

National Indian Health Board



National Indian Health Board Resolution 14 – 01

Support for the Proposal to Enact Permanent Mandatory Appropriations For Contract Support Costs Under the Indian Self-Determination and Education Assistance Act

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, Section 106(a) of the Indian Self-Determination and Education Assistance Act (ISDEAA) provides that tribes and tribal organizations entering into contracts to carry out programs and services pursuant to that Act are entitled to contract support costs (CSC) for the reasonable administrative and overhead costs of carrying out those programs and services; and

WHEREAS, in the last decade, the U.S. Supreme Court has twice held that the United States government's promise to pay full CSC under ISDEAA contracts is legally binding and enforceable, and that such liability is not affected by limits on the amounts of discretionary funding made available for payment of CSC; and

WHEREAS, as a binding legal obligation of the federal government that is governed by the criteria set forth in the ISDEAA, the right to full payment of CSC is an entitlement under substantive law and constitutes the type of obligation that is normally funded by the federal government on a mandatory basis; and

WHEREAS, CSC is currently funded on a discretionary basis, as part of the Bureau of Indian Affairs and Indian Health Service annual lump sum appropriations, which does not guarantee full funding and which for many years resulted in systemic underpayments of CSC, which in turn required tribes and tribal organizations across the country to reduce vital health and welfare programs and services to their members and beneficiaries, and has exposed the United States government to legal liability for breach of contract; and



WHEREAS, a permanent, indefinite appropriation in substantive law is needed to fully meet the funding requirements created by the ISDEAA CSC entitlement and to resolve the conflicts currently faced by the agencies as a result of the need to fund both CSC and substantive Indian programs with discretionary funds;

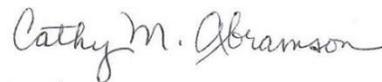
THEREFORE BE IT RESOLVED, that the Board of Directors of the National Indian Health Board believes that the United States government has a legal and a moral duty to fully fund CSC, a duty which requires reliable and sufficient appropriations every year, without exception, which are not paid for through cuts to Indian program budgets funded by the federal agencies; and

THEREFORE BE IT FURTHER RESOLVED, that the Board of Directors supports the Proposal to Enact Permanent Mandatory Appropriations for Contract Support Costs Under the Indian Self-Determination and Education Assistance Act, which puts forward a proposal to enact a permanent, indefinite appropriation for CSC and to exempt CSC funding from sequestration; and

THEREFORE BE IT FURTHER RESOLVED, that the Board of Directors urges the Bureau of Indian Affairs, the Indian Health Service, the Office of Management and Budget, and the United States Congress to work to enact a permanent, indefinite appropriation for CSC in substantive law as soon as possible to finally address the longstanding problems arising from the federal government's past treatment of CSC funding as discretionary.

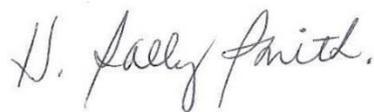
CERTIFICATION

The foregoing resolution was adopted by the Board, with quorum present, on the 12th day of May, 2014.



Chairperson, Cathy Abramson

ATTEST:



Secretary, H. Sally Smith