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SUPPORT FOR TRIBAL GOVERNMENTS

Ensuring tribes have the tools for effective governance is critical to fulfilling the promise of the Indian Self-Determination and Education Assistance Act. Key funding mechanisms that support Indian self-determination are contract support costs, steady tribal base funding, and direct funding to tribes as opposed to grant or state pass through funding. To build a more prosperous American future, Congress should continue to fully fund contract support and support tribal base funding to allow tribes to exercise their inherent right to self-government.

CONTRACT SUPPORT COSTS

The Indian Self-Determination and Education Assistance Act has represented the cornerstone of this nation's federal policy toward tribes for the last forty years. Under the Indian Self-Determination Act, the United States enters into inter-governmental contracts with tribes under which tribes administer federal programs, either through contracts or self-governance compacts, for the benefit of tribal members. In amending the 1975 Act in 1988, Congress observed that the single greatest impediment to successful implementation of the Indian Self-Determination Policy was the consistent failure of the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS) to pay full contract support costs associated with the administration of transferred programs.

Key Recommendations

DEPARTMENT OF THE INTERIOR

Interior – Environment Appropriations Bill

- *Continue to provide full CSC funding without impacting program funding.*

The FY 2016 Consolidated Appropriations Act includes new language establishing an indefinite appropriation for contract support costs in both BIA and IHS. Under the new budget structure, the full CSC that tribes are entitled to will be paid and other programs will not be reduced if payments are underestimated in the President's budget.

All tribes agree that the payment of contract support costs, which is a legal obligation, should not be achieved by reducing direct services to any tribe. Tribes and tribal organizations across the country support a permanent, indefinite appropriation for contract support costs, which would ensure full funding for contract support costs on an as-needed basis without impacting the rest of the IHS and BIA budgets.

DEPARTMENT OF THE INTERIOR

Interior – Environment Appropriations Bill

Bureau of Indian Affairs

- *Fully fund Fixed Costs and Tribal Pay Costs.*

Most federal agencies receive annual increases to their Fixed Costs rates each year to address inflationary costs associated with Fringe Benefits and Pay Costs. Historically, tribes have been disadvantaged because they have never received Fringe Benefit Fixed Cost adjustments. Previous Administrations have only partially funded Pay Costs. Partially funding or failing to fund Pay Costs for tribes has devastated tribal communities by causing critical job losses. Over 900 tribal jobs have been lost and an estimated 300 more jobs will be permanently lost on an annual basis if 100 percent Pay Costs are not provided. The tribal losses are being further exacerbated by recent projections of costs that have been significantly underestimated. The Administration should include this in their Budget Request to prevent further erosion of jobs in tribal communities.

DEPARTMENT OF THE INTERIOR

Interior – Environment Appropriations Bill

Bureau of Indian Affairs

- *Provide increases via tribal base funding instead of through grants to tribal governments.*

Grant funding, particularly inside the BIA, is not consistent with the intent of Indian self-determination. Tribal leaders have grown increasingly frustrated by the increase in Indian Affairs funding offered through grants. Allocating new funds via grant opportunities marginalizes and impedes the exercise of tribal self-determination. New BIA funding should be distributed via formulas developed through consultation with all tribes. When tribes are forced to apply for funding through grant opportunities at BIA, the ultimate result is that federal employees in Washington, DC, not elected tribal leaders, retain program authority. Grants limit the flexibility and local control authorities available to tribes under the Indian Self-Determination Act. Moreover, Congress has historically underfunded programs intended to benefit American Indians and Alaska Natives, with current figures estimating that BIA programs are underfunded by about a billion dollars when compared to need.⁶ The funding vehicle used should be one that tribes choose because forcing the use of traditional grant mechanisms appears inconsistent with the Indian Self-Determination and Education Assistance Act.

Similarly, NCAI recommends eliminating the competitive grant funding process at the Department of Justice (DOJ) and utilizing Justice Department appropriations as base funding where tribes and tribal courts themselves determine their own priorities. A major issue with DOJ funding is that it offers competitive funding for DOJ priorities, not tribal priorities. In order to obtain grant funding, tribes must compete against each other under DOJ's priorities and guidelines. In the end, the tribes that have the financial and human resources to employ experienced grant writers ultimately receive funding, while the under-resourced tribes, who often have the highest need, may be left without. Moreover, tribes cannot count on funding continuing beyond the current grant period, and Indian Country has countless stories of successful programs disappearing at the end of a two or three year grant cycle.

The approach instead should be to utilize Justice Department appropriations as base funding where tribes are encouraged to determine their own priorities. The Administration has proposed a seven percent tribal set-aside across Office of Justice Programs (OJP) programs for the past several years. While this is a welcome step in the right direction, the set-aside should also include DOJ grant funding outside of OJP and should be allocated as flexible base funding.

The co-chairs' to the "Attorney General's Advisory Committee on American Indian and Alaska Native Children Exposed to Violence" noted how witnesses testified to stories of critical tribal funding cut across sectors—housing, law enforcement, child welfare, juvenile justice, health care, and education—and how the lack of funding negatively impacts the children in those communities. Despite state and federal programs intended to address the needs of Native children and youth, the findings of the report underscored that grant-making systems are cumbersome and resources for tribes are extremely limited. Tribes must compete with one another for limited resources and the grant application process is subject to unrealistic time frames, overwhelming paperwork, and requirements that place impractical burdens on tribal communities.⁷

GOVERNMENT-WIDE

- Extend the current Promise Zone priority consideration to all Federal competitive grant programs in **all Federal agencies** and to **all Federal procurement opportunities**.
- The Promise Zone initiative is a "place-based" effort to target Federal assistance to local service providers in impoverished communities. The Promise Zone initiative is having a positive and lasting impact on tribal communities. Last year, the Choctaw Nation of Oklahoma was the first tribal community to be designated a Promise Zone. This year the Pine Ridge Reservation in South Dakota, by way of the Thunder Valley Community Development Corporation, was designated. At Choctaw, the Promise Zone initiative has helped to obtain federal funding from nation-wide competitive programs that are not focused on tribal communities (e.g., Internet access; work-force training). Unfortunately, not all Federal agencies have provided preference points for their competitive grant applications, and those Federal agencies that have provided preference points have done so only with a limited number of their competitive programs.
- To support and expand the benefit to tribal communities of the Promise Zone initiative, NCAI urges the expansion of Promise Zone preference point benefits to all competitive grant programs across all Federal agencies, and beyond that, to specifically authorize Promise Zone place-based preferences in procurement contracts with all Federal agencies. This will ensure that Native Americans living in both rural and urban Promise Zones have increased opportunities for employment, education, improved housing, and health care.