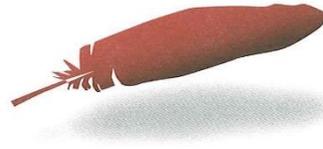


National Indian Health Board



National Indian Health Board Resolution 20 - 02

Strongly Opposing Any Proposal or Policy to Waive or Erode Indian Preference Laws

WHEREAS, the National Indian Health Board (NIHB), established in 1972, serving all Federally recognized American Indian/Alaska Native (AI/AN) Tribal governments by advocating for the improvement of health care delivery to AI/ANs, as well as upholding the Federal government's trust responsibility to AI/AN Tribal governments, does hereby establish and submit the following resolution; and

WHEREAS, the federal government has assumed trust obligations to AI/AN Tribes and Peoples in perpetuity for health care, education, public safety, land management, and other services established through over 300 Treaties signed between sovereign Tribal Nations and the United States that are further enshrined in the U.S. Constitution, Supreme Court case law, federal legislation and regulations, and presidential executive orders; and

WHEREAS, AI/AN Tribes are inherently sovereign governments that retain the authority to enact and enforce laws and policies that clarify Indian preference in employment, training, contracting, subcontracting, business ventures, and so forth; and

WHEREAS, AI/AN Peoples have a unique legal and political status established in federal law and thus do not constitute a racial group or class; and

WHEREAS, numerous federal laws and judicial opinions clarify, substantiate, and strengthen Indian preference at both the federal and Tribal level including under the Indian Self-Determination and Education Assistance Act (P.L. 93-638), *Morton v. Mancari*, 417 U.S. 535, 554 (1974), and the Indian Health Care Improvement Act (P.L. 94-437), among other bodies of law; and

WHEREAS, Congress has further reinforced and given meaning to Indian preference laws such as by exempting Tribes and private employers located on or near Indian reservations from the requirements under Title VII of the Civil Rights Act of 1964 (P.L. 92-261); and

WHEREAS, the Indian Health Service is bound by federal laws and regulations to uphold Indian preference in employment and other areas; and

WHEREAS, the Indian Health Service included a proposal to waive Indian preference laws in certain instances in its Fiscal Year 2021 Congressional Justification in the total absence of direct government-to-government consultation with Tribal governments and without any prior notification to the Tribes; and

WHEREAS, Executive Order 13175, the Department of Health and Human Services Tribal Consultation Policy, and the Indian Health Service Tribal Consultation policy, require that all federal agencies, including Indian Health Service, engage in Tribal consultation prior to developing or issuing any proposals or policies that directly impact any provision of services to AI/AN Tribes; and

WHEREAS, Tribes and Tribal organizations remain committed to working with the Indian Health Service to eliminate chronic medical provider shortages, but vehemently oppose any approach that would weaken statutory requirements for Indian preference or that would pose any legal threat to the sovereignty of Tribal Nations or the unique legal and political status of AI/AN Peoples.

NOW THEREFORE BE IT RESOLVED, that the National Indian Health Board (NIHB) strongly opposes any proposal or policy to waive or erode Indian preference laws; and

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

CERTIFICATION

The foregoing resolution was adopted by the Board, with quorum present, on the 26th day of February, 2020.



Chairperson, Victoria Kitcheyan

ATTEST:



Secretary, Lisa Elgin