



Testimony of President Kirk Francis
United South and Eastern Tribes Sovereignty Protection Fund
House Appropriations Subcommittee on Interior, Environment, and Related Agencies
FY 2018 Native American Public Witness Hearings, May 17, 2017

Chairman Calvert, Ranking Member McCollum, and members of the Subcommittee, thank you for allowing me to be here today and for committing to hold Native American Public Witness Hearings in spite of this year's unique circumstances and few details regarding the President's request. My name is Kirk Francis. I serve as the newly-elected President of United South and Eastern Tribes Sovereignty Protection Fund (USET SPF). I am also the Chief of the Penobscot Indian Nation, located at Indian Island, Maine.

USET SPF represents 26 federally-recognized Tribal Nations from Texas to Florida to Maine. USET SPF member Tribal Nations are within the Eastern Region and Southern Plains 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 SPF Tribal Nations have great diversity in cultural traditions, land holdings, and resources. From an economic standpoint, some of our member Tribal Nations have highly developed economies, while others remain dependent upon the federal government to provide essential services to their citizens.

Regardless of Tribal economic status, this Congress, President Trump, and all branches, departments, and agencies of the federal government hold sacred fiduciary trust responsibilities and obligations to all Tribal Nations, which are upheld through treaties, statute, and case law. These responsibilities and obligations should be viewed with a level of honor and respect that reflects the unique status of the diplomatic relations that exist between the U.S. and Tribal Nations. While USET SPF applauds this Subcommittee's strong, long-standing commitment to Indian Country, funding for federal Indian programs continues to fall far short of these fiduciary trust obligations. USET SPF firmly believes that as long as the execution of the fiduciary trust obligation remains on the discretionary side of the budget, and therefore subject to the unpredictability of the current appropriations process, the trust responsibility will go unfulfilled. In addition, though it appears the Indian Health Service (IHS) and Bureau of Indian Affairs (BIA) are largely protected under President Trump's Fiscal Year (FY) 2018 Budget Blueprint, we have deep concerns with proposed cuts and eliminations of other programs and agencies critical to meeting the trust responsibility. We urge this Subcommittee, as some of Indian Country's greatest Congressional allies, to ensure the trust responsibility is upheld during the FY 2018 appropriations process and beyond.

Further, we recognize that the across-the-board sequestration of all federal agencies and programs returns as a possibility for FY 2018. As this Subcommittee well knows, the budget sequestration of FY 2013 was devastating to federal Indian programs and the Tribal communities they serve. This violation of the federal trust responsibility must never happen again. USET SPF implores this Subcommittee to ensure the permanent exemption of all federal Indian programs from sequestration.

Finally, USET SPF was troubled by the President's signing statement for the FY 2017 omnibus suggesting that the Native American Housing Block Grant is "race-based" and therefore, unconstitutional. As this Subcommittee knows, all federal Indian programs are based on a political, government-to-government relationship between the U.S. and Tribal Nations. Appropriations that support programs and services such as this are provided in perpetuity in exchange for the millions of acres of land and natural resources ceded, often times by force, to the U.S. Our homelands have become the foundation to this country's strength and prowess, and the U.S. must not allow the expiration of time to diminish the fulfillment of its promises. Time and again, this political relationship has been upheld through the courts. This understanding is the foundation of the diplomatic relationship between our respective sovereigns. USET SPF seeks the assistance of this Subcommittee in educating the White House on this sacred relationship.

Indian Health Service: While we await the President's FY 2018 Budget Request for the Indian Health Service (IHS), we join Tribal Nations and organizations across the country in advocating for greater increases to this chronically underfunded Agency. For FY 2018, the IHS Tribal Budget Formulation Workgroup, in which USET SPF participates, recommends a 37% increase to IHS for a total of \$7.1 billion. This would include \$169.1 million for the full funding of current services, \$171.9 million for binding fiscal obligations, and \$1.6 billion to provide necessary program expansion. We also urge the adoption of a plan to phase-in full funding for the IHS over a period of 12 years. Though we understand the Subcommittee is constrained by its 302(b) allocation, we continue to assert that as long as IHS is so dramatically underfunded, the root causes of recent agency failures will not be addressed, and Congress will not live up to its own stated policy and responsibilities.

