

**Written Testimony of Chief Phyliss J. Anderson and United South and Eastern Tribes, Inc.  
House Appropriations Subcommittee on Interior, Environment, and Related Agencies  
Fiscal Year (FY) 2016 American Indian and Alaska Native Public and Outside Witness Hearing  
March 25, 2015**

Chairman Calvert, Ranking Member McCollum and members of the Interior Appropriations Subcommittee: Halito! My name is Phyliss J. Anderson, and I am the Tribal Chief of the Mississippi Band of Choctaw Indians, one of the founding Tribes of United South and Eastern Tribes (USET). I would like to thank my fellow Tribal leaders for giving me the honor of testifying on USET's behalf on funding for the BIA, BIE, IHS, as well as other major policy issues facing Indian Country. I would also like to thank this Committee for its consistent support for increased funding for Federal Indian programs.

USET represents 26 Federally-recognized Tribes from Texas to Florida to Maine. USET Tribes are within the Eastern Region of the Bureau of Indian Affairs and the Nashville Area of the Indian Health Service, covering a large expanse of land compared to other regions. Due to this large geographic area, USET Tribes have great diversity in cultural traditions, land holdings, and resources. From an economic standpoint, some of our Tribes have highly developed economies, while others remain mired in poverty.

Because of the trust obligation of the Federal government to Native peoples, funding for Federal Indian programs is fundamentally different from other spending and should be considered mandatory in nature. Unfortunately, because the vast majority of Federal funding is classified as discretionary, the specter of sequestration remains. The sequester of FY2013 was devastating to Federal Indian programs. While Congress provided an alternative budget structure for FY2014 and FY2015, USET is concerned that sequestration could be re-imposed in FY2016. USET urges Members of this Committee to educate your colleagues that sequestration violates the trust responsibility, does not make economic sense, and should not be imposed going forward. When a majority of Federal health programs were rightfully exempted from sequestration, the failure to protect the IHS was, as the New York Times editorialized in 2013, a "little-noticed example of moral abdication." On behalf of USET, I appeal to this Committee, Congressional leaders and the President of the United States: please do not make this mistake again.

USET unanimously supports efforts to increase and fully fund Federal Indian programs and to shield them from sequestration. The President's FY2016 Budget Request proposes an 8% funding increase in Indian Programs across all Federal agencies, while avoiding the devastating and immoral cuts of sequester.

In 2013, I testified before the Senate Indian Affairs Committee that the Office of Management and Budget (OMB) and Congress must amend the interpretation of the Budget Control Act of 2011, and the Balanced Budget and Emergency Deficit Control Act of 1985, to ensure that all IHS funding is exempted from sequestration. During that hearing, we were talking about the FY2014 appropriations bills. I must admit I am disappointed to be here again asking for the same thing as part of the FY2016 appropriations bills.

**Bureau of Indian Affairs.** USET supports the President's request of \$2.9 billion, a 12% increase, for the BIA. With the BIA severely and chronically funded at less than 50% of need, increases are sorely needed in order for the Agency to effectively deliver on the solemn obligations of the federal trust responsibility. Within the BIA budget, USET (through the Eastern Region BIA Budget Formulation process) has identified the following priority line items for funding increases:

**---Contract Support Costs.** In the face of annual CSC shortfalls, Tribes were forced to divert vital program dollars to subsidize the Federal government's responsibility. Following the Supreme Court decision in *Salazar v. Ramah Navajo Chapter* holding that CSC must be paid in full, shortfalls persisted

due to inaccurate estimates of CSC need and the unwillingness of some officials to comply with the Court's ruling. USET strongly supports the President's FY2016 proposal fully funding CSC and moving it from discretionary to mandatory funding.

**---Tribal Courts and Public Safety.** Increased funding is imperative in order to meet the objectives of the Tribal Law and Order Act and the Violence Against Women Act, enhanced Tribal Justice Systems and increased safety in Indian Country. Many of you, including the two Senators and two Congressmen who represent Mississippi Choctaw, cast politically difficult votes to amend VAWA. We cannot let that hard work be undermined by a failure to adequately fund Tribal courts and Tribal law enforcement.

**---Social Services.** Tribes must have the resources to meet the challenges of widespread poverty head-on. We support the proposed \$122 million for the Tiwahe Initiative, which seeks to empower families and individuals through a holistic combination of health promotion, job training, and education.

**---Consolidated Tribal Government Programs.** USET supports efforts such as CTGP to promote self-determination and a community-based approach by allowing Tribes to combine programs into one contract agreement, simplifying and reducing administrative and reporting requirements, and distributing funding to local priorities.

