of care being delivered in Indian Country. These shortages must be included in any plan by HHS that seeks to address provider disparities.
- Objective 2.1: Empower people to make informed choices for healthier living.
 - Under Goal 2, HHS includes the objective to protect the health of Americans by ensuring “people have the information they need to make healthier living choices.” Though Tribal Nations are included in the partnerships listed under this goal, the disparities that exist in Indian Country must be addressed separately, as Tribal communities experience unique factors when it comes to outreach, assistance, and access to healthier choices. Specifically, HHS must include language that would require culturally competent outreach for Tribal Nations on not just informed decisions and but healthy options for healthy living within the Strategic Plan. Culturally competent outreach to Tribal Nations, particularly within programs such as the Special Diabetes Program for Indians, have shown measurable success in providing healthy options and encouraging Tribal Citizens to make healthier choices overall. It is important to note, however, that this type of outreach includes more than just information. It facilitates access to the healthy choices described in this goal, which, in turn, generates positive results. We recommend that HHS revise the plan to include strategies to increasing access to these choices and not limiting its goal to information only. In addition, when considering new and emerging technologies, such as telemedicine, HHS must fully include and consider how these technologies can have a positive impact on Tribal Nations as the advancement of telemedicine within Indian Country has already made great strides.
- Objective 2.3: Reduce the impact of mental and substance use disorders through prevention, early intervention, treatment, and recovery support.
 - USET SPF is encouraged that HHS included Tribal Nations within the list of potential collaboratives when seeking to reduce the impact of mental and substance abuse disorders. We remind HHS that Tribal Nations are also experiencing the deleterious effects of drug abuse and trafficking within their communities, particularly opioids, and must be included as full partners in the fight to end the epidemic. Failure to ensure Tribal Nations are engaged, just as the Department includes other units of government, will result in an incomplete response to this crisis. Further, USET SPF encourages HHS to expand collaboration between other federal agencies, particularly the Department of Justice and Department of Interior, within the Strategic Plan when seeking to address the drug crisis. USET SPF further encourages HHS to consider the important role that the White House Council on Native American Affairs can and should play as it seeks to address the crisis in Indian Country.
- Objective 3.1: Encourage self-sufficiency and personal responsibility, and eliminate barriers to economic opportunity.
 - USET SPF urges HHS to provide clarification within this Objective that encouraging self-sufficiency and personal responsibility does not absolve the agency from the trust obligation to

provide and ensure access to healthcare and other HHS programs for Tribal Nations. Further, USET SPF reminds HHS that, regardless of the economic status of Tribal Nations and our citizens, the federal trust obligations and responsibility remain. Tribal Nations access various programs within HHS, such as Medicare, CHIP, TANF, child care services, Low Income Home Energy Assistance Program and many others. These programs are another mechanism the federal government utilizes to fulfill its trust obligations to provide healthcare to AI/ANs. Access to these programs is part of the legal and moral trust obligation by the federal government as the result of millions of acres of land and extensive resources ceded to the U.S. to provide benefits and services in perpetuity. The Strategic Plan must be reflective of this trust obligation, and therefore must include and reflect appropriate goals, strategies and objectives that fulfill the federal trust responsibilities and obligations

- Objective 4.1: Improve surveillance, epidemiology, and laboratory services.
 - Tribal Epidemiology Centers (TECs) provide invaluable contributions to Indian Country and overall public health when it comes to the study, prevention and control of infectious and chronic diseases and social determinants of health such as cancer, tobacco use, vaccine-preventable diseases, sexually-transmitted diseases, and disease outbreaks. As HHS moves to facilitate information sharing, exchange, and alignment as part of accomplishing the improvement of surveillance, epidemiology, and laboratory services, Tribal Nations and TECs must be included and consulted with under HHS' goal of enhancing and standardizing public health data collection, access and reporting to mitigate health crises.

Conclusion

As it is written, the draft HHS Strategic Plan fails to address or provide any guidance to OpDivs on critical Tribal healthcare issues. Further, despite the trust responsibility to deliver quality health care to Indian Country, the Strategic Plan also fails to acknowledge the federal trust obligation to Tribal Nations. When finalizing the Strategic Plan for FY 2018-2022, HHS must include language that reflects the Agency's commitment to Tribal Nations, including its consultative duties. USET SPF looks forward to changes to the Plan that do more to undergird our sacred relationship and welcomes additional opportunities, through consultation, to further refine its goals and objectives. 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

