

February 14, 2025

Robert F. Kennedy, Jr.
Secretary
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Ave. SW
Washington, DC 20201

RE: HHS Treatment of Tribal Nations in Implementation of Administration Priorities

Dear Secretary Kennedy:

On behalf of the undersigned organizations that collectively serve the majority of sovereign Tribal Nations and their citizens and communities, we write to congratulate you on being confirmed to lead the U.S. Department of Health and Human Services (HHS). We request a meeting with you as soon as possible to discuss implementing President Trump's priorities in a manner that recognizes the sovereign governmental status of Tribal Nations and the United States' longstanding trust and treaty obligations.

Tribal Nations are ready to work with the Trump Administration on multiple shared priorities, such as reducing unnecessary federal regulations, streamlining federal funding mechanisms, and promoting healthy lifestyles. In carrying out this work together, we look forward to ensuring that the path forged by the Administration includes Tribal Nations' input and adheres to the legal trust relationship between our sovereign Tribal Nations and the federal government. As the Administration works to hold the federal government accountable to the highest standards that the American people deserve, we are ready to work together in this pursuit.

Tribal Nations are and always have been inherently sovereign governments that have strong political relationships with our Tribal citizens and community members. We govern and police our lands, and we provide services aimed at keeping our communities safe. Tribal Nations also have political, government-to-government relationships with the United States, and we prepaid with our lands and resources for trust and treaty obligations that the United States owes us. The U.S. Constitution singles out Tribal Nations and Native people as unique, and the U.S. Supreme Court has time and again affirmed the principle that United States actions that deliver on trust and treaty obligations to Tribal Nations, Tribal citizens, and Tribal communities do not run afoul of the U.S. Constitution's equal protection requirements.

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. Over time, the United States has created a web of different mechanisms it uses to deploy federal funding to serve Tribal Nations and Tribal communities. Essential services provided by Federal employees include healthcare services through the Indian Health Service (IHS), law enforcement and public safety through the Bureau of Indian Affairs, and educational services through the Bureau of Indian Education—not to mention countless other essential and legally mandated services. Any Tribal program or funding delivered to Tribal Nations—including

through Urban Indian Organizations and Tribal organizations serving Tribal Nations—is provided in furtherance of the United States’ trust and treaty obligations. The federal employees necessary for the functioning of those Tribal programs and the disbursement of those Tribal funds are also part of the trust and treaty obligations. The United States further has a duty to consult government-to-government with Tribal Nations on federal actions that may have Tribal implications, including implications on delivery of trust and treaty obligations. These actions are not discretionary; they are legal obligations rooted in treaties, trust obligations, the U.S. Constitution, and long-standing federal statutes.

We note, and greatly appreciate, the HHS notice dated February 6th stating that the Executive Order affecting diversity, equity, and inclusion programs does not apply to programs or activities that affect or serve American Indian and Alaska Native (AI/AN) people, in part because Tribal Nations are separate sovereigns. We also applaud Department of the Interior Secretarial Order 3416, which recognized that trust and treaty obligations to Tribal Nations and associated statutory authorities are legal requirements that must not be impaired while implementing President Trump’s Executive Orders. Furthermore, we celebrate the HHS February 4th announcement that the Office of Personnel Management had granted IHS a partial exclusion from the deferred resignation program. We are hopeful that other federal agencies will issue similar affirmative statements, and that their leadership will ensure agency practice aligns with these statements.

One of the United States’ obligations under its trust and treaty responsibilities is the provision of health care to Native people. The Indian Health Care Improvement Act (IHCA) states that “it is the policy of this Nation, in fulfillment of its special 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.” 25 U.S.C. § 1602(1). Moreover, the IHCA established that “[f]ederal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government’s historical and unique legal relationship with, and resulting responsibility to, the American Indian people.” 25 U.S.C. § 1601(1).

The IHS, an operating division of HHS, is the principal health care provider for AI/AN people. IHS along with Tribal organizations and urban Indian organizations (UIOs), collectively referred to as the I/T/U system, together fulfill the United States’ trust and treaty obligations. The I/T/U system provides services to over 2.8 million AI/AN people, veterans, and Medicare beneficiaries and runs critical programs essential to public health and safety. For example, IHS coordinates the Special Diabetes Program for Indians (SDPI), which provides funds for activities related to the prevention of Type 2 diabetes. This highly successful program is associated with a 54% decrease in the incidence of diabetes-related end-stage renal disease for AI/AN people between 1996 and 2013, which is estimated to have saved Medicare up to \$520 million.¹

In the Administration’s efforts to increase the efficiency and reduce the size of the federal workforce, we request exemptions from policies that would negatively impact the federal government’s broad legal obligations in Indian Country, including providing health care through

¹ U.S. Department of Health and Human Services Office of the Assistant Secretary for Planning and Evaluation. The Special Diabetes Program for Indians: Estimates of Medicare Savings. Published May 2019, available at <https://aspe.hhs.gov/reports/special-diabetes-program-indians-estimates-medicare-savings>, accessed January 31, 2025.

IHS. We request that HHS ensure funding to Tribal Nations, our citizens, and our communities is neither paused nor reduced. And we urge HHS to exempt from workforce reductions the IHS and all employees serving in Tribal offices or whose role is to deliver services or funding to Tribal Nations or their citizens or communities.

President Trump's first Administration recognized the important status of Tribal Nations and saw Indian Country as a strong partner, particularly during the COVID-19 pandemic when the Administration supported local government control and access for Tribal Nations to set-asides of federal funds that directly addressed Tribal needs. With this in mind, we ask that you and your staff work with us to ensure that HHS's implementation of the Administration's priorities does not harm Tribal Nations or Tribal Nation citizens. Each of the mandates issued by the Administration has acknowledged that it does not affect ongoing legal requirements, and Indian Country programs are legally required by trust and treaty obligations and associated implementing statutes. ***Tribal Nations' exercise of our sovereignty and the United States' delivery on its trust and treaty obligations must not become collateral damage in the Administration's implementation of its priorities.***

To facilitate the government-to-government relationship, Tribal Nations urge the Administration to work with and continue to employ the use of expert Tribal offices in each agency. These Tribal offices were created by bi-partisan requests to improve and advance the federal trust relationship with Tribal Nations and have proved to be invaluable tools for increased consensus, efficiency, and productivity on a wide range of issues.

Thank you for your leadership on these important issues. We invite you to meet with us so that we may work together to ensure Indian Country's seat at the table as this Administration implements its priorities.

Sincerely,

Affiliated Tribes of Northwest Indians
American Indian Higher Education Consortium
Great Lakes Inter-Tribal Council
Great Plains Tribal Chairman's Association
Midwest Alliance of Sovereign Tribes
National Congress of American Indians
National Council of Urban Indian Health
National Indian Child Welfare Association
National Indian Education Association
National Indian Health Board
National Indigenous Women's Resource Center
Self-Governance Communication & Education Tribal Consortium
United South and Eastern Tribes Sovereignty Protection Fund