

# National Indian Health Board



October 17, 2016

Mary Smith  
Principal Deputy Director  
Indian Health Service  
5600 Fishers Lane  
Mail Stop: 08E86  
Rockville, MD 20857

## **RE: Request to Extend Comment Period on Proposed IHS Realignment**

Dear Ms. Smith.

On behalf of the National Indian Health Board, the Tribal Self-Governance Advisory Committee, the Direct Service Tribes Advisory Committee, the National Council of Urban Indian Health and the United South and Eastern Tribes Sovereignty Protection Fund we write to request that the comment period be extended an additional 60 days to allow for a thoughtful response. Accordingly, we request that implementation of the proposal be delayed until meaningful Tribal Consultation has occurred with adequate notification. We ask this in light of the fact that much of the realignment as described by IHS is in direct response to the gaps in the delivery of the care in the Great Plains area. While we emphatically support addressing all the care provision issues experienced by the Great Plains nations, we wish to make sure that any realignment takes all regions into consideration; particularly those that have been performing well. We believe accountability at the level closest to the region will provide the best result and as such we should look to institute best practices in each region utilizing a structure at IHS headquarters that supports this effort. We ask for this extension for the following reasons:

1. This proposal fails to adhere to Presidential Executive Order 13175 as well as the Department of Health and Human Services (HHS) and the IHS Tribal Consultation Policies; and
2. Thirty (30) Days is not enough time to provide IHS with thoughtful, meaningful, input on the proposal; and
3. Missing and vague information in the proposal and subsequent Dear Tribal Leader Letter dated October 12<sup>th</sup> – which collectively indicate a clear lack of strategy for implementation and a need for more in-depth analysis.

Executive Order 13175 requires agencies to engage in widespread Tribal consultation through timely written notice before moving forward with new policies that have Tribal implications:

Policies that have [T]ribal implications” refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian [T]ribes, on the relationship between the

Federal Government and Indian [T]ribes, or on the distribution of power and responsibilities between the Federal Government and Indian [T]ribes.<sup>1</sup>

In IHS' Dear Tribal Leader Letter, dated October 5<sup>th</sup>, the stated purpose of the realignment is to provide greater Headquarters oversight, to clarify day-to-day functions and to create more transparent lines of accountability. In addition, IHS stated that they plan to make management processes changes to improve IHS area procurement planning and budget monitoring. Making fundamental changes to the way the Headquarters office operates has a direct effect on Tribes and will no doubt affect the relationship between the Federal Government and Tribes. Therefore this proposal has clear Tribal implications and formal Tribal consultation, as required by Executive Order 13175 and HHS' and IHS' own Tribal consultation policies, must occur.

Meaningful Tribal Consultation also means that there must be adequate notice to Tribes and provide enough time for thoughtful discussion and input. Thirty (30) days is not enough time to provide notice to Tribes about the substantive content of IHS' proposal, nor is it adequate time to decipher all of the potential consequences of IHS' proposal. For example, the Dear Tribal Leader Letter assures Tribes that this realignment will not impact Tribal shares, yet the cost of these administrative changes, in particular the formation of entirely new departments, must be accounted for somewhere. Clearly, an in-depth analysis is needed before Tribes can adequately analyze the information and provide thoughtful comments. While we appreciate that IHS has conducted an in-person session on the proposal, limiting consultation to one session is not within the spirit of meaningful consultation and does not respect the government-to-government relationship between Tribes and the Federal Government.

Of particular concern is the manner in which this proposal was presented to Tribes. On a conference call held September 29<sup>th</sup>, IHS provided a brief overview of the new Headquarters structure. It was unclear from the presentation exactly what the impact is for all regions (regardless of service delivery method) with regard to the development of new offices and divisions and shifting responsibilities. In requesting the extension for comments, our Tribal Nations wish to better understand the true impact of these changes and partner with IHS to ensure that the desired outcomes for all Tribal citizens are achieved. The presentation of additional new offices and divisions and shifted responsibilities has not been adequately outlined for Tribes to consider nor does it do enough to explain what the true impact the proposed IHS Headquarters realignment will have on the delivery of services to Tribes.

We appreciate IHS' effort to be responsive to the quality of care crisis and the prioritization of workforce development, but this proposal does not match the partnership and momentum Tribes, IHS and the Obama Administration have built over the last eight (8) years. We hope that you consider our request, provide additional time for consultation, and delay implementation until Tribes have developed a strategic vision and thoughtful feedback to bring IHS care to industry standards.

Sincerely,

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<sup>1</sup> Executive Order 13175, Sec. 2, 65 Fed. Reg. 67249 (November 9, 2000).



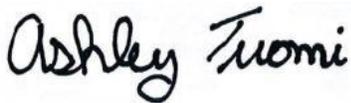
Lester Secatero  
Chairman, National Indian Health Board



Marilynn (Lynn) Malerba  
Chairwoman, Tribal Self-Governance Advisory Committee



Nicolas Barton  
Chairman, Direct Service Tribes Advisory Committee



Ashley Tuomi  
President, National Council of Urban Indian Health



Brian Patterson  
President, United South and Eastern Tribes Sovereignty Protection Fund