In addition to providing a robust funding stream for the continued operation of IHS, Nashville Area Tribal Nations identified our top 5 priority line items for increases in FY 2018:

- **Purchased/Referred Care (PRC):** PRC funding is the top-ranked budget priority for the Nashville Area. IHS and the Tribal Nations serve primarily small, rural populations and provide mainly primary care and community health services. Much of the secondary care, and nearly all of the tertiary care needed, must be purchased from non-IHS facilities. These funds are critical to securing the care needed to treat injuries, heart disease, digestive diseases, and cancer, which are among our leading causes of death.
- **Hospitals and 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 Tribal Nations, who are responsible for approximately 58% of the IHS outpatient workload and 50% of the inpatient workload.
- **Alcohol/Substance Abuse:** The abuse and misuse of substances is at epidemic levels within the Nashville Area and the limited dollars available don't provide our citizens with an adequate level of care. The integration of culturally appropriate alcohol/substance abuse programs into comprehensive behavioral health prevention and treatment programs, as well as 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.
- **Dental Health:** AI/AN suffer disproportionately from dental diseases. For example, by the time AI/AN children reach 13-15 years of age, they suffer from five times the tooth decay prevalence as the general U.S. population (53% vs. 11%). Increased funding for dental health will enable the IHS to support three dental health initiatives—the Early Childhood Caries Initiative, the Periodontal Treatment Initiative and the Dental Workforce Efficiency Initiative— by increasing the workforce, improving efficiency of programs, and prioritizing oral health in an effort to reduce the aforementioned disparities in oral health in the AI/AN population.
- **Mental Health:** Behavioral Health, including Mental Health, is also a top Tribal health priority. The high incidence of mental health disorders, suicide, violence, and behavior-related chronic diseases is well documented. Each of these serious behavioral health issues has a profound impact on the health of individuals and community health, both on- and off-reservation.

Additionally, we continue to request that this Subcommittee seek to provide funding for new authorities under the permanent reauthorization of the Indian Health Care Improvement Act (IHCIA). Passed in 2010, IHCIA contained the authorizations for a number of new, but necessary, programs and services for provision by the IHS and Tribal Nations. A majority of these new programs and activities, while authorized, remain unfunded by Congress. Nashville Area Tribal Nations identified Diabetes Prevention, Treatment,

and Control, the Mental Health Technician Program, and the Behavioral Health Program as priority IHCIA provisions for funding in FY 2018.

Bureau of Indian Affairs (BIA): Though the only agency within DOI charged with direct services to people, BIA has, historically, received lower percentage increases than other agencies at DOI. Representatives from USET SPF and USET SPF Member Tribal Nations serve on the Tribal Interior Budget Committee (TIBC), the body that advises BIA on its budget. For FY 2018, regional TIBC representatives were instructed to spread a projected 8% increase to the agency, as well as identify their top 5 priority programs within the BIA budget. Recognizing that there are over 125 separate BIA line items, across a variety of programmatic functions, this is an impossible task and the process must be corrected to allow this Congress to receive a more complete and comprehensive assessment of its fiduciary trust obligation fulfillment within the BIA.

All of the programs contained within the BIA are essential to our Tribal Nation communities. Recognizing the limitations and impossibilities of preparing the FY 2018 Budget Formulation in accordance with the guidance, the Eastern Region expanded its thinking and submitted a more realistic approach to our formulation package by prioritizing 2 programs under each of the 11 funding categories with an 8% increase for each of the individual categories. However, our budget formulation package was returned by Central Office with the instruction to resubmit based on the budget formulation guidance or it would not be included in the final compilation. Having no alternative, the Eastern Region resubmitted the package and divided the 8% between the 2 programs within the Tribal Government funding category – Aid to Tribal Government and Consolidated Tribal Government Programs. These 2 line items encompass the vast majority of Eastern Region’s current Tribal funding.

