

# Self-Governance

## --THE RED BOOK--

*"A New Partnership"*



Updated September 2006

Brought to you by  
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**\*\*\*\*Special Note\*\*\*\***

*(Due to unknown political outcomes at the time of publication the following sections are still awaiting updates to come in 2007)*

- **Trust Responsibility and Compacts of Self-Governance of Part 1**
- **Trust Evaluation Guidelines (Appendix E)**
- **Trust Evaluation Appendix A (Page A-5)**

Please email our office at [darrenj@tribalseifgov.org](mailto:darrenj@tribalseifgov.org) to receive Red Book updates as they become available.  
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## PART I - THE HISTORY AND GOALS OF TRIBAL SELF-GOVERNANCE

PREFACE .....	1
SIX TRIBAL LEADER LETTER .....	4
GOALS OF TRIBAL SELF-GOVERNANCE.....	7
OVERVIEW OF THE EXECUTIVE AND LEGISLATIVE FUNCTIONS OF THE FEDERAL GOVERNMENT .....	8
FEDERAL AND TRIBAL GOVERNMENT STRUCTURE FOR SELF-GOVERNANCE IMPLEMENTATION.....	9
<i>Federal Self-Governance Structure.....</i>	<i>11</i>
<i>Tribal Self-Governance Structures.....</i>	<i>12</i>
<i>Legislative Action Leading to Permanent Self-Governance Legislation.....</i>	<i>13</i>
<i>Bills Leading Up to Permanent Legislation .....</i>	<i>14</i>
<i>United States Governmental Structure .....</i>	<i>15</i>
<i>Department of the Interior Structure.....</i>	<i>16</i>
<i>Bureau of Indian Affairs Structure .....</i>	<i>17</i>
<i>Department of Health and Human Services Structure .....</i>	<i>18</i>
<i>Indian Health Service Structure .....</i>	<i>19</i>
HISTORY OF THE TRIBAL SELF-GOVERNANCE INITIATIVE .....	21
<i>P.L. 93-638, Title I.....</i>	<i>21</i>
<i>P.L. 100-472 Indian Self-Determination Act Amendments of 1988 - Title II &amp; III .....</i>	<i>22</i>
<i>P.L. 102-184: Tribal Self-Governance Demonstration Project Act (December 1991) .....</i>	<i>24</i>
<i>P.L. 103-413.....</i>	<i>25</i>
<i>P.L. 103-472 - Technical Amendments Act of 1994 .....</i>	<i>26</i>
<i>Evolution Chart of Self-Governance .....</i>	<i>27</i>
FUTURE OF SELF-GOVERNANCE .....	28
PLANNING, NEGOTIATIONS AND IMPLEMENTATION.....	31
<i>Planning .....</i>	<i>31</i>
<i>Tribal Planning Chart in Preparation or Self-Governance .....</i>	<i>32</i>
<i>Negotiations .....</i>	<i>33</i>
<i>Implementation.....</i>	<i>36</i>
<i>Congressional and Compact Restrictions on Expenditures .....</i>	<i>36</i>
<i>Tribal Budgeting Process.....</i>	<i>37</i>
<i>Regulation Waiver Opportunities Available.....</i>	<i>37</i>
<i>Baseline Measures Report.....</i>	<i>38</i>
<i>Independent Annual Assessment Initiated .....</i>	<i>38</i>
<i>Few Implementation Guidelines Available .....</i>	<i>39</i>
<i>Basic Differences Between Self-Determination and Self-Governance .....</i>	<i>39</i>
<i>Comparison of Financial Resource Allocations and Program Management Flexibility .....</i>	<i>40</i>
<i>Comparison of Federal to Tribal Financial Transfer Process.....</i>	<i>41</i>
<i>Comparison of Tribal Decision Making Authority.....</i>	<i>42</i>
THE TRUST RESPONSIBILITY AND COMPACTS OF SELF-GOVERNANCE.....	43
<i>The Trust Language .....</i>	<i>43</i>
<i>What is the Trust Relationship .....</i>	<i>44</i>
<i>Protecting the Trust - Holding the United States Responsible .....</i>	<i>44</i>
<i>The Trust in Non-Property Areas.....</i>	<i>45</i>
<i>The Trust in Self-Governance Compacts.....</i>	<i>46</i>

## PART II - THE COORDINATOR'S MANUAL

THE TRIBAL SELF-GOVERNANCE INITIATIVE .....	49
<i>Introduction.....</i>	<i>49</i>
<i>Planning .....</i>	<i>49</i>
<i>Legislative Requirements .....</i>	<i>50</i>
<i>Initial Contacts.....</i>	<i>50</i>
<i>Internal Reorganization .....</i>	<i>51</i>
<i>Tribal Budget Process.....</i>	<i>53</i>
NEGOTIATIONS.....	56

<i>Introduction</i> .....	56
<i>Required Documents</i> .....	56
<i>Steps for Determining Tribal Shares in the Negotiation Process</i> .....	57
<i>Identify Each Program and Budget Amount</i> .....	57
<i>Identify Residual Amount</i> .....	59
<i>Determine Tribal Share Distribution Formula</i> .....	59
<i>Tribe Determines Which Programs to Compact Under Self-Governance</i> .....	60
<i>Negotiation Issues</i> .....	60
<i>Shortfall/Supplemental Funding</i> .....	61
<i>Timetable to Complete Negotiations</i> .....	63
IMPLEMENTATION.....	65
<i>Post Negotiations, Tracking of Fund Distribution</i> .....	65
<i>Redesign of Programs</i> .....	65
<i>Regulatory Framework</i> .....	66
<i>Reporting</i> .....	67
<i>Baseline Measures</i> .....	67
<i>Self-Governance Annual Assessment Report</i> .....	67
<i>Non-BIA Program Report</i> .....	69
<i>Trust Evaluation, Annual Assessments</i> .....	69
<i>Internal Reporting</i> .....	69
<i>Annual Report</i> .....	70
<i>Internal Education, Coordination and Review</i> .....	70
<i>Review of Annual Funding Agreements Programs (Assumption, Re-Design, Operation)</i> .....	71
<i>Internal Evaluation</i> .....	71
<i>Basic Performance Evaluation Concepts</i> .....	71
<i>Conclusions</i> .....	71
COMMUNICATION AND EDUCATION PROJECT .....	73
TRIBAL SUCCESS STORIES .....	76

## APPENDIX

### Appendix A

PERMANENT LEGISLATION NEW KEY AUTHORITIES .....	A-1
<i>Negotiated Rulemaking</i> .....	A-1
<i>Non-BIA Programs Eligible for Compacts</i> .....	A-3
<i>Central Office Shares</i> .....	A-3
TRUST EVALUATIONS .....	A-5
<i>Map of Self-Governance Tribes</i> .....	A-8
<i>Current Self-Governance Tribes</i> .....	A-10

### Appendix B - The Laws

<i>Public Law 93-638 93rd Congress, S.1017, January 4, 1975</i> .....	B-1
<i>Title III, P.L. 93-638 as amended by: P.L. 100-472</i> .....	B-16
<i>Public Law 100-472 -- October 5, 1988</i> .....	B-19
<i>Public Law 101-644 104 Stat. 4662 Act of 11/29/90; H.R. 2006</i> .....	B-25
<i>Public Law 102-184 Approved December 4, 1991: H.R. 3394</i> .....	B-36
<i>Public Law 103-413, October 25, 1994 Indian Self-Determination Act</i> <i>Amendments of 1994: HR 4842</i> .....	B-38