**---Aid to Tribal Government.** USET supports funding for ATG programs, which also promote Tribal sovereignty by supporting Tribes in the development of strong and stable Tribal governments, including through the development of Tribal codes, laws, and ordinances, as well as Tribal enrollment.

**Bureau of Indian Education.** We support the President's FY2016 budget request for the BIE. Frankly, this increased investment is long overdue, but is a step in the right direction. Due to issues with BIA's FY16 National Budget Formulation process, education did not rank among the top priorities. However, improving Native education remains a top priority for all Tribes, as Native students lag far behind their peers on every educational indicator, from academic achievement to high school and college graduation rates.

I would like to commend every Member who has visited an Indian school. I was honored to host Interior Secretary Sally Jewell at Mississippi Choctaw last year, especially when she and Assistant Secretary Kevin Washburn sat on the floor of Pearl River Elementary and talked with some of our students. Pearl River is a glaring example of what happens with perennially underfunded budgets. Built in 1991 for a capacity of 350 students, Pearl River now has approximately 700 students, 200 of whom are housed in portable classrooms, some of which are 40 years old. This isn't just an education issue; this is a serious health and safety issue that demands an increase in school facilities funds, for both Operations & Maintenance and new school construction.

The President's FY16 request provides \$68 million for Facilities Improvement and Repair, an \$18 million increase over the FY2015 enacted level, as well as \$125 million for Facilities Operations and Maintenance-\$20 million over FY15. The FY16 request will complete the 2004 construction priority list, and will also provide funding to replace individual buildings, and plan and design additional schools in FY17 (+58 million over FY15). The President's budget also requests full funding for Tribal Grant Support Costs (\$75 million, an increase of \$13 million over FY15). Many Tribes with BIE schools have been fighting for full funding for years, and I commend the President and our friends in Congress for their tireless efforts. We also support long overdue efforts to bring high-speed Internet, school-to-home services and other technology-based education programs to Indian Country. Our students can't receive a 21<sup>st</sup> century education that should prepare them for college and/or a career with 20<sup>th</sup> century technology. The FY16 request provides \$41 million for Education Information Technology, which is an increase of \$34 million over FY15 enacted.

We are grateful that the President's request finally addresses many of these long-standing needs at the BIE, and we implore Congress to support the Administration's request.

**Improved BIA Data Collection.** USET believes that Tribal Governments must have the ability to make informed decisions on community initiatives. However, access to reliable data remains elusive for Indian Country. The best way to strengthen arguments for increased funding is to provide data and statistics related to need and outcomes. We support the FY 2016 Budget Request for \$12 million for the BIA to work with Tribes and other federal agencies to improve the quality of data in Indian Country.

**Indian Health Service.** USET supports the President's request of \$5.1 billion for IHS, which, at 59% of need, also suffers from chronic underfunding. With the average life span for citizens of USET's 26 Tribes at 60 years old, Congress must continue to work to increase funding for IHS. The following are line item priorities identified by USET Tribes through the IHS Nashville Area FY 2016 Budget Formulation process:

**---Current Services.** Current Services, also known as fixed costs, are necessary to maintain services at the same level as the previous year. If increased funding is not appropriated to cover these fixed costs, Tribes will have to absorb these costs within their existing program allocations, which could result in a reduction of services. USET appreciates that the FY16 Request contains an increase of \$147.3 million for IHS Current Services, even though the IHS notes that its request for population growth is only partial funding, meaning tribes such as Mississippi Choctaw must absorb any shortfall.

Mississippi Choctaw worked for 10 years on a Joint Venture with IHS in order to build a new health care facility. Our Tribe just opened the new Choctaw Health Center earlier this month and I would like to thank this Committee and the IHS for supporting the Joint Venture program. The main reason that the new Health Center was so desperately needed is that the previous facility was built in the 1970's to service a population of 3,000 people. We now have almost 11,000 enrolled members, so population growth is a very real issue in Mississippi Choctaw and throughout Indian Country. Given the impossible task of diminishing program capacity and funding in order to provide required services to more patients, we urge the Committee and the Administration to fully fund for population growth.

