



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

TO: Scott W. Rowell, Assistant Secretary for Administration
FROM: Alex M. Azar II, Secretary
SUBJECT: Delegation of Authority to Waive Indian Preference

This delegation is made in accordance with Public Law 96-135 Section 2, as amended (Dec. 5, 1979, 93 Stat. 1057). Title 25 U.S.C. 5117 establishes Indian preference laws applicable to Bureau of Indian Affairs and Indian Health Service positions. Specifically, Subsection 5117(b)(1) states the following, “The Indian preference laws shall not apply in the case of any reassignment within the Bureau of Indian Affairs or within the Indian Health Service (other than to a position in a higher grade) of an employee not entitled to Indian preference if it is determined that under the circumstances such reassignment is necessary – (A) to assure the health and safety of the employee or of any member of the employee’s household; (B) in the course of a reduction in force; or (C) because the employee’s working relationship with a tribe has so deteriorated that the employee cannot provide effective service for such tribe or the Federal Government.”

Section 5117(b)(2) specifies that the authority to make any determination under subparagraph (A), (B), or (C) above is vested in the Secretary of Health and Human Services with respect to the Indian Health Service, and, notwithstanding any other provision of law, the Secretary involved may not delegate such authority to any individual other than a Deputy Secretary or Assistant Secretary of the respective department.

I hereby delegate, to the Assistant Secretary for Administration, the authority to approve waivers of Indian preference as specified in Public Law 96-135, issued December 5, 1979. Re-delegation of this authority is not allowed.

This delegation shall be exercised under the Department's existing delegation of authority and policy on regulations. In addition, I hereby affirm and ratify any actions taken by the Assistant Secretary for Administration that involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

This delegation revises all previous delegations of this authority.

This delegation is effective upon date of signature.

NOV 15 2018

Date



Alex M. Azar II
Secretary