### Appendix C - Sample Documents

<i>BIA XYZ Compact Revised, February 16, 1995</i> .....	C-1
---	-----

<i>BIA XYZ Compact with Amendments, May 12, 1995</i> .....	<i>C-17</i>
<i>IHS XYZ Annual Funding Agreement, May 17, 1995</i> .....	<i>C-38</i>
<i>Resolution of the XYZ Tribe</i> .....	<i>C-46</i>
<i>Budget Ordinance of the XYZ Tribe</i> .....	<i>C-48</i>
<i>Program Progress Report of the XYZ Tribe</i> .....	<i>C-59</i>

## **Appendix D - Sample Job Descriptions**

<i>Self-Governance Demonstration Project Coordinator</i> .....	<i>D-1</i>
<i>Self-Governance Demonstration Project Administrative Assistant</i> .....	<i>D-2</i>
<i>Self-Governance Budget Analyst</i> .....	<i>D-5</i>
<i>Health Planner</i> .....	<i>D-7</i>
<i>Life Center Director</i> .....	<i>D-9</i>
<i>Clinic Director</i> .....	<i>D-11</i>

## **Appendix E - Work Groups**

<i>Report from the Interior Program Workgroup to the SG Tribal Leaders</i> .....	<i>E-1</i>
<i>Final Draft Non-BIA Programs Tribal Work Group</i> .....	<i>E-6</i>
<i>Final Draft SG Pre-Negotiations Process for Department of the Interior Programs</i> .....	<i>E-8</i>
<i>Final Draft Post Negotiations Process for Department of the Interior Programs</i> .....	<i>E-10</i>
<i>Final Draft Dispute Resolution Process</i> .....	<i>E-12</i>
<i>Final Draft P.L. 103-413 Tribal Self-Governance Act of 1994 SG DOI Programs</i>	
<i>Measurement Criteria</i> .....	<i>E-13</i>
<i>IHS Baseline Measures Workgroup</i> .....	<i>E-19</i>
<i>Draft for Consultation Purposes</i> .....	<i>E-22</i>
<i>Pooled Overhead</i> .....	<i>E-30</i>
<i>Trust Evaluation Guidelines (Draft) May 15, 1995</i> .....	<i>E-32</i>



# Part I

## *The History and Goals of Tribal Self- Governance*



Part I

*The History and  
Goals of Tribal Self-  
Governance*



## **Preface**

We, as Tribal societies, lived and prospered in our natural environment for thousands of years. Since our first contact with Europeans, bureaucracies in one form or another have dramatically influenced, changed and manipulated the lives of all Native Americans.

In a few short centuries, we have been transformed from self-sufficient, prosperous, tribal communities and governments into communities struggling to survive in the, now dominant, Non-Indian society. Through exposure to European diseases, our populations were diminished to near-extinction. Most of our lands and natural resources were lost through treaties, and acts of Congress. The lands and resources remaining in Indian ownership were mismanaged by bureaucratic incompetency. Our traditional economies were destroyed by colonial invasion, disrupting the natural balance of tribal trade and sustenance. Our self-sustaining governments were rendered near useless as the federal government exerted control over Indian Affairs. Our land bases were devastated by termination policies. Many extended family units became dysfunctional as our children were taken from their homes and placed in far away boarding schools. Tribal societies rapidly deteriorated as our people were forbidden to practice their religions, speak their native languages and maintain their cultures.

Yet, despite all this we have proven we can survive. Now, the Tribal Self-Governance initiative has given us resolve not only to survive, but the opportunity to once again become self-sufficient, self-determining and self-governing societies.

The Tribal Self-Governance Demonstration Project initiated this opportunity in 1988. The Permanent Self-Governance Legislation, P.L. 103-413 [*appendix B-39*] passed on October 25, 1994, now makes this opportunity a permanent reality for many Tribes. We have opened the doors that lead to a new Indian affairs agenda---one in which tribes can re-establish and re-affirm the formal government-to-government relationship between tribal governments and the U.S. Government. This relationship is critical and inherent in the treaties between our governments.

Self-governance is a fundamental right that Indian Nations practiced for thousands of years before the formation of the United States. We are regaining authority and control over our own affairs, to carry out our tribal governmental responsibilities for our people---

economically, socially, politically and culturally. Only then will true Self-Determination and self-sufficiency of the Indian Nations and the trust responsibility of the United States become realities, not simply empty bureaucratic promises.

The Self-Governance: A New Partnership describes the fundamental principles of Tribal Sovereignty. Each Tribe determines its own path, whether through Self-Governance, Self-Determination, or some other means. The purpose of this edition is not to determine what path an individual Tribe will take - that decision belongs to the individual Tribe. This edition simply shares Tribal experiences and information gathered in the Self-Governance process that may help Tribes in their paths for the future.

This book was compiled by six of the Self-Governance Tribes listed in the Tribal Leaders letter, and is divided into two Parts. It evolved from a combination of the Self-Governance Communication/Education materials known as the "Red Book" and the "Blue Book". It incorporates new and updated information and materials. We have identified this book as "The New Partnership", and have compiled it in notebook format to accommodate any future changes.

Part I - is the General Background of the Self-Governance Project, and includes the History and Goals of the Project.

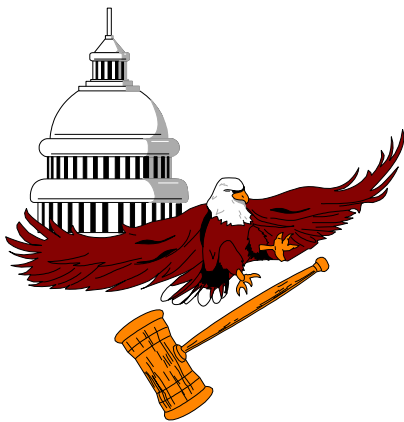
Part II - is the Coordinator's Manual, consisting of Planning, Negotiations and Implementation issues. Part II is designed primarily for internal use by Self-Governance Coordinators or Tribal Administrators.

Two additional sections have been added: One Section - Self-Governance Success Stories. The second section provides a separate discussion of the purpose and role of the Communication/Education Project. These sections which are provided as Appendices are self-explanatory and serve as examples of existing documents that have been utilized successfully throughout the Demonstration Phase of Self-Governance.



Statement by Honorable John McCain, U.S. Senator for Arizona, Vice Chairman to the Senate Select Committee on Indian Affairs on the “Tribal Self-Governance Demonstration Project,” S.1287, July 18, 1992:

*“Indian Self-Determination is what we have been aiming toward...I don’t think there’s any doubt that if we expect Indian Tribes to be economically viable, we have to give them the ability to govern themselves and the ability to dispense their own funds in the best manner in which they see fit. I see a very bright future for this. I would like to see it expanded, and I would like to see the day when every Indian Tribe in America is able to truly govern itself, which they can only do through dispensation of their own tribal funds in whatever manner they see as being best for their own people, through the functioning of the tribal government.*



## **“Self-Governance - A New Partnership”**

Dear Reader:

Our six Indian Nations: Jamestown S’Klallam, Hoopa Valley, Lummi Nation, Mille Lacs Band of Ojibwe, Quinault and Sac & Fox, describe in this booklet the history, purpose and progress of Self-Governance. We are providing this information in order to enhance understanding of Self-Governance, itself, as well as the reasoning and aspirations behind this historic Tribally-driven initiative.