**---Purchased/Referred Care.** Purchased/Referred Care (PRC) funding is a top budget priority for USET Tribes. IHS and Tribes serve primarily small, rural populations and provide mainly primary care and community health services. Much of the secondary care, and nearly all needed tertiary care, must be purchased from outside providers and facilities. At current funding levels, most IHS and tribal PRC programs are approving only emergency referrals to preserve life or limb, while less urgent, routine and/or preventive care must be deferred or denied (146,928 denials nationwide in FY2013). You know the warning "if you're an Indian, don't get sick after June" This is because Indian facilities exhaust their PRC funds well before the end of the fiscal year and are only able to provide outside treatment in matters of life or limb. While underfunding is a contributing factor to this shortfall, so is the high cost of purchased care.

USET supports the President's call for a regulation implementing the payment of a Medicare-Like Rate for all purchased services. However, we are concerned by the lack of an enforcement mechanism, such as conditioning the acceptance of the Rate on participation in the Medicare program. We urge the Committee to consider such enforcement language in order to ensure access to care at Medicare-Like Rates.

**---Hospitals and Health Clinics.** Funding for Hospitals & Clinics (H&C) remains a top tribal budget priority, as more than half of the IHS H&C budget is transferred under P.L. 93-638 contracts or compacts to Tribes, who are responsible for 58% of the IHS outpatient workload and 50% of the inpatient workload.

---**Mental Health.** The high incidences of mental health disorders, suicide, violence, substance abuse and behavior-related chronic diseases are well documented in Indian Country. The integration of culturally appropriate mental health and alcohol/substance abuse programs into comprehensive behavioral health prevention and treatment programs, and the further integration of behavioral health services with primary care provide great promise in changing not only lifestyle choices and risk behaviors, but the many social determinants that also impact the health of our tribal communities.

---**Contract Support Costs.** As with BIA contract support costs, funding shortfalls have forced the IHS and Tribes to use critical program dollars in order to fund that which the Federal government should have fulfilled upon execution of ISDEAA contracts and compacts. USET calls for an increase in CSC funding, and strongly supports the proposal in the FY2016 Budget Request that would make the CSC line item in the IHS and BIA budgets mandatory for 3 years. We urge Congress to adopt this language in any final FY2016 appropriations legislation.

**Clean Legislative Fix to *Carcieri*.** This Committee has previously included *Carcieri* fix language in its appropriations legislation. In doing so, this Committee has sought to overturn the unjust Supreme Court decision in *Carcieri v. Salazar*, which has led to two classes of Tribes – those that can take land into trust and build up their communities and those that cannot. In an era of Tribal Nation rebuilding and the pursuit of economic success and prosperity, mushrooming legal challenges to Indian land holdings acquired under the Indian Reorganization Act threaten Tribal businesses, reservation contracts and loans, and discourage businesses from investing in Tribal economies and essential Tribal government infrastructure projects, including housing projects and schools. USET implores this Committee to put an end to the effects of this misguided decision once and for all by including a clean *Carcieri* fix in this year's appropriations bill.

**Special Diabetes Program for Indians (SDPI).** The President's FY 2016 request proposes that the SDPI be reauthorized at \$150 million for three years. SDPI has proven effective in the fight against diabetes at Mississippi Choctaw and throughout Indian Country, with documented success in the improvement of blood pressure control, the reduction of "bad" cholesterol, and a decrease in incidence of End-Stage Renal disease. However, Funding for SDPI has been flat since 2002, in spite of inflation and rising medical costs. USET requests that Congress reauthorize the SDPI at \$200 million annually for a period of five years.

**Advance Appropriations.** USET strongly supports budgetary changes that would authorize advance appropriations for federal Indian programs. While advance appropriations is not a sufficient substitute for fully funding programs that have been significantly underfunded for far too long, such a change would create a greater level of budget certainty, especially when Congress and the President fail to enact appropriations in a timely fashion. USET supports H.R. 395, the Indian Health Service Advance Appropriations Act, introduced by Rep. Don Young (R-AK) that would provide for advance appropriations for the IHS. We urge this Committee to include H.R. 395 in the FY2016 Interior Appropriations bill.

**Conclusion.** USET recognizes that in challenging times, all Americans must sacrifice for the common good. As the Chief Executive of a Tribe with nearly 11,000 members, making difficult choices and prioritizing need is what I do every single day. However, when it comes to sacrificing for the good of all Americans, the historic record demonstrates that nobody has sacrificed more than Native Americans. No other ethnic group has served in our nation's armed forces at a higher per capita rate than Native Americans. Moreover, as discussed earlier, there exist Federal trust and treaty responsibilities that distinguish requests for Federal funding by Tribes from anyone else who comes before this Congress. We ask that this Committee continue to support and advocate for a budget based on American values that reflects these responsibilities.