

September 5, 2007
Via Facsimile: 202-228-2589

The Honorable Byron L. Dorgan
Chair
Senate Committee on Indian Affairs
838 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Lisa Murkowski
Vice Chair
Senate Committee on Indian Affairs
838 Hart Senate Office Building
Washington, D.C. 20510

Re: Request for Oversight Hearing on Contract
Support Cost Issues

Dear Chairman Dorgan and Vice Chairman Murkowski:

We write to once again call to your attention the grave crisis we face as a result of insufficient "contract support cost" appropriations which, together with Indian Health Service policies, have left our tribal organizations with annual shortfalls running from nearly \$2.4 million to over \$3.6 million. We respectfully request that the Senate Indian Affairs Committee convene an urgent oversight hearing this Fall, to review what has become a genuine crisis in Indian country, and a crisis that has seriously eroded the national policy of Tribal self-governance and the delivery of quality health services to Indian people.

As you know, when Indian tribes contract to run IHS clinics and hospitals, the Indian Self-Determination Act requires that monies to cover their fixed "contract support costs" must be added to the IHS "services" funds that are contractual. These fixed costs are annually set by the government and are audited by the government, and they are necessary to operate healthcare programs in compliance with all governing federal laws and regulations. When IHS fails to add "contract support costs" to our self-governance compacts, to cover the difference we are compelled to reduce our healthcare funding meant for services. There is no other choice. In a very real and practical sense, we are penalized -- and the Indian people we serve are penalized -- by the very decision Congress urged us to make to compact the administration of healthcare from IHS.

In 2005 the Supreme Court in the *Cherokee Nation* case found IHS's underfunding of self-governance compacts to be unlawful. But ironically, since 2005 the funding situation has only worsened. IHS recently reported that at year-end FY2006, there was a national contract support cost shortfall of \$88.2 million. Of that amount, \$13.2 million (or 15% of the entire national shortfall) was shouldered by Oklahoma Tribal healthcare providers. As bad as these numbers are, they do not include additional "direct" contract support costs which IHS's report details but excludes from its shortfall calculations.

The Honorable Byron L. Dorgan
The Honorable Lisa Murkowski
September 5, 2007
Page 2

The Supreme Court's ruling instructs that IHS has a contractual obligation to pay full contract support costs. And yet, IHS appropriations to meet those obligations continue to fall further and further behind. "Contract support costs shortfalls" may sound like a complicated topic, but the issue is simply healthcare service dollars that must be massively diverted from their intended purpose.

We very respectfully and urgently request that the Committee convene an oversight hearing.

We also request that the Committee receive testimony concerning the ongoing litigation over past underpayments. We believe Congress could take action to either bypass the litigation or otherwise expedite its conclusion so that justice can finally be done to the hundreds of Tribes and Tribal organizations that were underpaid in precisely the same fashion as the two Tribes whose rights were vindicated by the Supreme Court in the *Cherokee Nation* litigation.

Very respectfully,

CHEROKEE NATION

A handwritten signature in black ink, appearing to read "Chad Smith", is written over a circular stamp or seal. The signature is somewhat stylized and overlaps the circular boundary.

By

Chad Smith
Principal Chief