Self-Governance is fundamentally designed to provide Tribal governments with control and decision-making authority over the Federal financial resources provided for the benefit of Indian people. More importantly, Self-Governance fosters the shaping of a “new partnership” between Indian Tribes and the United States in their government-to-government relationships. Self-Governance provides, administratively, the opportunity for Tribal governments to exercise their sovereignty with minimal Federal intrusion and involvement.

All our Tribal societies enjoyed self-sufficient existence for thousands of years prior to western European exploration and colonization of this continent. Our cultures provided the basic democratic philosophies embodied in the United States Constitution. Our valuable resources changed European civilization. Through the course of dealing with the United States, often through formal treaties, we relinquished ownership to millions of acres of land, containing invaluable natural resources. In exchange, the United States was to protect our reserved lands, rights, and resources as well as provide services to Indian people.

Self-sufficiency was replaced as the United States through its Congress, Courts, and particularly the Federal bureaucracy transformed, sometimes, brutally, independent Tribal status into Tribal dependency. Over generations of Federal dominance and control, even some Indian people began to believe in this imposed dependency. Yet, through all the injustice and hardships, we survived and the voices of Tribal leaders and spiritual elders in each generation reminded us of our rightful roles and authorities as Self-Governing Indian Nations.

Self-Governance returns decision-making authority and management responsibilities to Tribes. Self-Governance is about change through the transfer of Federal funding available for programs, services, functions, and activities to Tribal control. Tribes are accountable to their own people for resource management, service delivery, and development.

As this booklet explains, Self-Governance is not the “termination” of the Federal-Indian relationship: Safeguards protecting the trust responsibility of the United States to Indian Tribes and people, including our sacred treaties, are contained in the enabling legislation, as well as in each negotiated Compact of Self-Governance. Self-Governance does not solve all problems, particularly the problem of unmet needs or inadequate funding, but it does allow Tribal Governments to develop their own solutions.

Self-Governance is an evolving approach directed by participating Tribes in cooperation with the U.S. Congress and the Executive Branch. Each Tribal government by virtue of its own culture, tradition, and political philosophy will determine its relationship with the United States, a relationship that may include either direct Federal service delivery, Self-Determination

contracts, Self-Governance Compacts, or some combination of these options. When these individual Tribal decisions are made regarding the desired relationship with the United States, taken as a whole, they will cause organizational and functional changes in the Federal Indian service bureaucracy. Hopefully, over time this redefinition of roles and responsibilities will strengthen the efforts of the "new partnership" in the government-to-government relationship and will serve to meet the Trust and other obligations of the United States to Indian Tribes and people.

When Self-Governance is the option that a Tribe chooses in establishing its individual relationship with the United States, it provides the Tribe, through its elected Council, the opportunity to determine the control and authority that the Tribe wishes to assume in the protection and advancement of the Tribe's cultural, economic and political realities. This exercise of sovereign powers requires decisions and actions. Tribal Government in Self-Governance, by definition, is required to be pro-active. As such, the principals and practices of Self-Governance are inseparable from Tribal sovereignty.

In recent years, national Indian Affairs, managed and dominated by Federal bureaucracies, have been shaken by revelations of gross mismanagement uncovered by the news media or Congressional investigations. Legislative and administrative solutions ranging from "New Federalism" to bureaucratic reorganization are under review. Active Tribal government involvement in this review and the allied decision-making process is essential. Tribes must have the strongest possible role in the decisions that affect our relationship with the United States and with the realities of our local communities. Decisions cannot again be imposed on us. Self-Governance offers a Tribally-determined approach during this period of confusion, uncertainty, and change. Self-Governance allows us to be pro-Tribal and not merely passive observers of the problems experienced by the Federal Indian Affairs bureaucracy.

We urge those of you involved in the development and implementation of American Indian policy to give serious consideration to the Self-Governance concept. Communication between the Tribes is essential. Assisting others to understand this historic Self-Governance initiative and its potential is of critical importance to us.

Our Best Regards,

*Dale Risling, Chairman  
Hoopa Valley Tribe*

*W. Ron Allen, Chairman  
Jamestown S'Klallam Tribe*

*Henry M. Cagey, Chairman  
Lummi Indian Nation*

*Marge Anderson, Chair  
Mille Lacs Band of Ojibwe*

*Pearl Capoeman-Baller, President  
Quinault Indian Nation*

*Elmer Manatowa, Chief  
Sac & Fox Nation*

*I have no way of knowing what the outcome will be. It may be a great success, or it may fail. But as the vice chairman indicated, why not try? If we maintain the status quo and insist upon it, that is where we will be; right here. I think it is about time that we took bold steps, and in taking these steps we may fail. But that is the way we learn."*

Senator Daniel K. Inouye, Chairman  
Senate Select Committee on Indian Affairs  
February 18, 1988





## **Goals of Tribal Self-Governance**

Tribal Self-Governance, throughout the Demonstration Phase in the both Bureau of Indian Affairs and Indian Health Service and into permanency in the Department of the Interior, has created opportunities for Tribes to exercise their inherent self-governing powers through greater control over Tribal affairs and enhanced Tribal governmental responsibilities.

The goals of Self-Governance are to:

- Formalize relations between the United States and Indian Tribes on a government-to-government basis as provided for in the United States Constitution
- Downsize the Bureau of Indian Affairs and Indian Health Service to be compatible with its new role
- Recognize American Indian Tribes' right to determine internal priorities, redesign and create new Tribal programs and reallocate financial resources to more effectively and efficiently meet the needs of their Tribal communities;
- Promote greater social, economic, political, cultural stability and self-sufficiency among Indian Tribes by better utilizing the resources obligated in treaties, executive orders, and acts of congress;
- Establish better fiscal accountability through expanded Tribal Governmental decision-making authority;
- Institute administrative cost-efficiencies between Tribal governments and the United States through reduced bureaucratic burdens and streamlined decision-making processes; and,
- Change the role of the Federal departments and agencies serving Indian Tribes by shifting their responsibilities from day-to-day management of Tribal affairs to that of protectors and advocates of Tribal interests.

## ***Overview of the Executive and Legislative Functions of the Federal Government***

P.L. 103-413 [Appendix B-39] "The Self-Governance Act of 1994" was developed by the U.S. Congress, Indian Tribes and Administration officials, and signed into law by the President of the United States on October 25, 1994. The Federal legislative and administrative processes are critically important to the future development of Federal Indian Policy.

It is incumbent that every participating Self-Governance Tribe understand the executive and legislative functions and processes of the Federal Government. Additionally, it is helpful to Tribes to comprehend the Federal judicial functions and how they can affect the application and implementation of Federal Indian policies.

A general overview of the Federal executive, legislative and judicial processes are included in the appendix of this booklet, with special emphasis placed on the legislative and executive functions. It is our hope that this information will assist Indian Tribes to better understand how these activities are carried out by the U.S. Government. We are hopeful that this information will stimulate interest and discussion among Tribal leaders and Self-Governance personnel. As Indian Nations, we need to collectively influence Federal Indian Policy and change the Federal Government's tendencies to control the destiny of Indian Tribes across the Nation to one of a true government-to-government relationship.

***Federal and Tribal Government Structure for Self-Governance Implementation***

Self-Governance is premised on the government-to-government relationship that exists between American Indian and Alaska Native Tribes and the United States as sovereign nations. Indian Tribes have always been recognized as independent sovereign nations with authority to conduct their affairs in their territories under their inherent powers.

