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**Testimony by Principal Chief Chuck Hoskin Jr.
Hearing on Public Law 102-477, or the “477 Program”
Senate Committee on Indian Affairs
November 6, 2019**

Chairman Hoeven, Vice Chairman Udall, and members of the committee:

As Principal Chief of the Cherokee Nation, I am honored to join you all today and I appreciate the opportunity to testify on Public Law 102-477, known as the “477 Program.” The Cherokee Nation is the largest federally recognized tribal government in the United States, with more than 380,000 tribal citizens and spanning 7,000 square miles in northeastern Oklahoma.

Background

The 477 Program was first established as a demonstration project in 1992 by Public Law 102-477. The law was intended to support economic development efforts and employment opportunities in Indian Country. During the 25 years the program existed as a demonstration project, it served more than 250 tribes. Two years ago, the law was amended, expanded, and made permanent by the Indian Employment, Training and Related Services Consolidation Act of 2017.

Since its inception, P.L. 102-477 as amended has seen tremendous growth as tribes recognize the opportunities it presents for us to address our unique circumstances in a manner best suited to our individual tribal needs. The policy of tribal self-determination underlies the policy of P.L. 102-477 as amended. This law recognizes the unique circumstances of each sovereign tribe and the ability of tribal governments to determine its best course of action. The purpose of the 477 program is to ensure Indian tribal governments can integrate the employment, training, and related services they provide in order to improve the effectiveness of those services, reduce joblessness in Indian communities, and serve tribally-determined goals consistent with the policy of self-determination.

The 477 Program authorizes tribal governments to consolidate and integrate federal programs across multiple agencies under one plan, one reporting system, and one budget, called a 477 plan, to create innovative employment and economic development programs tailored to their communities. Eligible programs include employment, job training, welfare to work and tribal work experience, economic development, skill development, self-sufficiency, job creation programs, and related services.

Originally, tribes were only authorized to consolidate thirteen programs from the Department of Health and Human Services, Department of the Interior, and Department of Labor. The 2017

amendment expanded tribal authority to consolidate programs from a larger range of federal agencies, including the Department of Agriculture, the Department of Commerce, the Department of Education, the Department of Energy, the Department of Health and Human Services, the Department of Homeland Security, the Department of Housing and Urban Development, the Department of the Interior, the Department of Justice, the Department of Labor, the Department of Transportation, and the Department of Veterans Affairs. Congress granted the Department of the Interior final authority to approve 477 plans.

In addition to expanding which programs were eligible for integration, the 2017 amendments also clarified language to ensure federal agencies could not impede program integration across agencies and more clearly articulated congressional intent. To facilitate the implementation of the Act, Congress required each of the involved federal agencies to enter into an interdepartmental Memorandum of Agreement. On December 20, 2018, the Secretary of the Interior released the thirteen-page Memorandum of Agreement.

Cherokee Nation's 477 Plan

Since 2002, the Cherokee Nation has used the 477 Program to provide seamless provision of employment and training services to our tribal citizens. The program allows us to combine services without excess burden, resulting in large administrative savings. These savings ensure we can spend our dollars on direct services, rather than waste time on redundant reporting or shuffling our citizens between case workers. Currently, we operate nine different grants under our 477 plan, totaling over \$58.6 million. In the last fiscal year alone, while our funding was at \$20 million, we served over 3,509 Cherokee Nation citizens.

For example, suppose a young mother comes to the Cherokee Nation asking for help and needing a job, but she has barriers to employment. She has no driver's license, no GED or high school diploma, no training, and no childcare. Before the 477 Program began, Cherokee Nation would have separate files for adult education, childcare, and training. Thanks to the 477 Program, we can develop one Individual Employment Plan that integrates all of our services. One counselor can help the young mother attain her GED, access childcare assistance, receive a driver's license, utilize financial assistance for training, and gain work experience, on the job training, a referral, or placement for employment. Our programs are integrated, rather than siloed into different offices, applications, and counselors.

The 477 Program should be a model for other federal programs. It is efficient, cost saving, and seamlessly integrated. At Cherokee Nation, we have field offices with limited staff and finite resources. The 477 Program ensures that staff can provide services from any program we offer, and instead of tracking expenses and staff time by program, staff spend time working with our citizens. I hope that the success of the 477 Program is replicated beyond employment and training.

Thanks to the flexibility of the program, Cherokee Nation is also at the forefront of economic development innovation. Up to 25 percent of the program's funds can be used for economic development activities, and Cherokee Nation designs and implements customized training activities to address employer needs as they arise. We also utilize On-the-Job Training (OJT) to assist a new or expanding businesses with employee training. In the past, Cherokee Nation has worked with Health Services to provide training in medical coding and dental assistant education; worked with the hospitality arm of Cherokee Nation Businesses to provide culinary training; and

worked with our Child Development Centers to provide early childhood education training. Currently, we use funds for our Way Finders program at our new outpatient health facility, which gives our elders an employment opportunity and provides a service to those who use our facility.

