



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #ECWS-10-004

Supporting a Plan to address the IHS backlog of Contract Support Cost Funding during the Obama Administration beginning with Fiscal Year 2011

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the Indian Self-Determination and Education Assistance Act (ISDA), P.L. 93-638, 25 U.S.C. §450 et seq., requires the payment of certain fixed institutional overhead costs, known specifically as "Contract Support Costs," to Tribes and tribal organizations that operate and manage programs formerly operated by the Indian Health Service (IHS) in the exercise of the federal government's trust responsibility to Indian Tribes, with these programs providing essential health care services to tribal members; and

WHEREAS, contract support costs include such fixed costs as financial and accounting services mandated by Federal law, personnel management, procurement management, and other administrative costs which Tribes must incur to carry out ISDA contracts, and which the IHS generally incur in carrying out such programs in the absence of an ISDA contract; and

WHEREAS, no other policy in the history of the United States than the ISDA has had the profound positive impact on Tribal governments, which has increased employment and economic opportunities, and reduced the federal bureaucracy which has resulted in more effective services for American Indian people; and

WHEREAS, the underpayment of fixed contract support costs has led directly to the loss of thousands of jobs across Indian country as Tribes become forced to reduce health programs and the jobs that go with them in order to cover the government's obligation; and

WHEREAS, in March 2005, the United States Supreme Court ruled in the case of Cherokee Nation v. Leavitt that IHS is contractually bound to pay full Contract Support Costs (CSC) to each tribal contractor, so long as IHS has sufficient appropriations to pay each Tribe, and that IHS is liable in a lawsuit for money damages if it fails to meet this obligation; and

WHEREAS, the President and Congress have committed to support and advance Indian Self-Determination and Self-Governance and consistent with that commitment in the FY 2010 Budget President Obama successfully championed an unprecedented increase of \$115 million in CSC funding for the IHS to pay legal debts owed Tribes under their contracts with the government; and

WHEREAS, in order to fulfill this commitment and complete the process of honoring contracts awarded under the ISDA, the FY 2011 Budget should include an increase of \$149 million to pay the entire backlog of “Contract Support Costs” that are owed as a result of past year’s CSC underfunding to Tribe’s carrying out contracts with the federal government, which includes approximately \$10.4 million owed to Portland Area Tribes.

WHEREAS, the political feasibility of receiving a \$149 million increase in a single appropriation year, in addition to the amount needed to maintain on-going CSC needs does not seem likely, therefore a plan is needed for the Administration and Congress to address this issue.

THEREFORE BE IT RESOLVED, the National Congress of American Indians acknowledge the Administration’s commitment to support Indian Self-Determination and Self-Governance and hereby support a plan for the Administration to continue to honor on-going Contract Support Cost requirements by including a budget request to fund 100% of the inflation costs related to on-going CSC requirements and 100% of CSC requirements associated with expanded or new programs (currently estimated to be \$45 million annually).

BE IT FURTHER RESOLVED, the National Congress of American Indians supports a plan by the Administration and Congress to reduce completely the backlog of Contract Support Costs that the IHS owes tribes by including annually for the next three fiscal years (FY 2011, FY 2012, and FY 2013) one-third the remaining amount owed by the IHS as reported on the annual IHS Contract Support Cost Shortfall Report submitted to Congress, or \$35 million for each of those three years.

BE IT FINALLY RESOLVED, the National Congress of American Indians urge the Administration and Congress to adopt this CSC spending plan as its fiscal policy for fiscal years 2011, 2012 and 2013, in honor of the commitment to support and advance Indian Self-Determination and Self-Governance to Indian Tribes.

CERTIFICATION

The foregoing resolution was adopted at the Executive Council at the 2010 Executive Council Winter Session of the National Congress of American Indians, held at the Wyndham Washington Convention Center in Washington D.C. on March 1-3, 2010 with a quorum present.

President

ATTEST:

Recording Secretary