The drafters of the U.S. Constitution recognized the independent sovereignty of Indian Tribes. Article II, Section 2, Clause 3, provided exclusive Treaties between Indian Tribes and the United States. Treaties between Indian Tribes and the United States were a primary means of dealing with a broad spectrum of rights, obligations and responsibilities that were to be recognized, protected and respected by the United States and the signatory Tribes. Included in these rights, but not limited to, were numerous services and benefits which were to be provided by the United States to the Tribes and their members in exchange for the tribal cession of millions of acres of lands and resources to the United States. Today, services and benefits are the continuing obligation owed by the United States to Tribes.

It is well recognized that the United States' responsibilities and obligations to Tribes are binding on every department and agency of the Federal Government. Over time, the United States created specific agencies to administer and oversee the delivery of these responsibilities and obligations, such as the Bureau of Indian Affairs (BIA) in the Department of the Interior (DOI) and the Indian Health Service (IHS) within the Department of Health and Human Services (DHHS). The BIA and IHS, as well as other Federal agencies and departments, have created governmental structures to manage their own affairs as well as the delivery of services to Indian Tribes.

In many program areas, Indian Tribes have developed internal structures and gained expertise that exceed the abilities and expertise of the United States when carrying out the Federal responsibilities and obligations to Indian Tribes. In recent decades, Tribes have become aggressive in asserting their authorities and expertise regarding how the federal services and obligations are prioritized, funded and delivered by the United States as well as how those services, programs, functions, activities and resources are managed by the United States.

Self-Governance legislation mandates Federal departments and agencies to transfer federally administered programs, services, functions, and activities, or portions thereof, to Self-Governance Tribes. Self-Governance has resulted in establishing a "new partnership" between Tribal governments and the Federal Government, a process similar to used to negotiate agreements, including treaties, between Indian Tribes and the United States.

To implement Self-Governance, both the Federal Government and Tribes have developed internal Self-Governance structures. Self-Governance has both revitalized this historic relationship between Tribes and the United States as well as providing new responsibilities to each party.

Both the Federal agencies and Tribal Governments have had to review their historic roles in the government-to-government relationship and, in many areas, each developed plans to restructure, reorganize, or develop new internal procedures and/or governmental structure in order to implement Self-Governance.

It should be noted that Indian Tribes do not need Self-Governance in law simply to administer existing federal programs; pre-existing law allows Tribes to assume and operate federally-designed programs, services, functions, and activities. Self-Governance is designed to provide Tribes with the flexibility to re-design and re-prioritize federal programs and to reallocate federally-appropriated funds to programs that best meet Tribal priorities. In areas where Federal concerns must be considered along with Tribal priorities, such as non-BIA Interior programs, mutually acceptable specific agreements will need to be developed, between the Self-Governance Tribe and United States.

In implementing the Tribal Self-Governance legislation, both Indian Tribes and the United States are responsible for executing their respective parts of negotiated agreements. The effectiveness of carrying out these programs, services, functions and activities, or portions thereof, is dependent on the structures that are developed and maintained to fulfill these responsibilities.



## **Federal Self-Governance Structure**

Prior to Fiscal Year 1996, Self-Governance had only been directly applied to the BIA and IHS. Beginning in FY 1996, P.L. 103-413 [*Appendix B-39*], Title II, provides for participation of all non-BIA Department of the Interior programs participate in Self-Governance and the establishment of programmatic targets to transfer programs to Indian Tribes.

To implement the demonstration phase of Self-Governance within the Department of the Interior, the Secretary of the Interior has established an Office of Self-Governance (OSG) within the Office of the Secretary. For convenience purposes, however, the OSG has functioned under the authority of the Assistant Secretary of Indian Affairs. Only BIA funds (and other program funds that passed through the BIA) had been included in Self-Governance negotiated agreements.

The OSG has functioned primarily as a coordinator for annual negotiations of Compact and Annual Funding Agreements, an allottee of funds for negotiated Annual Funding agreements, and as a facilitator for policy development between the Department and Self-Governance Tribes. The OSG consists of a Central Office in Washington, DC and a Northwest Field Office in Vancouver, Washington. It is anticipated that the OSG will serve as the primary contact and coordinator between Self-Governance Tribes and non-BIA Interior Department programs for implementation of P.L. 103-413 [*Appendix B-39*], Title II, and will report to the Secretary.

Presently, Self-Governance in the Department of Health and Human Services is limited to the Indian Health Service. The IHS has developed an Office of Tribal Self-Governance (OTSG). The Office of Tribal Self-Governance reports directly to the IHS Director, and consists of one office located in the IHS Headquarters Office in Rockville, Maryland.

The primary functions of OTSG is to serve as a coordinator for annual negotiations of Compacts and Annual Funding Agreements, to process fund distributions for negotiated Annual Funding agreements, and facilitate policy development between the IHS Director and Self-Governance Tribes.

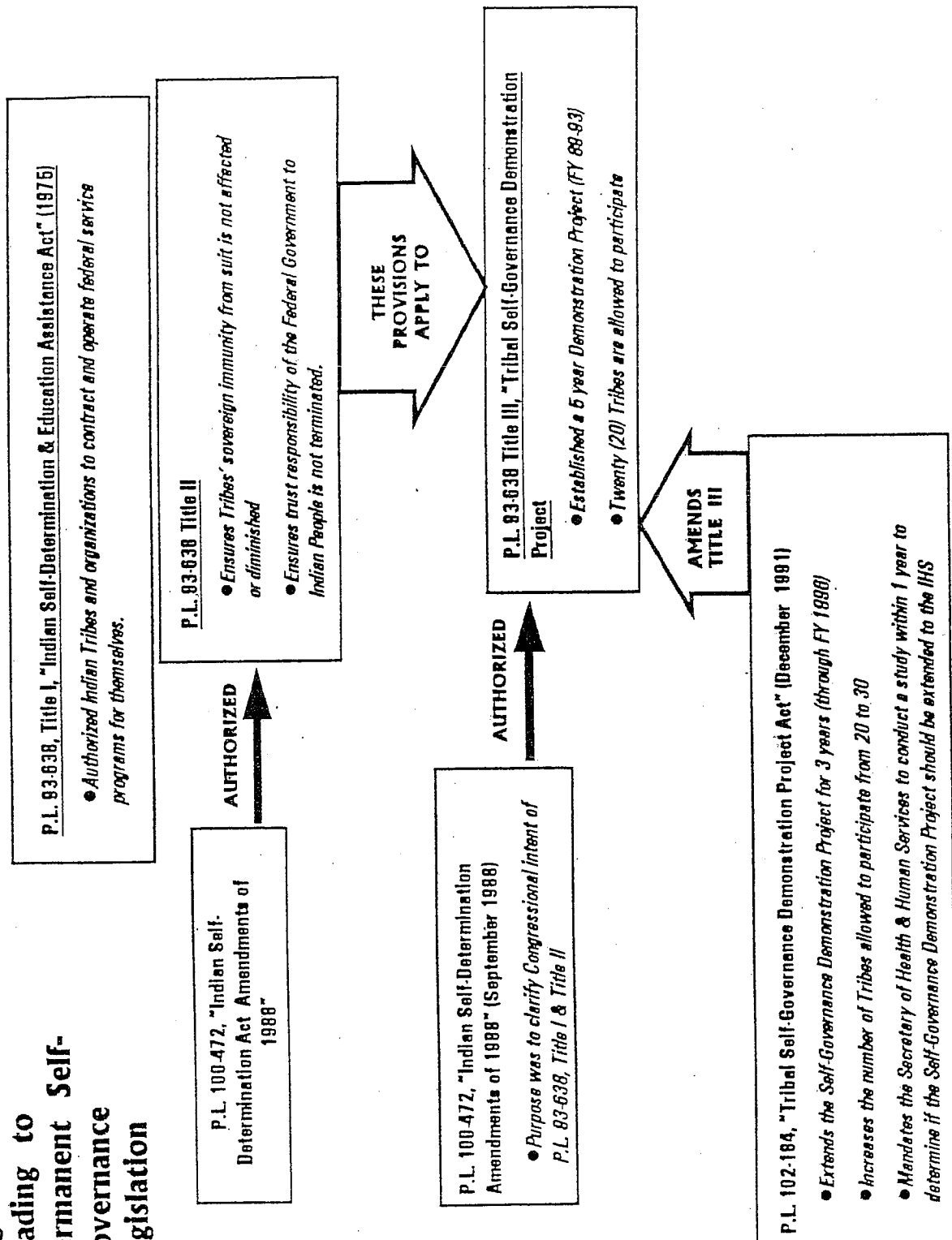
## **Tribal Self-Governance Structures**

