

February 14, 2025

Kristi Noem
Secretary
U.S. Department of Homeland Security
Washington, DC 20528
via email: dhssecretary@hq.dhs.gov

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

Dear Secretary Noem:

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 Homeland Security (DHS). Your experience serving as the Governor of South Dakota, a state rich in Tribal heritage, means you bring with you a wealth of knowledge regarding the unique legal status of Tribal Nations. 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.

Although we look forward to working together, we are extremely concerned that the Trump Administration has issued a series of Executive Orders that continue to impact Tribal Nations and Native people. This includes Executive Orders aimed at illegal immigration, such as Executive Order 14159, "Protecting the American People Against Invasion," which in part directs federal officials to "employ all lawful means to ensure the faithful execution of the immigration laws of the United States against all inadmissible and removable aliens." Implementation of President Trump's immigration priorities—while not necessarily intentionally targeting Tribal citizens—has nonetheless resulted in raids on, and harassment of, Native people who are mistaken as aliens. Worse still, when some implementing officials have learned an individual is a Tribal Nation citizen, and even when that individual has produced evidence of Tribal citizenship, officials have continued to question or detain the Native person.

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. To the extent the United States has not placed restraints on our exercise of jurisdiction, we exclude those who should not be present on our lands—and the United States must defer to Tribal Nation authorities unless a Tribal Nation requests assistance. 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, 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.

Other federal agencies have taken steps to clarify that implementation of the Administration’s Executive Orders and priorities should not impact the United States’ delivery on trust and treaty obligations to Tribal Nations and our people. On January 30th, the U.S. Department of the Interior, in Secretarial Order 3416, 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. On February 6th, the U.S. Department of Health and Human Services (HHS) issued a notice stating that the Executive Order affecting diversity, equity, and inclusion programs does not apply to programs or activities that affect or serve American Indians and Alaska Natives, in part because Tribal Nations are separate sovereigns. Furthermore, on February 4th, HHS announced that the Office of Personnel Management had granted the Indian Health Service a partial exclusion from the deferred resignation program.

We request that you take a similar affirmative stance, and that you ensure DHS practice aligns with that stance. Tribal citizens must not be caught up in immigration-related actions because Tribal citizens are indeed the original inhabitants of these lands and have U.S. citizenship under federal law, as the United States declared in the Indian Citizenship Act of 1924. Furthermore, we urge DHS to exempt Tribal programs from efforts to pause or reduce federal funding and to exempt from any workforce reductions 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 DHS’s implementation of the Administration’s immigration-related and other 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.

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 Association of Tribal Historic Preservation Officers
National Congress of American Indians
National Indian Child Welfare Association
National Indian Education Association
National Indian Health Board
Self-Governance Communication & Education Tribal Consortium
United South and Eastern Tribes Sovereignty Protection Fund