



NATIONAL CONGRESS OF AMERICAN INDIANS

THE NATIONAL CONGRESS OF AMERICAN INDIANS

RESOLUTION #SPO-01-033

EXECUTIVE COMMITTEE

PRESIDENT
Tex G. Hall
Mandan, Hidatsa, Arikara Nation

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*Ohkay Owingeh
(Pueblo of San Juan)*

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Colleen F. Cawston
Colville Confederated Tribes

TREASURER
Alma Ransom
St. Regis Mohawk Tribe

Title: Applicability of Federal Non-Discrimination Policies to Sovereign Indian Nations

WHEREAS, we, the members of the National Congress of American Indians in our own distinct territories, 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 United States Constitution, numerous treaties, and hundreds of years of judicial history reaffirm that Indian tribes have the inherent power of self-government; and

WHEREAS, it has been the practice of certain federal agencies to require tribal grant recipients to certify that the recipient complies with federal non-discrimination laws such as Titles VI, VII, and VIII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination *in* Employment Act; and

WHEREAS, compliance with aforementioned federal non-discrimination laws conflicts with tribal use of the Indian Preference Law to prefer *hiring Indian employees, the use of Indian contractors and the encouragement of those contractors to use Indian preference*; and

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Jacqueline L. Johnson
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WHEREAS, tribes are not required to comply with certain federal non-discrimination laws as set by precedent in such cases as Equal Employment Opportunity Commission v. Fond du Lac Heavy Equipment and Construction Co., 986 F. 2nd 246, 248 (8th Cir. 1993) and Wardle v. Ute Indian Tribe, 623 F. 2nd 670, 673 (10th Cir. 1980); and

WHEREAS, tribes voluntarily comply, to the extent possible, with non-discrimination laws; and

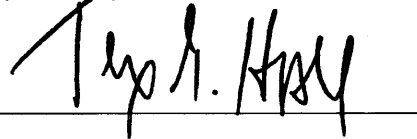
WHEREAS, the sovereign rights of tribes will be affected or abrogated if a tribe is required to sign a grant agreement certifying that the tribe will comply with certain federal non-discrimination laws.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby request the President of the United States of America to issue an Executive Order that specifies that federal agencies must review and amend their non-discrimination policies which conflict with tribal self-governance; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted at the 58th Annual Session of the National Congress of American Indians, held at the Spokane Convention Center, in Spokane, Washington on November 25-30, 2001 with a quorum present.



Tex Hall, President

ATTEST:



Colleen F. Cawston, Recording Secretary

Adopted by the General Assembly during the 58th Annual Session of the National Congress of American Indians, held at the Spokane Convention Center, in Spokane, Washington on November 25-30, 2001.