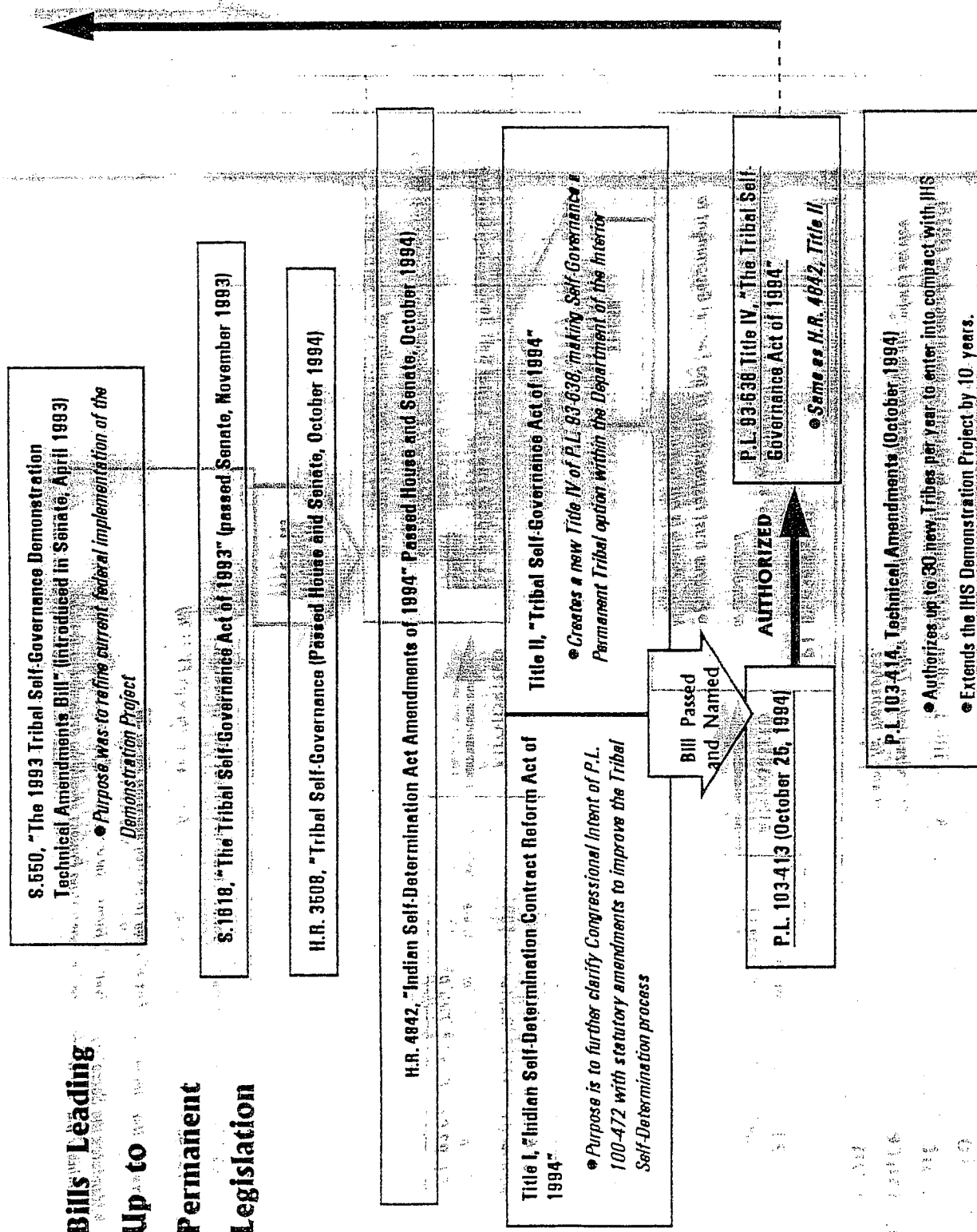
Actual Self-Governance implementation falls primarily on the Tribes. As a Tribally-driven initiative, Tribal leaders must maintain their leadership role in areas involving legislative, executive, and judicial activities. Self-Governance implementation depends extensively on the ability of Tribal Governments to carry out their responsibilities and obligations in an effective and efficient manner.

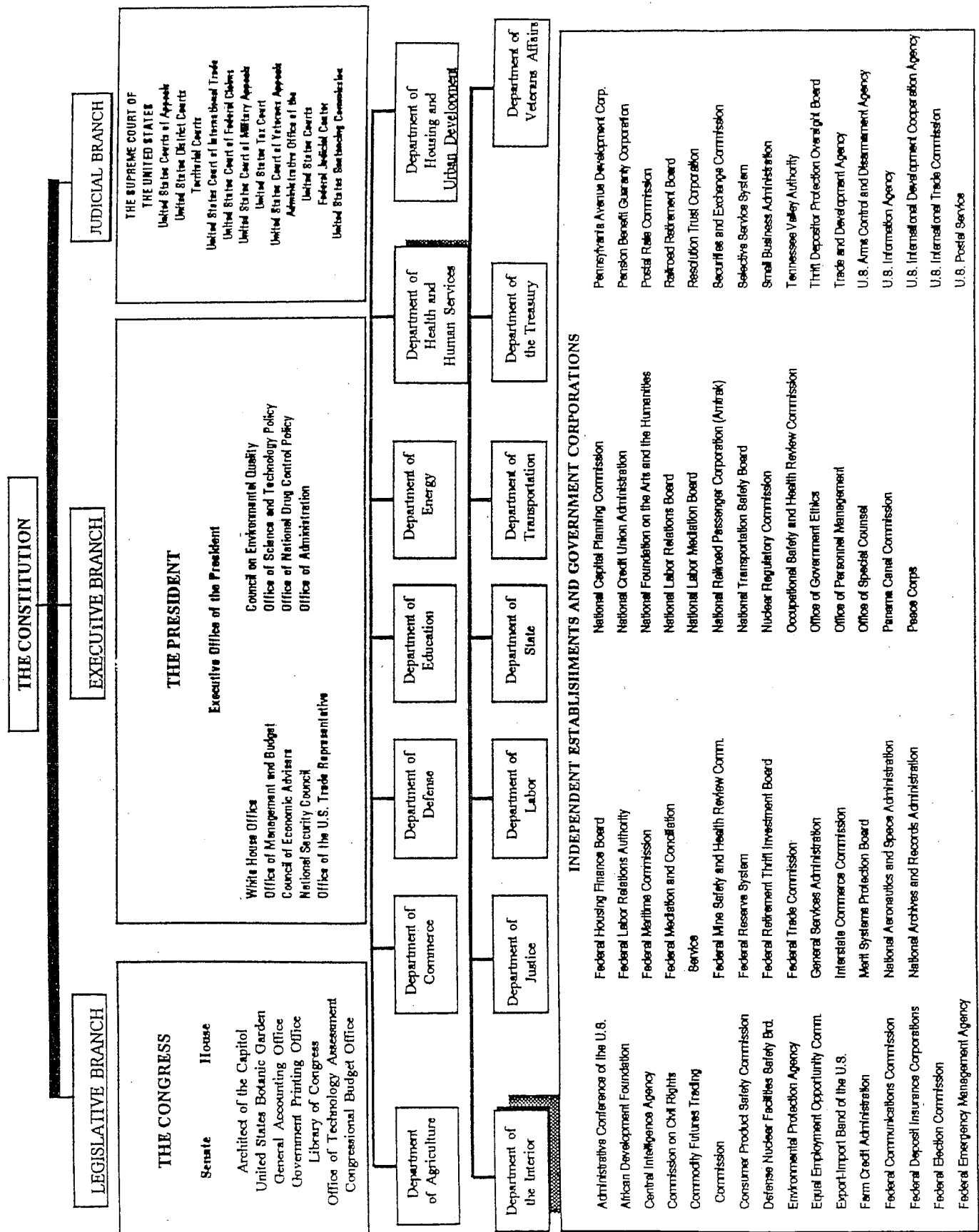
Under typical P.L. 93-638 [*Appendix B-1*] contracts, when Tribes encounter difficulties in carrying out contract functions, they can simply inform the BIA or IHS, who are obligated under statute and regulation to provide technical assistance to the contracting Tribe. Self-Governance Tribes, however, are expected to perform the responsibilities that they have compacted; this is not to say that Self-Governance Tribes cannot or should not request assistance from Federal agencies for areas of legitimate policy and administrative concerns which are important to carrying out the Tribe's compact responsibilities and obligations. Under Self-Governance, Tribes cannot turn difficult tasks and decisions over to Federal officials to decide on their behalf after that program has been transferred.

