



February 6, 2025


NOTE TO: THE CHIEF OF STAFF
HEATHER FLICK

SUBJECT: Application of DEI Executive Order to American Indians and Alaska Natives

On January 28, 2025, the Indian Health Service (IHS) asked whether the Executive Order titled “Ending Radical and Wasteful Government DEI Programs and Preferencing” applies to IHS programs that serve American Indians and Alaska Natives (AI/ANs). I replied, by way of email, that the order does not cover those programs.

Please accept this note as confirmation of the position this office took on January 28, 2025. The Executive Order at issue does not apply to programs or activities of the Department of Health and Human Services that affect or serve AI/ANs. First, the Order, by its plain terms, does not apply to such programs. Second, it would be imprudent to read it as so applying given that the Tribes are separate sovereigns. Third, the Supreme Court has consistently applied the Indian canon of construction in favor of funding toward Tribes; application of that canon here counsels against reading the EO as applying to AI/ANs.

If you have any further questions, please do not hesitate to contact this office.


Sean R. Keveney
Acting General Counsel