

February 14, 2025

Charles Ezell
Acting Director
Office of Personnel Management
Theodore Roosevelt Building
1900 E Street, NW
Washington, DC 20415

Dear Acting Director Ezell,

On behalf of the undersigned organizations that serve sovereign Tribal Nations and their citizens and communities, we write to express our grave concerns regarding the implementation of Executive Order (EO) 14210 and the planned reductions in force. Pursuant to EO 14210 Sec. 3(c), we urge you to take immediate action to protect the Federal employees who serve Indian Country, as these are essential positions responsible for carrying out legally mandated Tribal programs.

The White House has stated that reducing the Federal workforce is an Administration priority, and the Office of Personnel Management (OPM) has now ordered most Federal agencies to immediately lay off probationary employees. Thus far, we have only seen limited exemptions for Federal employees serving Indian Country which do not go far enough to protect essential workers, services, and funds Tribal Nations rely on. We urgently call on you to exempt from any workforce reductions all employees of the Indian Health Service (IHS), Bureau of Indian Affairs (BIA), Bureau of Indian Education (BIE), and all Tribal offices throughout all Federal agencies, as well as other Federal employees whose role is to deliver services or funding to Tribal Nations or their citizens or communities.

Exercising Authority Under EO 14210 Sec. 3(c) with Respect to Employees Serving Critical Functions in Indian Country is Necessary to Fulfill Trust and Treaty Obligations and Protect the Unique Political Relationship with Tribal Nations and Their Citizens and Communities.

Tribal Nations are and always have been inherently sovereign governments that have strong political relationships with their Tribal citizens and community members. Tribal Nations also have political, government-to-government relationships with the United States, and they prepaid with their lands and resources for the trust and treaty obligations that the United States owes them. The U.S. Constitution singles out Tribal Nations and Native people as unique, and the U.S. Supreme Court has time and again affirmed the principle that United States actions that deliver on trust and treaty obligations to Tribal Nations, Tribal citizens, and Tribal communities do not run afoul of the U.S. Constitution's equal protection requirements.

The United States fulfills its trust and treaty obligations through both the direct delivery of Tribal programs and services and through provision of federal funding to Tribal Nations and Tribal organizations serving Tribal Nations. Essential services provided by Federal employees include

healthcare services through IHS, law enforcement and public safety through the BIA, and educational services through the BIE—not to mention countless other essential and legally mandated services. These programs are not discretionary; they are legal obligations rooted in treaties, trust obligations, the U.S. Constitution, and long-standing federal statutes.

Exercising Authority Under EO 14210 Sec. 3(c) with Respect to Employees Serving Critical Functions in Indian Country is in Alignment with Past Federal Practices.

During government shutdowns due to breakdowns in the Federal budget process, essential employees and operations are generally exempted. EO 14210 provides protections for public safety, immigration enforcement, and law enforcement, as well as protections for employees whose functions are mandated in statute. We urge OPM, alongside every Agency Head and Department of Government Efficiency (DOGE) Team Lead to ensure the employees whose functions are in service of fulfilling the trust and treaty obligations to Indian Country are exempted from this and future comprehensive actions towards workforce or federal funding reduction. The consequences of failing to protect these employees and the services they provide would be dire for Indian Country. When paired with the pauses on Federal funding that affected services Tribal Nations provide to their communities, the loss of Federal employees providing direct services to Tribal communities would be catastrophic.

Exercising Authority Under EO 14210 Sec. 3(c) with Respect to Employees Serving Critical Functions in Indian Country is Necessary to Avoid Creating Unintended Life-or-Death Consequences.

Lapses in appropriations cause disproportionate impacts on Tribal Nations and the services they rely on. This is why numerous accounts under IHS, the BIA, and the BIE are either under mandatory or advance appropriations, ensuring employees and the programs they operate are able to remain functional in times of uncertainty or change. IHS has an existing 30 percent vacancy rate. IHS also typically has 14-18 percent probationary staff at any given time, and a work force of 15,000 employees who provide direct care to patients. IHS has some standing exemptions, but they are too limited to ensure the agency can effectively meet direct care services and trust and treaty obligations. Such a drastic reduction in force would lead to the immediate cancellation of medical services and procedures. There are 214 Tribal Nations that receive some or all of their care directly from IHS, and losing probationary providers and staff would mean a loss of healthcare and ultimately mortality. Indian Country cannot afford emergency rooms and clinics being forced to shut down or significantly downsize, eliminating critical access to care. In the past, IHS has been provided exemptions for staffing freezes, reductions, and other personnel actions, recognizing both the agency's direct provision of care and its significant role in meeting trust and treaty obligations. The Department of Veterans Affairs has provided broad exemptions, and the same should be provided for IHS.