Governmental structures among Self-Governance Tribes vary greatly depending on the individual needs of each Tribe, their constitutions, and their leaders and members. From the beginning of Self-Governance, Tribal leaders have taken the lead in generating discussions and forcing policy decisions from both Tribal and Federal Governments. To assist in this leadership role and to implement Self-Governance, almost all participating Tribes have established their own Offices of Self-Governance. Tribal Governments have created positions of Self-Governance Coordinators who are responsible for monitoring Self-Governance activities for their Tribes. The Coordinator position is typically located in the executive offices of Tribal Governments so that timely information can be provided for policy, legal, and management decision-making.

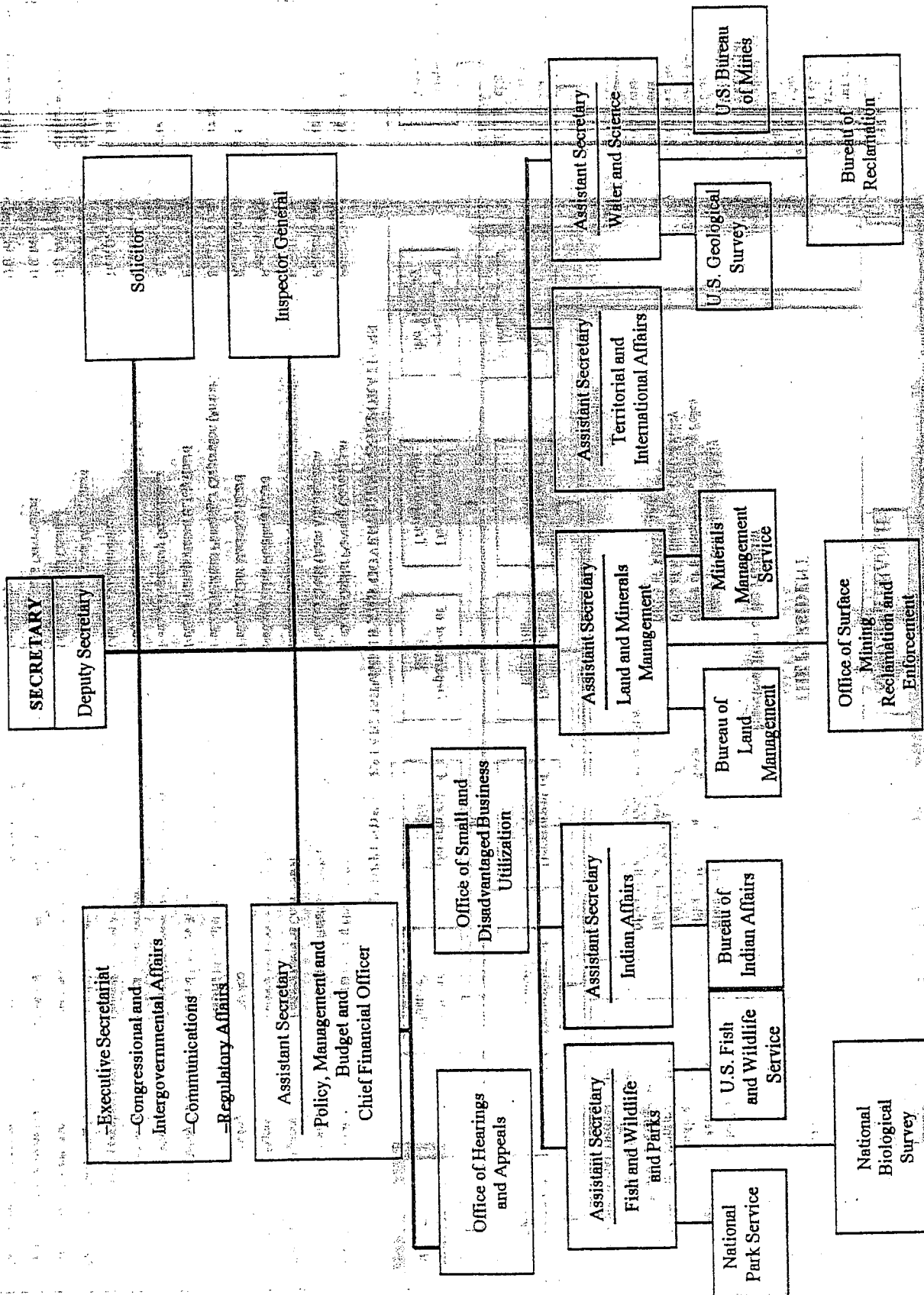
## Legislative Action Leading to Permanent Self- Governance Legislation



