

# National Indian Health Board



## Resolution # 11 - 01

### Supporting Appropriations and Legislation to Meet the Contractual Obligations of the Indian Health Service to Pay Tribal Contract Support Costs

**WHEREAS**, the National Indian Health Board (NIHB), established in 1972, serves 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; and

**WHEREAS**, the Federal government of the United States has a unique and special relationship with AI/ANs to provide health care as established through the U.S. Constitution, Treaties with Indian Tribes, U.S. Supreme Court decisions and federal legislation; and

**WHEREAS**, the Federal government carries out its trust responsibility to provide health care and other Federal benefits through a government to government relationship with Indian Tribes through Consultation as established by Presidential Executive Order 13175; and

**WHEREAS**, the Indian Self-Determination and Education Assistance Act (ISDEAA), P.L. 93-638, 25 U.S.C. §450 et seq., requires the payment of fixed institutional overhead costs called "contract support costs" to tribal contractors that operate essential governmental functions of the Indian Health Service (IHS) under Titles I, III and V of the Act; and

**WHEREAS**, the payment of these costs is a legally binding governmental obligation, and is no less binding than the general and administrative costs commonly included in the price of many government procurement contracts; and

**WHEREAS**, virtually all Indian Tribes contract to operate one or more IHS functions, including public health, substance abuse programs, clinics, hospitals, and contract health benefit assistance and programs; and

**WHEREAS**, the government's current annual contract support cost shortfall projection exceeds \$120 million for fiscal year 2012, leaving nearly all Indian Tribes and tribal organizations under funded on their contract support cost requirements associated with their IHS contracts and compacts; and



**WHEREAS**, the recommendations of the National Tribal Budget Formulation Committee support fully funding CSC in their testimony provided in March 4, 2010 for fiscal year 2012 at a level of \$145 million including adjustments for inflationary costs; and

**WHEREAS**, since contract support costs are fixed costs, the underpayment of these costs by the government has forced most Tribes to divert program funding to cover the government's shortfalls, leading directly to the loss of medical provider service jobs across Indian country, and, in turn, the reduction in untold services to Indian people; and

**WHEREAS**, in March 2005 the United States Supreme Court ruled in the case of Cherokee Nation v. Leavitt that the government is legally and contractually required to pay contract support costs in full; and

**WHEREAS**, tribal self determination and self governance initiatives have been widely recognized as the single greatest contributor to improved health care in American Indian and Alaska Native communities, and the choice of Tribes to operate their own health care systems successfully depends critically upon the availability of contract support cost funding to cover fixed costs; and

**WHEREAS**, absent full funding, Tribes are forced to reduce direct service funding by leaving direct service positions vacant in order to cover the government's shortfall in required payments; and

**WHEREAS**, Tribes have long known the devastating and lingering effects on health disparity in comparison to the rest of the nation, based on the Federal Disparity Index, on average over half of the health needs of American Indian/Alaska Native beneficiaries remains unmet; and

**WHEREAS**, American Indian/Alaska Native beneficiaries continue to suffer the greatest prevalence, morbidity and mortality rates in diabetes, cancer, substance abuse, suicide, cardiovascular disease/stroke, traumatic injury, infant mortality and preventable disease processes including asthma and obesity; and

**WHEREAS**, President Obama and many leaders in Congress have committed on a bipartisan basis to support and advance Tribal Self-Determination and, consistent with that commitment, championed for fiscal years 2010 and 2011 unprecedented increases in contract support cost funding; and

**WHEREAS**, increased appropriations for contract support costs in fiscal year 2010 led to the retention and or restoration of good paying health care jobs, giving Tribes the ability to continue to address the continuing effects of significant disease burdens in our communities as appropriations for contract support costs are the only portion of the federal government's appropriation that go 100% directly to Tribes and their tribal organizations; and

**WHEREAS**, the institutional singling out of Indian Tribes, alone, among all other government contractors, for underpayment year after year continues to be a stain on the Nation's honor.

**NOW THEREFORE BE IT RESOLVED**, the National Indian Health Board requests that President Obama continue to make contract support costs a budget priority ; and

**THEREFORE BE IT RESOLVED**, that the National Indian Health Board requests President Obama commit to fully fund contract support costs and eliminate this contracting shortfall which adversely affects Tribal self-determination and self-governance initiatives to improve the health status of American Indian/ Alaska Natives; and

**BE IT FURTHER RESOLVED**, that the National Indian Health Board calls upon President Obama and Congress to finally close the gap in funding contract support cost requirements, and to hereafter prevent the recurrence shortfalls by annually budgeting in full for the contract support cost requirements that are associated with new or expanded IHS programs; and

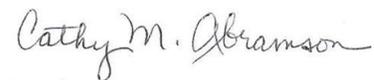
**BE IT FURTHER RESOLVED**, that the National Indian Health Board calls upon President Obama and Congress to support supplemental appropriations when the agencies project that existing appropriations will be insufficient to fully pay the contract support cost requirements of all tribal contracts, just as occurs with other government contractors; and

**BE IT FURTHER RESOLVED**, that the National Indian Health Board calls upon President Obama and Congress to promote Tribal opportunity and choice by restoring and funding meaningful Indian Self-Determination Funds for the IHS and by directing the IHS to undertake outreach across Indian country on the opportunities available to Indian Tribes under the ISDEAA, so that Indian Tribes are fully informed about their rights and options under this historic legislation; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of National Indian Health Board until it is withdrawn or modified by subsequent resolution.

#### **CERTIFICATION**

The foregoing resolution was adopted by the National Indian Health Board, with a quorum present, on the 17<sup>th</sup> day of January 2011.



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**Chairman Cathy Abramson**

**ATTEST:**

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Recording Secretary, Cynthia Manuel