Similarly, reductions in force would severely impact other critical services. For example, wildfires across the western United States have led Tribal Nations to request additional staffing for Wildland Fire Management. These essential employees, who protect rural communities from fire

devastation, would be lost under the current workforce reduction plans. Public safety, law enforcement, social services, and emergency response programs would also be compromised, leaving Tribal communities vulnerable to increased crime, domestic violence, child welfare crises, and delays in emergency response. Further, the shortened timeframe for off-boarding of these employees in already understaffed offices could prove disastrous as open case-files and investigations fall through the cracks. These reductions would undermine the stability and safety of communities that already face systemic challenges and underfunding, exacerbating existing disparities and placing lives at risk.

Federal employment is disproportionately high in Indian Country. The public administration sector accounts for approximately 12.5% of all jobs in Tribal areas, compared to only 4% in nearby counties.¹ In rural communities, Federal employees serve as a vital economic foundation. Layoffs would not only diminish essential services but also have devastating economic impacts on already impoverished Tribal communities.

Exercising Authority Under EO 14210 Sec. 3(c) with Respect to Employees Serving Critical Functions in Indian Country is in Alignment with Actions Taken by Other Federal Agencies Under this Administration to Fulfill Unique Obligations to Indian Country.

Some federal agencies have recognized the unique obligations owed to Tribal Nations and taken steps to clarify that implementation of some EOs should not impact the United States' delivery on trust and treaty obligations to Tribal Nations or their citizens and communities. For example, on January 30th, the U.S. Department of the Interior issued Secretarial Order 3416, affirming that trust and treaty obligations to Tribal Nations are legal requirements that must not be impaired. Similarly, the U.S. Department of Health and Human Services (HHS) clarified on February 6th that the EO affecting diversity, equity, and inclusion programs does not apply to programs serving American Indians and Alaska Natives (AI/ANs). Furthermore, on February 4th, HHS announced that OPM had granted IHS a partial exclusion from the deferred resignation program. We request that you take a similar affirmative stance with respect to exemption from the firing of probationary employees and then ensure each Federal agency complies with your mandate.

Although we look forward to collaborating with the Trump Administration, we are extremely concerned that recent Executive Orders and related actions have had unintended yet harmful consequences on Tribal Nations and their citizens and communities. We urge you to ensure that further implementation of Administration priorities, including workforce reduction efforts, does not make Tribal Nations collateral damage. Before taking additional action to implement Administration priorities, we urge you to comply with the United States' duty to consult government-to-government with Tribal Nations on federal actions that may have Tribal implications so that together we can shield Indian Country from inadvertent harms. ***Tribal Nations' exercise of our sovereignty and the United States' delivery on its trust and treaty obligations must not become collateral damage in the Administration's implementation of its***

¹ Kunesh, P. H. (2019, January 14), *The U.S. government shutdown: Its impact on Indian country is deep: Center for Indian Country Development*. The U.S. government shutdown: Its impact on Indian Country is deep. <https://www.minneapolisfed.org/article/2019/the-us-government-shutdown-its-impact-on-indian-country-is-deep>.

priorities. We look forward to this Administration ensuring that Tribal communities do not bear the brunt of broader federal policy changes.

We stand ready to meet with you and others within the Trump Administration to discuss this urgent matter further. Thank you for your attention to this critical issue.

Sincerely,

Affiliated Tribes of Northwest Indians
American Indian Higher Education Consortium
California Tribal Chairpersons Association
Great Lakes Inter-Tribal Council
Great Plains Tribal Chairmans Association
Midwest Alliance of Sovereign Tribes
National American Indian Court Judges Association
National Association of Tribal Historic Preservation Officers
National Congress of American Indians
National Council of Urban Indian Health
National Indian Child Welfare Association
National Indian Education Association
National Indian Health Board
National Indigenous Women's Resource Center
Navajo Nation
Self-Governance Communication & Education Tribal Consortium
United South and Eastern Tribes Sovereignty Protection Fund