July 14, 2021
Senate Committee on Indian Affairs
Hearing to Receive Testimony on S. 1797
Testimony of Robyn Sunday-Allen (Cherokee), Vice President,
National Council of Urban Indian Health (NCUIH)

Chairman Schatz, Vice Chairman Murkowski, and Members of the Senate Committee on Indian Affairs, thank you for the opportunity to testify today on the vital topic of urban Indian health facilities. My name is Robyn Sunday-Allen, I am a member of the Cherokee Nation, and currently the Vice President of the National Council of Urban Indian Health (NCUIH), which represents the 41 Urban Indian Organizations (UIOs) across the nation who provide high-quality, culturally-competent care to Urban Indians, who constitute over 70% of all American Indians/Alaska Natives (AI/ANs). I also serve as the Chief Executive Officer of the Oklahoma City Indian Clinic (OKCIC), a permanent program within the Indian Health Service (IHS) direct care program and a UIO, which provides culturally sensitive health and wellness services including comprehensive medical care, dental, optometry, behavioral health, fitness, nutrition, and family programs to our nearly 20,000 patients representing over 220 different tribes. I would like to thank Chairman Schatz, Vice Chairman Murkowski, Members of the Committee and their staff who have worked tirelessly to help equip the Indian health system with essential resources. I appreciate you holding this important hearing on vital facilities and infrastructure issues which have impacted Indian Country, including UIOs.

I testify today in support of the *Urban Indian Health Providers Facilities Improvement Act*, S. 1797, which will expand the use of existing IHS resources under Section 509 of the Indian Health Care Improvement Act (IHCIA) (25 U.S.C. § 1659). This legislation would enable IHS urban Indian health dollars to be spent where they are most needed, including for necessary facilities maintenance and renovation, ultimately improving patient care without any added cost. As it stands, UIOs can only use our IHS funding for facilities expenses if the renovation or maintenance is undertaken in order to meet a specific accreditation standard, which is inapplicable to the vast majority of UIOs. In effect, we are left without the ability to use our funding efficiently and most effectively to best serve our patients. I will speak to you today about the importance of the technical fix to this restriction and how it would improve health care outcomes for Oklahoma City's Urban Indian community, as well as the larger UIO system and, ultimately, the more than 70% of AI/AN people that reside in urban Indians.

We urge the Members of this Committee to request leadership to include this simple but urgent fix in the bipartisan infrastructure framework. In addition, we recommend the Senate Committee on Indian Affairs hold a markup on this bill as soon as possible to allow for floor consideration. Finally, to demonstrate a strong showing of commitment to improving urban Indian health, we ask all Members to cosponsor S. 1797.

Background

NCUIH represents 41 UIOs operating 77 facilities across 22 states. As part of the trust obligation, the federal government funds UIOs who provide high-quality and culturally competent care to urban Indian populations. UIOs are a critical part of the Indian Health Service (IHS) system, which includes IHS facilities, Tribal Programs, and UIOs. This is commonly referred to as the I/T/U system. Unfortunately, UIOs experience significant parity issues as compared to the other components of the I/T/U system as well as other federally funded health care systems, which greatly impact their services and operations. This includes the inability to use IHS funding for facilities improvements or maintenance, even if that is where the dollars are most needed.

OKCIC is the UIO serving the Oklahoma City area, with more than 35,000 annual patient visits. Since OKCIC's creation in 1974, the demand for quality health care has steadily increased, and the clinic has grown in response. Because of the restriction preventing UIOs from using IHS funds for facilities, we have multiple times throughout our history been forced to make difficult decisions to keep up with demand – having to use limited funding pools and divert revenue from AI/AN patient care in order to have adequate space to provide critical services.

The inability to use IHS funds for essential facilities renovation and maintenance expenses impacts patient care, with patients paying the ultimate price. For example, as our existing medical and behavioral health facilities age alongside the increased demand for services due to the COVID-19 pandemic, associated building equipment and components are deteriorating to a point of failure. This, combined with the decreasing availability of replacement parts on aged equipment, significantly disrupts health care service delivery – making it exceedingly difficult to meet the increased needs for medical and behavioral health services.

This need is not unique to OKCIC as it impacts all UIOs and their patients. In fact, NCUIH and 29 other AI/AN-focused organizations recently sent a joint letter urging Congressional leaders to address Indian Country's infrastructure priorities, including this legislative oversight. The National Congress of American Indians also passed a resolution in support of the UIO facilities fix this past June. This broad support makes

924 Pennsylvania Ave. SE Washington, DC 20003 Phone: (202) 544-0344 Fax: (202) 544-9394 www.ncuih.org

one thing clear – the need is real and the time to act is now. As a registered nurse, I am aware of what health care looks like in a quality and well-maintained medical facility; and gambling with my patients care due to insufficient facilities is not a burden that I nor any other UIO wants to continue to bear. We are in a race against time! We need this legislative fix now.

