

United States Senate

WASHINGTON, DC 20510

September 29, 2009

Honorable Barack H. Obama
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President:

We write to request your FY2011 proposed budget to Congress strengthen tribal self-governance and support economic self-sufficiency. As you know, the federal Indian policy of tribal self-determination has been highly successful in improving the lives of many American Indians and Alaska Natives. The Indian Self-Determination Act and Education Assistance Act of 1975 (P.L. 93-638) allowed Indian tribes to take control over the welfare of their tribal citizens by managing the federal programs for the benefit of Indians, without diminishing the federal trust responsibility of the United States.

Today, under the P.L. 93-638 the Departments of the Interior and Health and Human Services have contracted with Indian tribes and tribal organizations across 35 states to administer \$2.3 billion in various programs that would otherwise be administered by the Government itself. Under these contracts tribes operate hospitals and clinics, administer welfare assistance programs, run police departments, and carry out a vast array of other governmental activities in such areas as education, housing and land and resource management – all of which the Government itself would be administering but for the award of these contracts.

P.L. 93-638 requires tribes be paid in full for the “contract support costs” which they incur to administer these contracts. These fixed overhead costs are annually established by the Government itself, primarily the Interior Department’s National Business Center. These costs cover such necessary contract expenses as the cost of federally-mandated annual audits and property and workers’ compensation insurance. When these costs are not paid, Tribes are compelled to divert resources by leaving positions vacant in the contracted programs serving their members in order to make up the difference.

To be clear, health care, law enforcement and other positions are not being filled because the Government is failing to pay full contract support costs. The Government would never underpay ordinary procurement contractors their agency-approved costs in running government contracts, and a different rule should not apply here. Indeed, in 2005 the Supreme Court reaffirmed the binding nature of the Government’s duty to pay tribal contract support costs under ISDA contracts.

The Indian Health Service recently reported an anticipated contract support shortfall for FY 2011 of \$159 million, and the BIA has informally estimated that its shortfall in FY2011 will be at least \$80 million. These contract obligations must at long last be paid, and employment under contracted programs serving Indian communities thereby restored.

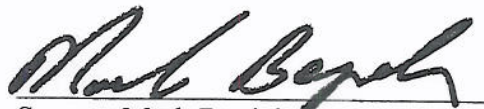
Additionally, the Bureau of Indian Affairs fulfills its goal of Indian self-determination through the Tribal Priority Allocation (TPA) account within its budget, which is the primary source of funding for many tribal governments. The Tribal Priority Allocation provides tribal governments with the flexibility to respond to the urgent and changing needs of their tribal citizens. Without appropriate TPA support, the promise of Indian self-determination cannot be fulfilled.

In closing, we appreciate your FY2010 proposed budget increase for contract support costs. We strongly encourage appropriate sums, to strengthen tribal self-governance and support economic self-sufficiency, be designated in your FY2011 budget proposal to Congress.

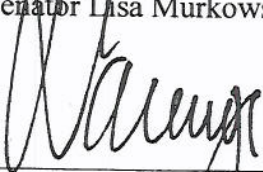
Sincerely,



Senator Lisa Murkowski



Senator Mark Begich



Senator Daniel Inouye



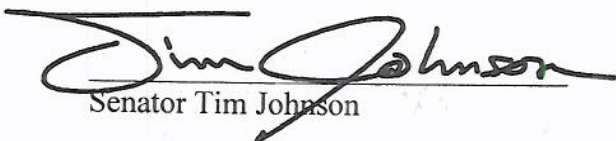
Senator Tom Udall



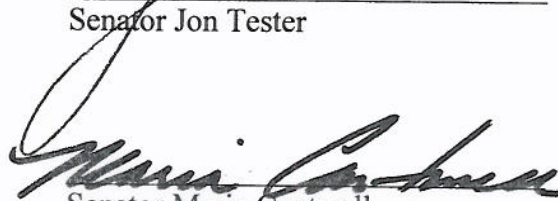
Senator Max Baucus



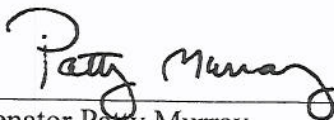
Senator Jon Tester



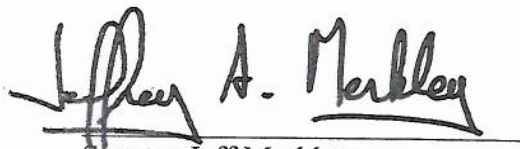
Senator Tim Johnson



Senator Maria Cantwell



Senator Patty Murray



Senator Jeff Merkley