



USET

SOVEREIGNTY PROTECTION FUND

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Transmitted via consultation@ihs.gov

January 8, 2020

Real Admiral Michael Weahkee
Director
Indian Health Service
5600 Fishers Lane, Mail Stop 08E86
Rockville, MD 20857

Dear Rear Admiral Weahkee,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) we write to provide comment to the Indian Health Service (IHS) on the allocation of \$1 billion in COVID-19 resources authorized under the Coronavirus Response and Relief Supplemental Appropriations Act, 2021. The \$1 billion includes critical funding for the Indian Healthcare System to plan for and administer COVID-19 vaccines within Indian Country as well as funding for a multitude of COVID-19 testing and surveillance activities. On Monday, January 4th, IHS hosted a consultation call with Tribal leaders to gather input on what factors to consider in developing a methodology for the allocation of these funds. USET SPF reiterates the feedback and recommendations provided by the leaders of our Member Tribal Nations on the call who underscored the importance of utilizing a methodology that will ensure rapid distribution to our communities that is equitable, flexible, and reflective of our sovereign governmental status.

USET SPF is a non-profit, inter-tribal organization advocating on behalf of 33 federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico¹. Both individually, as well as collectively through USET SPF, our member Tribal Nations work to improve health care services for Native people. Our member Tribal Nations operate in the Nashville Area of the Indian Health Service, which contains 36 IHS and Tribal health care facilities. Our patients 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.

After months of stalled negotiations on an additional COVID-19 relief package, the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 was signed into law on December 27, 2020. For IHS, the legislation includes \$1 billion in total combined funding to be transferred to the agency for COVID-19

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), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe—Eastern Division (VA), 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), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), 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), Rappahannock Tribe (VA), 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), Upper Mattaponi Indian Tribe (VA), and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

Because there is Strength in Unity

vaccine related activities appropriated in the Centers for Disease Control and Prevention (CDC) Agency-Wide Activities and Program Support account, and for COVID-19 testing, contact tracing, surveillance, containment, and mitigation activities under the Public Health and Social Services Emergency Fund. Though this long-awaited funding is greatly welcomed within Indian Country, USET SPF notes that this funding merely scratches the surface on the federal government's unmet obligations during this pandemic which, along with historic and ongoing neglect of trust obligations, has led to the disproportionate impact it continues to have on Tribal Nations. It is incumbent upon IHS to do its utmost to ensure Indian Country receives this funding expeditiously so that Tribal Nations can continue to respond to COVID-19 in our communities and for our citizens.

Rapid and Equitable Funding Distribution

USET SPF member Tribal Nations, as well as Tribal Nations across the country, have been fighting to respond to COVID-19 in our communities with resources that are diminishing daily. Tribal Nations have had to redirect critical Tribal resources to ensure our communities have access to COVID-19 testing, containment, contact tracing, and other essential activities amid the pandemic. We underscore to IHS that the pandemic has deeply affected all Tribal communities. Therefore, it is critical that IHS ensure that all 574 Tribal Nations have access to a sufficient level of funding from the \$1 billion in targeted funding in a rapid, expeditious, and equitable manner. This can only be accomplished using existing funding mechanisms, including cooperative agreements and through ISDEAA contracts and compacts. Additionally, we strongly urge IHS to avoid competitive mechanisms for this COVID-19 funding. We assert that forcing Tribal Nations to compete for federal dollars in the midst of a pandemic would be an abrogation of the federal trust responsibility.

Further, IHS must strongly consider what mechanisms should be in place to ensure smaller Tribal Nations have access to sufficient funds from the COVID-19 authorization. As the agency is likely aware, when funding allocation methodologies like user population are utilized in the absence of other leveling mechanisms (a Tribal size adjustment or minimum level of funding, for example), smaller Tribal Nations frequently find themselves with a vastly inadequate share of funding. Recognizing, again, that all Tribal Nations have been and continue to be impacted by COVID-19, the agency must ensure that all Tribal Nations receive funding sufficient to benefit from these provisions.

Flexibility in Use of Funds and Reporting Requirements

Tribal sovereignty and diversity must be honored by ensuring Tribal Nations have maximum flexibility in use of these funds. This includes providing Tribal Nations with broad authority in allowable costs and activities, unless expressly prohibited by law, rather than issuing a restrictive and exhaustive list of permissible costs. Flexibility in use of funds will ensure Tribal Nations have the ability to utilize COVID-19 funds in manner that best suits the immediate, as well as long-term, COVID-19 testing and vaccine necessities of each Tribal community. Notably, this includes being able to protect our whole communities and not limiting activities to just our Tribal citizens. COVID-19 has reminded us that a large part of the public health of our communities is ensuring all are protected and healthy. This includes our extended families, as well as employees of our Tribal governments and enterprises.

Further, in recognition of our sovereign status and the trust obligation, Tribal Nations must not be subject to burdensome administrative requirements for use of these funds, including reporting, audit, or other types of compliance requirements. Any reporting requirements mandated by law must be streamlined and only the minimum required that Tribal Nations may continue to focus on COVID-19 prevention and treatment.

Conclusion

Due to the federal government's chronic failure to fully fund the Indian Healthcare System, as well as ongoing failures to provide necessary resources, Tribal Nations continue to operate with limited and diminishing resources as we work to address the impacts of COVID-19. As the virus continues to ravage our communities, it is critical that IHS work in conjunction with Tribal Nations, not just in determining a rapid, equitable, and non-competitive mechanism for the \$1 billion in funding, but in all resource determinations and allocations in order to better deliver upon the federal trust responsibility. 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 615-838-5906.

Sincerely,



Kirk Francis
President



Kitcki A. Carroll
Executive Director