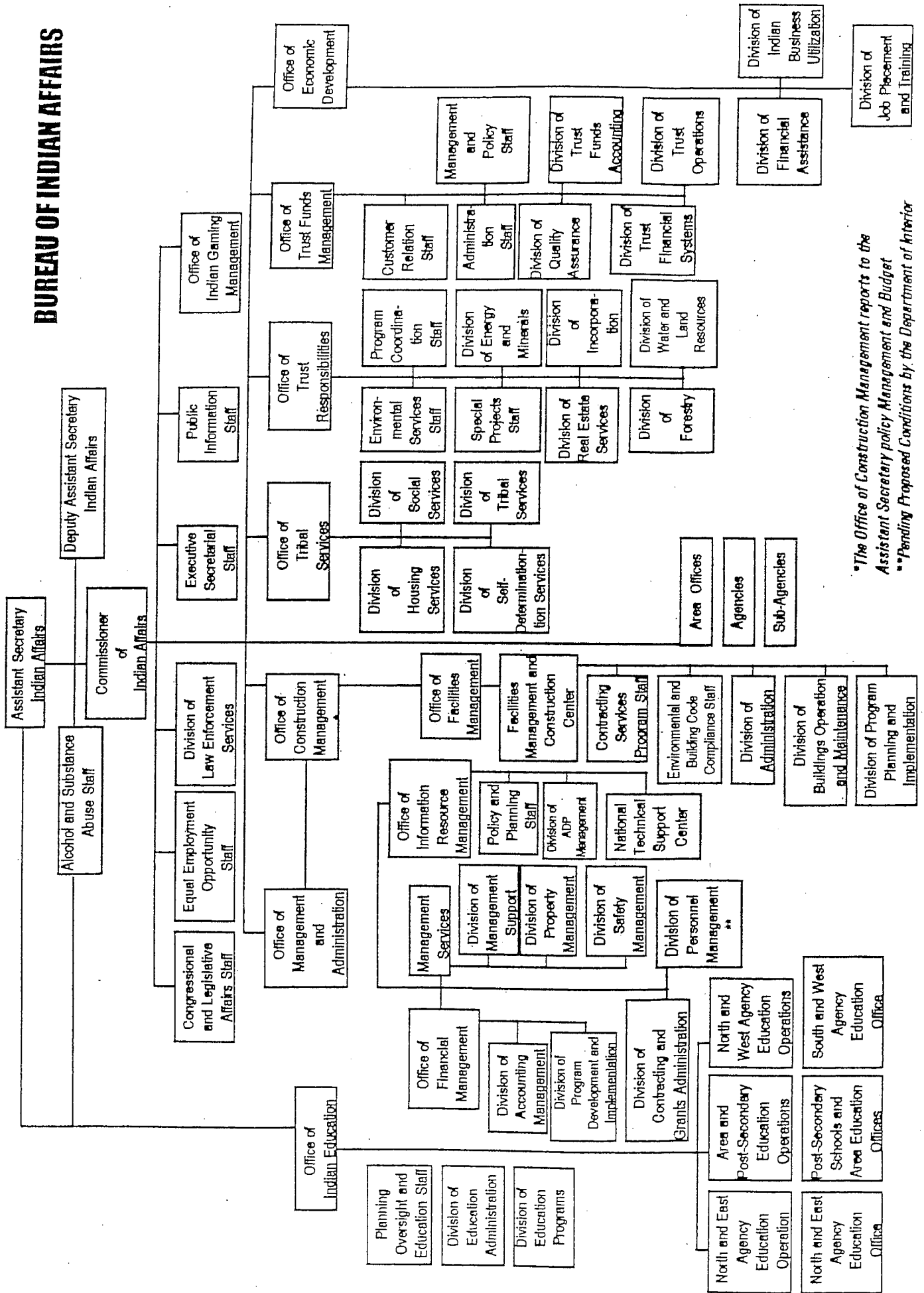




# DEPARTMENT OF THE INTERIOR



# BUREAU OF INDIAN AFFAIRS



\*The Office of Construction Management reports to the Assistant Secretary Policy Management and Budget  
 \*\*Pending Proposed Conditions by the Department of Interior

# DEPARTMENT OF HEALTH AND HUMAN SERVICES



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Director, Office of  
Intergovernmental Affairs  
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And Research  
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Disease Control  
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(CDC)

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Disease Registry  
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Commissioner,  
Food and Drug  
Administration  
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National  
Institutes of  
Health  
(NIH)

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Mental Health Svcs.  
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Assistant Secretary  
for  
Management & Budget

Assistant Secretary  
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& Evaluations

Assistant Secretary  
for  
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Assistant Secretary  
for  
Public Affairs

General  
Counsel

Director,  
Office for  
Civil Rights

Inspector  
General

Chair,  
Departmental  
Appeals Board

Director,  
U.S. Office of  
Consumer Affairs\*

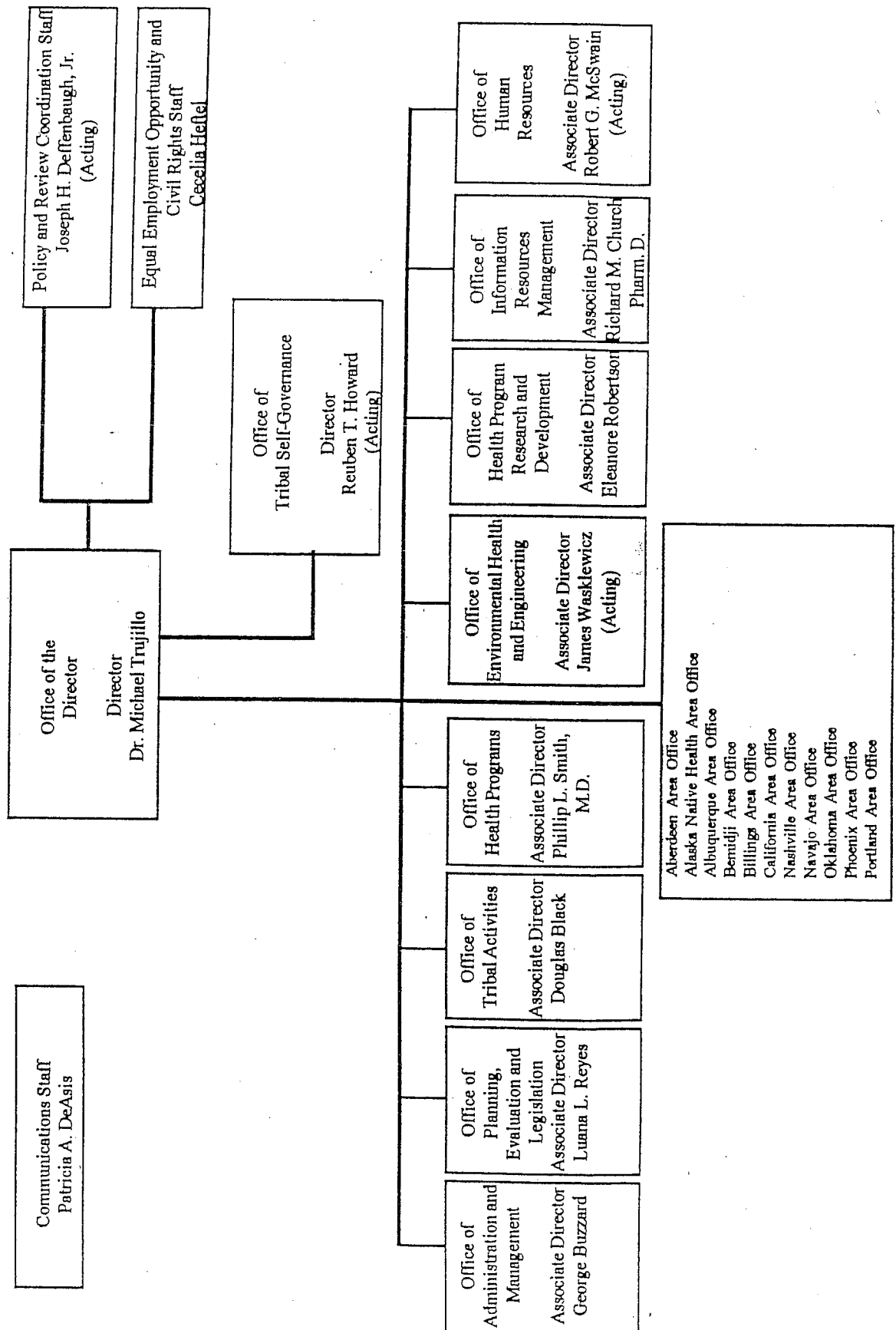
APPROVED: *DE*

DATE: 5/13/96

\* Located administratively  
in HHS reports to  
the President



**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
PUBLIC HEALTH SERVICE  
INDIAN HEALTH SERVICE**



*“The unique status of tribal governments as sovereign nations and the government-to-government relationship with the United States was consistently emphasized by all tribes. That relationship, of which I fully endorse, is the foundation by which the IHS provides care to American Indians and Alaska Natives.”*

Dr. Michael H. Trujillo, MD, M.P.H.

