

# National Indian Health Board



January 20, 2023

The Honorable Xavier Becerra  
Office of the Secretary  
U.S. Department of Health and Human Services  
200 Independence Ave S.W.  
Washington, D.C. 20201

## **Re: Follow-up from the Secretary's Tribal Advisory Committee Meeting**

Dear Secretary Becerra:

On behalf of the National Indian Health Board (NIHB) and the 574+ federally recognized American Indian and Alaska Native Tribes we serve, I would like to express our deep gratitude and appreciation for your continued commitment to the top concerns of Indian Country. I have included here some of the key issues raised during the January 2023 meeting of the Secretary's Tribal Advisory Committee (STAC) and look forward to working with you and the Department of Health and Human Services (HHS) to accomplish these health priorities for Indian Country.

### ***I. Advancing Equitable and Comprehensive Funding***

Thank you, again, for your support of advance appropriations for the Indian Health Service (IHS) in the Fiscal Year (FY) 2023 Omnibus. Advance appropriations for the IHS mark a historic paradigm shift in the nation-to-nation relationship between Tribal nations and the United States. However, Congress's inclusion of advance appropriations each year is not guaranteed, and the solution in the FY 2023 Omnibus is far from perfect. We look forward to further collaboration with HHS to promote the smooth implementation of the new advance appropriations policy. Additionally, we are committed to working together to ensure that Congress includes IHS advance appropriations each year as we collaborate toward our shared goal of mandatory and full funding for the IHS.

To that end, we would like to also thank the Administration for supporting and developing a proposal for mandatory and full funding for the IHS. During the January 2023 STAC meeting, HHS staff alluded to its FY 2024 Budget Request to Congress, including an improved legislative proposal for IHS mandatory appropriations. We commend the Administration for your continued support. We were glad to hear during the January 2023 STAC meeting that the Administration is committed to staying engaged with Tribal leaders and Tribal organizations in the development and advancement of this policy through STAC and the IHS Tribal Budget Formulation Workgroup.

### ***II. Establishing 10 Percent Tribal Set-Aside, Non-Competitive, Direct Funding, and Expanding Self-Governance across HHS***

Indian Country is consistently unified in its opposition to competitive grant models because the policy creates two classes of government-to-government relations and treaty and trust obligations – those of



Tribal nations who can afford to compete and those who cannot. This policy is fundamentally inconsistent with the duties the United States owes to Native people. Further, competitive grants tend to be administered by HHS with prescriptive parameters and reporting requirements that make the administrative costs exceed the usefulness of the grant award. The result is money “left on the table” because the grant requirements are too onerous to be useful for the people they serve. We believe that we can work together to change this inefficiency and better support health programs for Native people.

While HHS may hold the position that congressional authorization and appropriations set specific parameters on grant awards, it is incumbent on this Administration to champion change where it improves governance and better uses taxpayer resources. **One solution that Tribal leaders continuously champion is the establishment of a 10 percent across-the-board set-aside for HHS funds for Tribes and Tribal organizations.**<sup>1</sup>

During the January 2023 STAC meeting, Centers for Disease Control and Prevention (CDC) officials signaled that they believed the complexity of existing authorities and the disparate infrastructure and institutions across Tribes and Tribal organizations made a set-aside infeasible. We would like to respectfully remind the Administration that Tribal set-asides exist throughout the federal government, and there are many functioning examples for this policy proposal. If the Administration is serious about its goals for health equity, it must have the courage to put forward legislative solutions to right historical wrongs in its budget requests to Congress.

Similarly, we are encouraged by the top-line support of the Administration for the expansion of self-governance, but we have been disheartened by the hesitancy of HHS to implement such policy. There are numerous examples in statute for how the agency can implement self-governance and self-determination policy. This effort is not new to Indian Country or the United States. A working draft of legislative text establishing an HHS-wide Self-Governance demonstration project has broad national consensus. Nearly 50 years of self-determination policy have demonstrated that self-determination works and is the highest and best use of federal funds for the benefit of Tribes and their citizens. **We encourage the Administration to rely on Tribal expertise by establishing a workgroup to address HHS’s concerns about Tribal self-governance and collaboratively develop a proposal for a self-governance demonstration project throughout HHS.**

### ***III. Strengthening the Nation-to-Nation Relationship***

The Biden-Harris administration’s commitment to strengthening the nation-to-nation relationship is truly historic. We are committed to working with you to strengthen systems and implement policies to ensure this relationship remains strong through future administrations. This work begins with ensuring that the HHS Tribal Consultation Policy includes the President’s Uniform Standards for Tribal Consultation as a baseline and encourages all HHS agencies to build upon these minimum standards. **It is critical that the President’s standards are clearly outlined in the HHS Tribal Consultation Policy and that HHS draft the policy in a way that is accessible and easy for all Tribal leaders and HHS staff to understand.**

We greatly value and appreciate HHS’s increased engagement with Indian Country through Tribal consultations and Tribal Advisory Committees (TACs). However, engagement and collaboration

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<sup>1</sup> See, National Indian Health Board, [Support for Implementation of a Department-wide Ten Percent Set Aside within the U.S. Department of Health and Human Services to Advance Tribal Health Equity](#), Resolution 22-10 (29 November 2022)



between federal agencies and Tribal leaders is obstructed when federal agencies do not coordinate scheduling. Recently, we have seen many TAC meetings and Tribal consultations occurring simultaneously. Since Tribal leaders and their technical advisors cannot be in multiple places at once, this reduces the opportunities for productive engagement and does not support the nation-to-nation relationship. **We recommend HHS create a calendar where all agencies note upcoming Tribal meetings, events, and consultations to minimize overlap.** Additionally, we request that HHS host one meeting per year with the Chairs of all HHS TACs to create efficiencies, facilitate transparency, and elevate Tribal priorities.

In order for Tribal leaders to provide the input necessary for an effective government-to-government relationship, Tribes rely on technical assistance (TA) from national, regional, and intertribal organizations. Tribal leaders have the right to be advised on all relevant technical areas, and often, a single technical advisor does not have expertise in all subject areas. Therefore, HHS and its operating divisions must support and resource the work of Tribal organizations, such as NIHB, which are the Tribes' chosen, vital link to ensuring that Tribal leaders have access to the subject matter expertise that helps them prepare to meaningful feedback to or engage proactively with Federal or Administration Personnel. **We therefore request that HHS provide funding to the National Indian Health Board to continue providing critical technical assistance to Tribal leaders.**

Lastly, to further strengthen the nation-to-nation relationship we reiterate our request to **establish a Special Assistant/Counselor for Indian Affairs position to report directly to the HHS Secretary,** so the nuances of the treaty and trust obligation are preeminent in all agency decisions.

#### IV. Conclusion

Thank you again for your unwavering support for Tribal spending and policy priorities in the FY 2023 Omnibus. Your dedication to the advancement of Tribal sovereignty and self-determination is reflected in the magnitude of these historic changes for Indian Country. **We urge you to work with Tribes and Tribal organizations to advance this year's top priority for Indian Country: permanent reauthorization and direct Tribal access to administer the Special Diabetes Program for Indians and the expansion of Tribal self-governance compacting authority throughout HHS.**

Thank you, again, for your dedication to these historic and meaningful changes for Indian Country. We look forward to continuing to work collaboratively with this Administration on Tribal health policy.

Yours in Health,



William Smith, Valdez Native Tribe  
Chairman  
National Indian Health Board

