



January 31, 2025

Acting Secretary Dorothy Fink  
Hubert H. Humphrey Building  
200 Independence Ave SW  
Washington, DC 20201

**RE: Requesting an exemption for the Indian Health Service from Executive Order, “Hiring Freeze”**

Dear Acting Secretary Fink:

On behalf of the National Indian Health Board (NIHB), the National Council of Urban Indian Health (NCUIH), National Congress of American Indians (NCAI), the Self-Governance Communication and Education Tribal Consortium (SGCETC), the 574 Tribal Nations, and all 41 urban Indian organizations (UIOs) we serve, we request an exemption for the Indian Health Service (IHS) from the Executive Order instituting a federal hiring freeze for civilian employee positions and instructing the creation of a plan to reduce the size of the federal workforce. As the Trump-Vance Administration continues efforts to increase the efficiency of the federal workforce, we also request that you use your authority as Acting Secretary of the U.S. Department of Health and Human Services (HHS) to exempt or request exemptions for IHS from any other plans, policies, or incentives that seek to decrease its workforce. While we appreciate your commitment to ensuring the federal workforce is efficient, these policies pose immediate jeopardy to the delivery of critical health care services to over 2.8 million American Indian/Alaska Native (AI/AN) people and violate the Indian Health Care Improvement Act (IHCIA).

The IHS, an operating division of HHS, is the principal health care provider for AI/AN people. IHS is an essential actor in fulfilling the United States’ legal and trust obligation to provide health care to AI/AN people. The IHCIA states that “it is the policy of this nation, in fulfillment of its trust responsibilities and legal obligations to Indians to ensure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy.”<sup>1</sup> The Memorandum from the Office of Management and Budget (OMB) and Office of Personnel Management (OPM) regarding the Federal Civilian Hiring Freeze Guidance states that OPM may grant hiring freeze exemptions for an agency in “critical need” related to “essential services,” and the IHS exemplifies these conditions.<sup>2</sup> Prohibiting the IHS from hiring health care providers and

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<sup>1</sup> 25 U.S.C. § 1601.

<sup>2</sup> Office of Management and Budget & Office of Personnel Management. Re: Federal Civilian Hiring Freeze Guidance, published January 20, 2025, available at <https://acrobat.adobe.com/id/urn:aaaid:sc:VA6C2:96689e1b-4791-400c-be8f-db9d7d8a5f11>, accessed on January 27, 2025.

administrators harms the delivery of health care to AI/AN people and violates the United States' trust responsibility.

We appreciate that the Executive Order seeks to increase the efficiency of personnel, but an IHS exemption from the hiring freeze and the plan to reduce the workforce size is critically necessary to protect public safety. While physicians and other types of providers have been granted exemption from the hiring freeze, additional supporting staff within IHS are necessary for patient care, scheduling, oversight, and billing. Therefore, the exemption for providers should be extended to all IHS staff.

The federally operated Indian Health System provides services to over 2.8 million AI/AN people, operating 21 hospitals, 53 health centers, and 25 health stations in 19 states. Federally operated IHS hospitals range in size from 6 to 133 beds and are open 24 hours a day for emergency care needs. IHS offers a range of care, including primary care services, pharmacy, laboratory, and x-ray services. IHS often provides services to non-Indians living in remote, rural communities. Without IHS, there would not be care for hundreds of miles in some cases. Despite the critical services that IHS provides to AI/AN people and those living in extremely remote and rural communities, the IHS has vacancies for medical professionals across the system. In June 2024, IHS reported an agency-wide 30% vacancy rate and a 36% vacancy rate for physicians. As part of a 2018 Government Accountability Office (GAO) report on IHS' ongoing challenge to filling provider vacancies, it found that IHS clinics do not have enough doctors or nurses to provide quality and timely health care to AI/AN people.<sup>3</sup> Adequate staffing of healthcare facilities is literally a matter of life and death for some sites.

There is a precedent for exempting IHS from federal hiring freezes. Following President Trump's January 23, 2017, memorandum instituting a hiring freeze, the HHS issued guidance in which the HHS identified HHS-wide positions and occupational series that were exempt.<sup>4</sup> The IHS positions that were involved in direct patient care were exempt, as well as a number of ancillary mission critical support positions without which patient care providers and facilities could not function.

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<sup>3</sup> U.S. Government Accountability Office, Indian Health Service: Agency Faces Ongoing Challenges Filling Provider Vacancies, GAO-18-580, published August 15, 2018, available at: <https://www.gao.gov/products/gao-18-580>, accessed on: January 27, 2025.