Remove Facilities Restrictions on UIOs

I applaud Senator Alex Padilla (D-CA) and Senator James Lankford (R-OK) for introducing the *Urban Indian Health Providers Facilities Improvement Act* (S. 1797) to allow us to make critical updates and pave the way for increased investment in renovation and construction of our facilities by undoing the unnecessary restriction on our funds. Specifically, this bipartisan bill represents the critical legislative fix to an oversight in Section 509 (25 U.S.C. § 1659) of IHCIA that prohibits UIOs from using money appropriated through IHS on infrastructure and facilities improvement projects unless the project is undertaken to meet accreditation standards from The Joint Commission (TJC), which is no longer the most used accreditation body among the vast majority of UIOs. In fact, 40 of 41 UIOs do not utilize TJC accreditation, with many utilizing other, more applicable accreditation bodies.

For instance, OKCIC has received full primary care practice accreditation by the Accreditation Association for Ambulatory Health Care (AAAHC) for more than 15 years. AAAHC is a nationally accepted accreditation body, which is even recognized by IHS with an IHS circular dating back to 1997 encouraging UIOs "to obtain and maintain accreditation" through a "choice among nationally accepted accrediting/certifying bodies[,]" including AAAHC.[1] IHS even provides funding for UIOs to attend AAAHC trainings. However, despite IHS's express encouragement of UIOs choosing to maintain accreditation through AAAHC, this accreditation nonetheless effectively bars OKCIC from utilizing IHS funds for any facilities improvements because Section 509 only expressly mentions TJC, which IHS has interpreted to exclude UIOs from utilizing IHS funds for facilities improvements.

This restriction prevents OKCIC and other UIOs from making essential facilities improvements and maintenance, which impacts the provision of services to our patients. This prohibition compounds on decades of chronic underfunding of UIOs, which has been absent of any facilities funding. This has real and significant impacts.

[1] Indian Health Service Circular No. 97-01, Accreditation/Certification of Hospitals and Health Centers (effective March 6, 1997).

For example, as the COVID-19 pandemic was devastating Indian Country, the whole IHS system had to immediately adjust (i.e. transition to telehealth, install negative pressurizing rooms, upgrade air purification systems, and make other facility renovations) to safely serve patients. However, UIOs were unable to make some of these necessary improvements because of this restriction, with one UIO even being denied for installing a new HVAC system that would better purify and circulate air in the facility. A UIO could not use its funding from a **health** agency to make these changes amidst a global pandemic of an airborne virus that causes severe respiratory illness for health care staff and patients.

Moreover, this issue predates the pandemic, which only highlighted an existing problem – the lack of an avenue for using existing resources for infrastructure improvements at UIOs. In fact, in a NCUIH survey, 86 percent of UIOs surveyed reported a need to make facilities and infrastructure upgrades, while 74 percent reported unmet needs for new construction to better serve patients. These needs include, but are not limited, to the construction of urgent care facilities and infectious disease areas, capacity expansion projects, ventilation system improvements, and upgrades to telehealth and electronic health records systems. All of these upgrades are vital to patient care.

The *Urban Indian Health Providers Facilities Improvement Act* would remove this prohibition, immediately allowing UIOs to use their IHS funding more effectively and efficiently. This bipartisan bill has widespread support, including within Indian Country as mentioned earlier and also among policymakers. The House Appropriations Subcommittee on Interior, Environment, and Related Agencies included the UIO facilities fix in its FY22 bill; as did the President's FY22 IHS budget, noting it has a zero score. All of this support makes one thing clear – we must act now to pass this urgent and no-cost legislative fix.

Finally, this issue is not only urgent and widely supported, but it is also ripe for resolution, with the Senate this week considering the largest infrastructure framework bill in history. Because removing this restriction is vital to the provision of health care to our patients and the fulfillment of the trust obligation to AI/AN people, we respectfully request the inclusion of S. 1797 in this infrastructure package.

Conclusion

S. 1797 is an essential parity issue for UIOs that ensures that AI/ANs residing in urban areas have access to high quality, culturally competent health services. For too long,

924 Pennsylvania Ave. SE Washington, DC 20003 Phone: (202) 544-0344 Fax: (202) 544-9394 www.ncuih.org

urban Indian health care has been burdened and limited by an unnecessary restriction on UIO funds that prohibits us from making critical upgrades. The U.S. has the trust obligation to provide health care for AI/AN people residing in urban areas and removing this barrier to the use of existing IHS urban Indian health funding will bring us closer to meeting that responsibility.

We urge the Committee to enact this legislative fix and continue to work to enable UIOs to continue providing high quality, culturally competent care to AI/AN people, regardless of where they live.

924 Pennsylvania Ave. SE Washington, DC 20003 **Phone:** (202) 544-0344 **Fax:** (202) 544-9394 www.ncuih.org