

CONTRACT SUPPORT COSTS IN THE FY 2011 BUDGET

The President and Congress have committed to support and advance tribal self-determination and self-governance for the Nation's 550 Native American Tribes. Consistent with that commitment, in the FY 2010 Budget President Obama successfully championed an unprecedented increase in CSC funding to pay legal debts owed Tribes under their contracts with the Government. To complete the process of honoring contracts awarded under the 1975 Indian Self-Determination Act, the FY 2011 Budget should include increases of \$140,000,000 in the Indian Health Service account and \$68,000,000 in the Bureau of Indian Affairs account to pay full "contract support costs." Alternatively, a plan should be developed to pay down the persistent shortfall within 3 (IHS) or 2 (BIA) years, with higher amounts allocated in the first year to stimulate jobs in Indian country. For the future, program increases should be accompanied by CSC impact statements. 2011 increases should be forward-funded in the Jobs Bill.

No single initiative in America's history has had a more profoundly positive effect on strengthening Native American governments and communities than the Indian Self-Determination Act. Today over \$2.3 billion in essential governmental programs previously controlled by the IHS and BIA are annually transferred to tribal governments through ISDA contracts. Using contract funds and Medicare and Medicaid revenues from contracted clinics and hospitals, tribal governments and their inter-tribal organizations employ 35,000 people in tribally-operated police departments, schools, clinics, hospitals, child care, housing assistance, employment and education programs.

ISDA operations are fully transparent because tribal contractors must undergo annual independent and certified audits. DOI and DHHS use these audits to calculate the fixed contract support costs that Tribes are authorized to incur to manage their contracts each year (primarily by assignment of an indirect cost rate). DOI and DHHS then use future audits to verify those costs and make adjustments. By OMB circulars, all agencies must honor these indirect cost rates. But, the IHS and BIA have not done so due to insufficient contract support cost appropriations. This has occurred even though the ISDA mandates that each Secretary "shall add to the contract the full amount to which the contractor is entitled" (25 U.S.C. 450j-1(g)), including full contract support costs.

Since tribal contract support costs are fixed (i.e., workers compensation insurance, audit costs, etc.), when the IHS and BIA fail to pay these fixed costs in full, Indian Tribes must make up the difference through staffing and service reductions. CSC shortfalls mean lost jobs. Further, limiting CSC payments disproportionately impacts the tribally-operated portion of the IHS and BIA systems.

Fully paying contract support costs in FY 2011 will (1) carry forward the President's and Congress's commitment to strengthening tribal self-determination; (2) permit the IHS and BIA to meet their legal duty to pay these costs; (3) immediately produce 2,260 jobs in Indian country through existing contracts (and another 2,000 health care jobs funded through Medicare, Medicaid and private insurance receipts generated from these increased services); (4) enhance health care, law enforcement, education, housing assistance and other social services; (5) end the current status where contracts with Indian Tribes, alone out of all government contracts, are consistently underpaid; and (6) conform with the Supreme Court's 2005 Cherokee Nation decision holding payment of full contract support costs to be an enforceable contract obligation.