



NORTHWEST PORTLAND AREA
INDIAN HEALTH BOARD
Indian Leadership for Indian Health

July 12, 2024

Via Electronic Transmission: Waleeska.Knifechief@ihs.gov

RDML Marcus Martinez
P.E. Director
Portland Area Indian Health Service
1414 NW Northrup Street, Suite 800
Portland, OR 97209

Re: Portland Area Regional Specialty Referral Center Demonstration Project

Dear RDML Martinez:

Thank you for the opportunity to provide guidance and recommendations on actions the Indian Health Service (IHS) should take related to the Portland Area Regional Specialty Referral Center – Northwest Region Demonstration Project through the IHS Dear Tribal Leader Letter (DTLL), dated July 1, 2024.

Background

For over 20 years, the Portland Area Facilities Advisory Committee (PAFAC), the Northwest Portland Area Indian Health Board (NPAIHB), and multiple Portland Area Tribes have advocated for IHS to stand up three Regional Specialty Referral Centers (Centers). Unlike other IHS Areas, Portland Area Tribes do not have access to an IHS hospital. Not having an IHS hospital results in Portland Area Tribes using Purchased and Referred Care (PRC) dollars to purchase costly specialty care for their IHS beneficiaries. Through the PAFAC's feasibility study it was determined that the Centers could provide specialty care services (e.g. cardiology, dermatology, etc.) without impacting a Tribe's PRC dollars. In fact, the Centers are expected to maximize Portland Area Tribes' PRC dollars through the aggressive use of telehealth in all three states (Idaho, Oregon, and Washington).

Two years ago, in June 2022, the Acting IHS Director announced to Portland Area Tribes that IHS would proceed with the first Center. Funding for the first Center was leveraged through demonstration project authority under the Indian Health Care Improvement Act (IHCA) and \$164.7 million from the United States Department of Health and Human Services (HHS) Nonrecurring Expenses Fund (NEF). Since June 2022, IHS has worked with the PAFAC and NPAIHB to update the planning documents and complete preliminary engineering activities. The remaining \$164 million in funding is intended for the facility design and construction of the first Center.

However, the \$164 million for the facility design and construction of the first Center is in jeopardy. The recently enacted Further Consolidated Appropriations Act, 2024 (H.R. 2882) rescinds \$1.25 billion from the HHS NEF account by September 30, 2024, which includes the \$164 million for the

first Center unless these funds can be obligated to a contract before this date. Unfortunately, due to federal contracting timelines for large projects, IHS has informed Portland Area Tribes that it is unable to obligate the \$164 million to a federal contract by the September 30, 2024 deadline.

On June 6, 2024, to protect the funds, IHS issued a Notice of Funding Availability (NOFA) to Portland Area Tribal Leaders. The NOFA described the current funding situation and requested that any Portland Area Tribe or Tribal Organization interested in pursuing a 638 contract for the facility design and construction of the first Center submit a letter of intent to contract within 14 days of receipt.

IHS received one letter of intent from the Puyallup Tribe of Indians (Puyallup Tribe) for the facility design and construction of the first Center. Years ago, when the PAFAC evaluated several options for the location of the first Center, the PAFAC decided that the first Center should be constructed in Fife, Washington. At that time, the Puyallup Tribe generously offered their property to IHS under a no-cost lease.

The Puyallup Tribe has taken two major steps in making the first Center a reality for Portland Area Tribes. Thank you to the Puyallup Tribe for making their land available for the first Center, and for responding to the NOFA to contract with IHS for the design and construction.

Recommendations

In the July 1st DTLL, IHS states that the P.L. 93-638 contract regulations require a tribe's proposal to include "current (unrevoked) authorizing resolutions from all Indian tribes benefitting from the contract proposal." **We disagree with the IHS's interpretation that the regulations require the Puyallup Tribe's proposal "to include authorizing resolutions from all 43 Portland Area Tribes."** First, the scope of this P.L. 93-638 contract is specific to design and construction. This contract, in and of itself, provides no benefit to the 43 Tribes as indicated. The benefit is derived from the potential services that the IHS, not Puyallup, will provide in the future at the Center. Considering the limited scope and true benefit, we believe requiring all 43 Tribes to provide a resolution is unnecessary and unwarranted.

Second, under the NOFA, all Portland Area Tribes were given the opportunity to contract with IHS for the design and construction. Only the Puyallup Tribe responded to the NOFA. In addition, to our knowledge, no other Tribe challenged the NOFA as to the design and construction of the first Center.

Third, the majority of Portland Area Tribes have been actively involved in advocating for funding for the first Center for decades. There is a long administrative and legislative record of countless requests that have been made by Portland Area Tribal Leaders in various meetings, tribal consultations, and testimony to IHS, HHS, and Congressional representatives.

Fourth, Tribal Leaders, NPAIHB, the PAFAC, and IHS are well-aware that getting unanimous resolutions from the 43 Tribes on any topic is virtually impossible. We might as well ask the House and Senate to unanimously support a particular position; it just doesn't happen for one reason or

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another. IHS must not create an administrative burden for the Puyallup Tribe with its interpretation of the P.L. 93-638 contract regulations.

For all these reasons, we respectfully ask that IHS's interpretation of the requirement for the Puyallup Tribe to obtain authorizing resolutions from all Portland Area Tribes be reconsidered and eliminated in its entirety.

We further request that if reconsideration of the resolution requirement, in its entirety, is not an option, that once a majority (22 or more) of the authorizing resolutions are submitted that IHS enter into the design and construction contract with the Puyallup Tribe. This will ensure that the contract can be fully executed prior to September 30th. The Puyallup Tribe, with the support of NPAIHB, will make every effort to collect as many resolutions as possible. However, having less than 43 resolutions should not prevent IHS from contracting with the Puyallup Tribe for the design and construction.

If IHS remains firm on its unrealistic position that resolutions are required from all 43 Tribes, then it is suggested that IHS send out a Dear Tribal Leader Letter to Portland Area Tribal Leaders notifying them of IHS's intent to contract with the Puyallup Tribe for the design and construction based on its receipt of 22 or more resolutions. This will allow any Tribe with concerns to address them with IHS and/or get their questions answered about the Center.

Finally, we are counting on IHS to uphold the Portland Area's leadership in healthcare innovation and make this first Center a reality. IHS must not lose sight that this is a demonstration project that will increase access to care for many IHS beneficiaries in the Northwest. It will serve also as a national demonstration model for other areas interested in increasing access to specialty care in their areas.

Thank you for honoring the above recommendations. If you have any questions, please contact me at (360) 393-2325 or contact Laura Platero, Executive Director, Northwest Portland Area Indian Health Board at (503) 523-8723.

Sincerely,



Nickolaus D. Lewis
Chair
Northwest Portland Area Indian Health Board