<sup>4</sup> Presidential Memorandum Regarding the Hiring Freeze, published January 23, 2017, available at: <https://trumpwhitehouse.archives.gov/presidential-actions/presidential-memorandum-regarding-hiring-freeze/>, accessed on January 23, 2025.; Letter from Chris Buchanan, Acting Dir., Indian Health Service, to Tribal Leaders and Urban Indian Organization Letters (Feb. 10, 2017), [https://www.ihs.gov/sites/newsroom/themes/responsive2017/display\\_objects/documents/2017\\_Letters/DTLL\\_UIOL\\_L-HiringFreeze\\_02102017.pdf](https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/2017_Letters/DTLL_UIOL_L-HiringFreeze_02102017.pdf); see also U.S. Department of Health and Human Services. Re: 2017 HHS Hiring Freeze Exemptions, published February 6, 2017, available at: <https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:7300b189-a51d-4b5e-acc7-80f391f08fa3?viewer%21megaVerb=group-discover>, accessed on January 23, 2025.

Similar to 2017, the Memorandum from OMB and OPM regarding the hiring freeze indicates that agency heads may request that OPM grant “exemptions from the hiring freeze for critically important situations, such as ensuring the highest possible provision of Social Security, Medicare, and veterans’ benefits.”<sup>5</sup> Medicare plays an essential role in the Indian health system by providing coverage for AI/AN people who are elderly or have certain disabilities and approximately 10% of AI/AN people who use IHS services are enrolled in Medicare. In 2003, the IHS put its first Memorandum of Understanding (MOU) into place with the Department of Veterans Affairs (VA) because of the IHCIA’s requirement for IHS and VA to share medical facilities and services.<sup>6</sup> This MOU was most recently broadened in 2021 in order to coordinate health care services for 135,000 AI/AN veterans.<sup>7</sup>

The Memorandum from the OMB and OPM also states that agencies may refer to a November 17, 1981, OMB memorandum, which the most recent memorandum referred to as “longstanding guidance.” The examples the 1981 memorandum specifically cite to concern “essential activities to the extent that they protect life and property” including “activities essential to ensure continued public health and safety.” Filling vacancies within the IHS – the agency tasked with fulfilling the federal trust responsibility by raising the health status of AI/AN people – falls within this public health and safety exemption.

The IHS is already insufficiently staffed and underfunded. Continuing these policies runs contrary to the provision of the highest quality provision of Medicare and veterans’ benefits as well as the United States’ legal responsibility to provide quality health care to AI/AN people. Without an exemption for the IHS to the hiring freeze or to the plan to reduce the size of its workforce to these policies, the lives of AI/AN citizens, veterans, and Medicare beneficiaries will bear the ramifications of these policies. We urge you to use your authority as the Acting Secretary of HHS to fulfill the federal government’s legal and trust responsibility to Tribes by exempting or requesting exemptions for the IHS from any further efforts to eliminate or incentivize the resignation of its staff.

We stand ready to provide any technical assistance and answer any questions that you may have. We look forward to working with you to promote the health and well-being of all Americans, including American Indians and Alaska Natives.

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<sup>5</sup> Office of Management and Budget & Office of Personnel Management. Re: Federal Civilian Hiring Freeze Guidance, published January 20, 2025, available at <https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:96689e1b-4791-400c-be8f-db9d7d8a5f11>.

<sup>6</sup> Indian Health Service and Department of Veterans Affairs health facilities and services sharing (25 U.S.C. § 1680f).; 2021 Veterans Health Administration (VHA) and Indian Health Service (IHS) Memorandum of Understanding (MOU), published October 2021, available at <https://department.va.gov/wp-content/uploads/2022/06/va-ihs-mou-memorandum-of-understanding.pdf>, accessed January 27, 2025.

<sup>7</sup> 2021 Veterans Health Administration (VHA) and Indian Health Service (IHS) Memorandum of Understanding (MOU), published October 2021, available at <https://department.va.gov/wp-content/uploads/2022/06/va-ihs-mou-memorandum-of-understanding.pdf>, accessed January 27, 2025.; VA Veteran Population Projection Model, 2023: [https://www.va.gov/vetdata/veteran\\_population.asp](https://www.va.gov/vetdata/veteran_population.asp)

Respectfully,

National Indian Health Board

National Council of Urban Indian Health

National Congress of American Indians

Self-Governance Communication and Education Tribal Consortium

CC: Acting Director of the Office of Personnel Management Charles Ezell, Acting Director of the Office of Management and Budget Matthew Vaeth, Deputy Director of the Indian Health Service Benjamin Smith