



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians
Resolution #REN-13-015

TITLE: Requesting that the Administration Resolve Contract Support Costs Claims, Withdraw Its Proposal to Limit Contract Support Costs in Its FY 2014 Budget, and Support Full Contract Support Costs Funding

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the Indian Self Determination and Education Assistance Act (ISDEAA) states that the United States is obligated to support Indian self-determination, and the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS) often state they are similarly committed to this goal; and

WHEREAS, Congress finds that contracts and compacts under the Indian Self-Determination and Self-Governance programs are an effective means of implementing the Federal policy of government-to-government relations that strengthen the policy of Indian self-determination; and

WHEREAS, in recognition of their trust responsibility to Tribes, the IHS and the BIA enter into such contracts and compacts to promote self-determination and to better serve American Indians and Alaska Native peoples; and

WHEREAS, despite this responsibility, the IHS and BIA fail every year to request full funding for contract support costs (CSC) that enable Tribal contractors to fully carry out their contract responsibilities, and each year Congress fails to appropriate the full amount of CSC owed to Tribal contractors; and

WHEREAS, the U.S. Supreme Court held in *Salazar v. Ramah Navajo Chapter* that the federal government is responsible for paying all CSC owed to Tribal contractors, even if Congress does not appropriate enough funding to cover the full amount of CSC owed to all contractors; and

WHEREAS, as a result of this decision, Tribal contractors have presented their claims for full CSC funding from past years to the government; and

WHEREAS, instead of requesting full funding for CSC in its FY 2014 budget to prevent similar claims going forward, the Administration submitted a proposal to cap CSC funding on a contractor-by-contractor basis that will prevent Tribes from filing Contract Disputes Act claims or otherwise recovering the full amount of CSC owed; and

WHEREAS, IHS and BIA CSC underpayments force reductions in program and activities serving tribal members; and

WHEREAS, the Administration developed this proposal in secret, and has submitted this unjust plan to Congress without any consultation with Tribes, in violation of its own stated policies and executive orders; and

WHEREAS, Indian Tribes have been unanimous and adamant in their opposition to the proposal to cap CSC funding or to eliminate a contractor's right to recovery; and,

WHEREAS, in December 2010 the United States recognized the rights of its First Peoples through its support of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), whose provisions and principles support and promote the purposes of this resolution.

NOW THEREFORE BE IT RESOLVED, that NCAI calls upon the Administration, the Bureau of Indian Affairs, and the Indian Health Service to move swiftly to settle or otherwise resolve all outstanding contract support costs claims from prior years; and,

BE IT FURTHER RESOLVED, that NCAI calls upon the Administration, the Bureau of Indian Affairs, and the Indian Health Service to formally withdraw or abandon the Administration's FY 2014 budget proposal regarding contract support costs owed to Tribal contractors, and to communicate the same to the Budget and Appropriations Committees of the U.S. Congress; and,

BE IT FURTHER RESOLVED, that NCAI calls upon Congress to reject any proposal to cut off the right of Tribes and tribal organization contracting and compacting under the ISDEAA to be paid their full CSC requirements, including the right to secure appropriate compensation for any contract underpayments as specified in Section 110 of the ISDEAA; and

BE IT FURTHER RESOLVED, that NCAI calls upon the Administration, the Bureau of Indian Affairs, and the Indian Health Service to propose full funding for contract support costs in FY 2014 and each year thereafter, and to communicate the same to the Budget and Appropriations Committees of the U.S. Congress; and

BE IT FURTHER RESOLVED, that the IHS and the BIA should jointly convene each agency's CSC workgroup for the purpose of exploring potential reforms and improvements; and

BE IT FURTHER RESOLVED, that the IHS and the BIA should work with each agency's CSC working group to improve the accuracy of CSC calculations, including the accuracy of data set forth in the agencies' annual CSC shortfall reports; and

BE IT FURTHER RESOLVED, that the Administration should undertake a comprehensive, open, inclusive and transparent consultation process with Indian Country before advancing any proposal that would diminish tribal rights secured by Congress in the ISDEAA; and

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

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2013 Midyear Session of the National Congress of American Indians, held at the Atlantis Casino from June 24 - 27, 2013 in Reno, Nevada with a quorum present.



President

ATTEST:



Recording Secretary