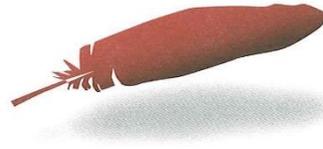


National Indian Health Board



National Indian Health Board Resolution 19 - 06

Resolution Calling on Congress to Establish an Indefinite Discretionary Appropriation for the Indian Health Service to Fund Section 105(l) Lease Obligations under the Indian Self-Determination and Education Assistance Act (ISDEAA)

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, Section 105(l) of the ISDEAA requires the Indian Health Service (IHS), upon Tribal request, to enter into a lease for a facility owned or leased by the Tribal Nation or organization and used to carry out its ISDEAA agreement; and

WHEREAS, as established in *Maniilaq Association v. Burwell* (2016), IHS must compensate the Tribal Nation or organization fully for its reasonable facility expenses under Section 105(l); and

WHEREAS, on July 10, 2018, IHS sent a Dear Tribal Leader Letter (DTLL) proposing to fund a \$13 million FY 2018 shortfall of Section 105(l) ISDEAA lease costs by reprogramming funding from IHS unallocated inflation increases; and

WHEREAS, on September 14, 2018, IHS sent a follow-up DTLL informing Tribal Nations that it had decided that in order to meet FY 2018 105(l) lease funding requirements it had reprogrammed \$25 million from the \$70.4 million increase identified for inflation; and

WHEREAS, on March 2, 2019, IHS issued an additional DTLL stating that:

- IHS has received 100 105(l) lease proposals from Tribal Nations and Tribal organizations, totaling approximately \$39 million for FY 2019; and
- In addition to an initial \$5 million that IHS identified in the base services appropriation, Congress provided IHS an increase of \$25 million for Tribal clinic operational costs in FY 2019; and
- Base IHS appropriation increases IHS's capacity to address the anticipated FY 2019 funding need, but full FY 2019 need remains unknown; and
- FY 2018 reprogramming was done on a one-time basis in the hopes that other options might become available in FY 2019; and

- Due to the continued need for resources beyond those identified for Tribal clinic operational costs in FY 2019, IHS is legally required to use a portion of the funds included in the IHS appropriation to fund 105(l) leases; and

WHEREAS, unless additional funding is provided in IHS appropriations, the additional funds required for 105(l) leases will come at the expense of the overall health program and result in cuts in services for both direct service and self-governance Tribes as 105(l) lease costs increase; and

WHEREAS, the National Tribal Budget Formulation Workgroup's Recommendations on the IHS Fiscal Year 2021 Budget include IHS taking adequate steps to fully address 105(l) leasing obligations while protecting other IHS programs for FY 2021 and to work proactively with Congress to ensure its full payment as an indefinite appropriation.

NOW THEREFORE BE IT RESOLVED, that the National Indian Health Board (NIHB) calls on Congress to establish an indefinite discretionary appropriation to fully fund Section 105(l) ISDEAA lease obligations to Tribal Nations and organizations as necessary; and

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

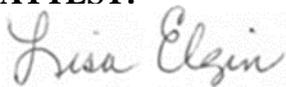
CERTIFICATION

The foregoing resolution was adopted by the Board, with quorum present, on the 15th day of September, 2019.



—
Chairperson, Victoria Kitcheyan

ATTEST:



Secretary, Lisa Elgin