Ultimately, the current TIBC budget formulation process does not produce a product representative of the true unmet obligation to Tribal Nations within the BIA budget, which deprives this Subcommittee of vital information. While we continue to work with BIA and TIBC to reform the budget formulation methodology, we request the assistance of the Subcommittee in encouraging the agency to, in consultation with Tribal Nations, reexamine this process. Although Central Office rejected this list, USET SPF provides the following top priority line items for BIA funding in each of 11 categories:

- **Tribal Government**
 - Aid to Tribal Government
 - Consolidated Tribal Government Programs
- **Human Services**
 - Social Services
 - Indian Child Welfare Act
- **Natural Resources**
 - Forestry Program
 - Wildlife & Parks Program
- **Public Safety & Justice**
 - Tribal Courts
 - Criminal Investigation & Police Services
- **Real Estate Services**
 - Trust Services
 - Land Title & Record Office
 - Water Rights Negotiations/Litigation
 - Rights Protection
- **Community & Economic Development**
 - Job Placement & Training
 - Economic Development
- **Executive Direction and Administrative Services**
 - Executive Direction
 - Administrative Services
- **Construction**
 - Facilities Improvement & Repair
 - Facilities/Quarters Improvement Repair

- **Settlement/Miscellaneous Payments**
 - Settlements
- **Indian Guaranteed Loan Program**
 - Program Management
 - Subsidies

Bureau of Indian Education: USET SPF continues to support BIE's Blueprint for Reform. We believe that increased accountability, better Tribal control, greater funding for early childhood development, enhanced language and culture programs, and improved teacher quality will result in better outcomes for our students. We note that report language in the FY 2017 omnibus appropriations bill conditions future agency funding on necessary reforms. While we wholeheartedly support reform for BIE, we urge the Subcommittee to avoid penalizing BIE students for the actions of the agency. Via the TIBC process, USET SPF has also identified its top priorities for BIE funding:

- **Scholarships & Adult Ed**
- **Johnson O'Malley**

Contract Support Costs (CSC): USET SPF was thrilled when Congressional appropriators included in the FY 2017 omnibus bill a separate line item and indefinite appropriation for CSC at both IHS and BIA. USET SPF urges the Subcommittee to preserve this designation for CSC in FY 2018 and future appropriations bills. In addition, we thank appropriators for removal of an objectionable proviso appearing in FY 2016's omnibus bill. USET SPF is also aware of issues related to the IHS's estimation of full funding for the CSC line item. We, along with Tribal Nations and organizations across the country, are working with IHS to encourage a more accurate estimate, and urge the Subcommittee to ensure an accurate, indefinite amount is reflected in FY 2018 appropriations. Additionally, USET SPF continues to support proposals that would designate CSC as mandatory funding rather than discretionary.

Executive Branch Reorganization/Hiring Freezes: USET SPF recognizes that a major priority of President Trump is a full reorganization and reduction in the workforce of the executive branch. However, we also note that executive orders and memoranda issued do not, with very limited exceptions, exempt positions and agencies charged with delivering on the trust responsibility. USET SPF requests that the Subcommittee include report language directing the executive branch to protect these agencies and positions as the reorganization moves forward.

Other FY 2018 Budget Blueprint Proposals: While outside of IHS and BIA, USET SPF is deeply concerned with reduction in funding or elimination of the following agencies and programs within the President's FY 2018 Budget Blueprint. As members of the full Committee on Appropriations and advocates for Indian Country, USET SPF is confident that you understand how these radical changes would negatively impact Tribal Nations. With this in mind, we implore the Subcommittee to ensure that these cuts and eliminations are not enacted:

- Deep cuts to the Environmental Protection Agency and National Institutes of Health, and major changes to funding for Centers for Disease Control and Prevention.
- Elimination of the following programs and agencies: Low Income Home Energy Assistance Program, the Community Development Financial Institutions Fund grants, the Community Development Block Grants, Community Services Block Grant, Economic Development Administration, Minority Business Development Agency, USDA Water and Waste Water loan and grant program, Impact Aid Support Payments for Federal Property, and the TIGER discretionary grant programs.