We were also recently approved for a National Health Emergency grant to focus on helping those impacted by the Opioid Crisis. Affected individuals gain employment assistance through Cherokee Nation. These jobs are not just any jobs, however—they are jobs in health care and opioid addiction treatment. We are training opioid-impacted Cherokee Nation citizens to meet the needs of other opioid-impacted Cherokee Nation citizens. We are creating our own innovative solutions to problems that other governments still struggle to address, thanks in large part to the 477 Program.

The Cherokee Nation continues to build upon the success of the 477 Program. In mid-October, I introduced, and the Council of the Cherokee Nation unanimously approved, the Career Readiness Act. The Career Readiness Act doubles Cherokee Nation's investment in training programs, such as construction, health, IT, and linemen training, increasing funding from \$1 million to \$2 million per year. The 477 Program is an asset not only because it creates opportunities to streamline our services and spur economic development, but also because it allows us to expand our own capacity and use our resources to strengthen other workforce and economic development efforts.

Challenges Associated with the 477 Program

In spite of the successes of the 477 Program, Cherokee Nation has a number of concerns following the release of the interdepartmental Memorandum of Agreement on December 20, 2018. Although the intent of Congress was clear in the 2017 amendments, and the Memorandum of Agreement was required by Congress only to facilitate the implementation of the act, the memorandum is in conflict with the spirit of the law and imposes more stringent requirements for the 477 program integration than were intended by Congress.

On July 3, 2019, Cherokee Nation submitted a request to integrate four additional programs into our existing 477 plan. One was the Native American Career and Technical Education Program from the Department of Education, which was approved. Two Dislocated Worker Grants (DWG) were approved for transfer because, according to the Department of Labor, “these grants are generally not competitive.” Our fourth request, the Disability Employment Initiative (DEI), was denied based on the Department of Labor’s “interpretation of the statute as amended and Memorandum of Agreement signed in December 2018 by 12 Federal agencies.” Our denial from the Department of Labor further states:

Based on our interpretation of the statute, as amended, Section 5(a)(1)(B) of the Indian Employment, Training and Related Services Consolidation Act of 2017 [25USC3404(a)(1)(B)] allows integration of programs that are formula-funded, or based solely or in part on status as Indians under Federal law, or a non-competitive process. However, the MOA Section 111.A.4 states that “a competitive grant program may be integrated in a 477 plan only when eligibility to compete for the grant program is exclusive to Indian tribes.”

The Department of Labor’s, and the Memorandum of Agreement’s, interpretation of Section 5(a)(1)(B) of the Indian Employment, Training and Related Services Consolidation Act of 2017 is

wholly incorrect. Section 5(a)(1)(B) of the Indian Employment, Training and Related Services Consolidation Act of 2017 states:

The programs that may be integrated to a plan approved under section 8 shall only be programs under which an Indian tribe or members of an Indian tribe (i) are eligible to receive funds (I) under a statutory or administrative formula making funds available to an Indian tribe; or (II) based solely or in part on their status as Indians under Federal law; or (ii) have secured funds as a result of a noncompetitive process or a specific designation.

First, Indian tribes or Indian tribal members must be among the entities eligible for funding, but the statute does not require that only Indian tribes or Indian tribal members can be eligible for the grant. Second, the funds must be available in part, but not solely, based on their status as Indians under Federal law. Third, if neither of these criteria are met, then the grant may be integrated into a 477 plan if funds were secured as part of a noncompetitive process. Finally, Section 5(a)(2) further goes on to state that block grants, not exclusively formula-funded grants as stated by the Department of Labor, are also eligible for integration, regardless of whether the block grant “is for the benefit of the Indian tribe because of the status of the Indian tribe or the status of the beneficiaries the grant serves.” It is clear, then, that both the Department of Labor and the interdepartmental Memorandum of Agreement misinterpret and unduly limit the scope of the federal law intended by Congress to foster and strengthen economic development in Indian Country.

The interdepartmental Memorandum of Agreement created unintended consequences that undermine the years of success the Cherokee Nation has had thanks to the 477 Program. The 477 Program has transformed the way we serve our tribal citizens, and the 2017 amendments to the law posed great promise and opportunity to further expand and integrate our programs. Although the Memorandum of Agreement is a barrier to our efforts, we remain steadfast in our commitment to integrating our programs and creating economic opportunity for our citizens.

Conclusion

At the heart of this problem is the impact this Memorandum of Agreement has on the lives of the people we serve. The misinterpretation of statutes and the imposition of more stringent requirements by federal agencies threaten the livelihoods of people and tribes across Indian Country. We must remember the young mother who comes to the Cherokee Nation for help at her lowest point, with no driver’s license, no childcare, and no job training, but leaves self-sufficient, with a way to support herself and her young child. We must remember the countless others just like her, and we must make sure we can meet the needs of those who need it the most.

As you work towards a solution that strengthens the 477 Program and removes the additional requirements imposed by the Memorandum of Agreement, I ask you to remember these stories and these concerns. The decisions that are made in this body acutely impact our tribal citizens and our communities, and we must ensure we do not turn our backs on our most vulnerable in their time of need. Thank you for the opportunity to testify, and I will be happy to answer any questions that you might have. Wado.