Director of Indian Health

before the House Subcommittee on Interior Appropriations

April 26, 1994



## ***History of the Tribal Self-Governance Initiative***

### **P.L. 93-638 [Appendix B-1], Title I**

Self-Governance has been a Tribally-driven initiative made possible through Congressional authorization and appropriation support. Self-Governance was proposed by Tribes who, twelve years after passage of P.L. 93-638 [Appendix B-1], Title I, the "Indian Self-Determination and Education Assistance Act of 1975," continued to be frustrated with the Federal Indian Bureaucracy. Basically, P.L. 93-638 [Appendix B-1] authorized Indian Tribes and organizations to contract and operate federal service programs within the Bureau of Indian Affairs and Indian Health Services. It was, and to some extent remains, a bureaucracy that was reluctant to change its role from that of a service provider and manager of Tribal affairs to that of a provider of financial resources and an advocate and assistance for Tribal self-governance and control.

In the Fall of 1987, while amendments to the Indian Self-Determination Act were being considered by Congress, the **Arizona Republic** newspaper published a series of articles, entitled: "Fraud in Indian Country". These accounts alleged serious waste and mismanagement in the Federal Indian bureaucracy. In response to these charges, Sidney Yates, Chairman of the House Interior and Related Agencies Appropriations Subcommittee held an oversight hearing.

In an attempt to address these allegations during the November 1987 hearing, Department of the Interior officials proposed that the funds appropriated to the BIA should be turned over to the Tribes to let them manage their own affairs. The next day, with Chairman Yates' encouragement, Tribal representatives met with the Secretary of the Department of the Interior and other top officials. By mid-December, ten Tribes had volunteered to test the proposal.

In December 1987, however, the Interior Department, without consulting with the Tribes, proposed "Section 209" as an addition to the Indian Self-Determination Act amendments. "Section 209" provided for a direct transfer of funds currently contracted by Tribes with a waiver of the Trust Responsibility of the United States for programs assumed by the Tribes. Tribal governments across the nation unanimously opposed this double dealing approach to BIA "reform".

**P.L. 100-472 [Appendix B-19] Indian Self-Determination Act Amendments of 1988 - Title II & III**

The Self-Governance Tribes countered the unacceptable "Section 209" amendment with the proposal for Title III [Appendix B-19], the "Tribal Self-Governance Demonstration Project". Title III [Appendix B-19] clearly protects the Trust and Treaty relationship of the United States to Indian people. In the ensuing legislative process, Title III [Appendix B-19] was designed by the Tribes to:

- Maintain the Trust and Treaty Responsibility of the Federal Government to the Tribes;
- Increase participation for the Demonstration Project from ten to twenty Tribes;
- Include in the project programs, services, functions and activities at all BIA levels;
- Exclude selected BIA programs;
- Modify the Secretary's waiver authority for regulations with a preference for Self-Governance; and,
- Prohibit the Demonstration Project from reducing or limiting the services or contracts of other Tribes.

Title III [Appendix B-19] promotes Tribal control by:

- Allowing the transfer of management of BIA resources to Tribal management and control;
- Authorizing broad flexibility for Tribal utilization of those resources;
- Permitting Tribes to consolidate and redesign programs; and,
- Replacing multiple BIA P.L. 93-638 [Appendix B-1] contracts and grants with a single Annual Funding Agreement.

Title III [Appendix B-19] was authorized by P.L. 100-472 [Appendix B-19] enacted in the "Indian Self-Determination Act Amendments of 1988" P.L. 100-472 [Appendix B-19] also authorizes, a planning and negotiation process which allows for:

- The development of a compact of Self-Governance defining responsibilities in the new Tribal/Federal relationship; and,
- An Annual Funding Agreement (AFA) determining financial transfers from the Federal government to the Tribes.

The actual text of Title III, P.L. 100-472 [Appendix B-19] is included in the appendix of this document.

Under a Self-Governance Compact, an Indian Tribe can administer and manage programs, activities, functions and services previously managed by the Bureau of Indian Affairs. Also, it acknowledges Tribal authority to redesign those programs and services to meet the needs of their communities, within the flexibility of allocating funds based on Tribal priorities.

The BIA, during the first three years of the demonstration phase, did not develop any plans for Project implementation despite repeated Congressional directives to the Interior Department to perform budget research and prepare for organizational restructuring. The BIA Agency, Area, and Central Offices did not communicate with the participating Tribes regarding the Project's future and their respective roles. After the first Self-Governance Compacts and Annual Funding Agreements were negotiated, BIA Central Office staff were assigned Self-Governance responsibilities in the Office of Self-Determination. As the Bureau continued to treat Self-Governance as an administrative nuisance, the Tribes sought the establishment of an independent Office of Self-Governance.

In FY 1991, at the request of the Tribes, Congress provided funding for an Office of Self-Governance, to be established in the Interior Department's Office of the Secretary. Secretary Lujan established a Self-Governance Policy Council in August of 1990. The Council comprised of representatives from the Solicitor and the Secretary's Offices, was headed by the Assistant Secretary for Indian Affairs. This Council provided Departmental policy guidance and it makes decisions necessary for the implementation of Self-Governance, the Office of Self-Governance began operations in January 1991 with William Lavell as the first Director.

On June 14, 1991, President Bush in "Reaffirming the Government-to-Government relationship between the Federal Government and Tribal Governments," joined the advocates for Self-Governance by stating:

"An Office of Self-Governance has been established in the Department of the Interior and given the responsibility of working with Tribes to craft creative ways of transferring decision-making powers over Tribal government functions from the Department to the Tribes."

In FY 1993, a Northwest Field Office, with two personnel, was established in Vancouver, Washington to handle the negotiations and implementation functions of Northwest and Alaska Tribes.

However, even with the negotiation of 28 Compacts nationwide in the DOI/BIA, there is still no significant change in the BIA structure. A national BIA Reorganization Task Force has been formed to plan for downsizing and restructuring. But, as of FY 1995, the downsizing or "right-sizing" as Tribes refer to it, has yet to occur. Self-Governance has

reached a point, in terms of the number of Tribes negotiating Compacts, that mandates reorganization and restructuring of the BIA.

**P.L. 102-184: Tribal Self-Governance Demonstration Project Act (December 1991)**

The U.S. House of Representative's Interior and Related Agencies Appropriations Subcommittee continued to support the Self-Governance Demonstration Project in Fiscal Year 1992. Congress increased appropriations by \$2 million for Tribal Self-Governance planning, negotiations, implementation and shortfall expenses, as well as for the continuation of the Lummi Communication/Education initiative. For the first time, in response to Tribal requests, Congress directed the Indian Health Service to initiate Self-Governance budget research and Agency planning activities with the 17 Tribes with Compacts of Self-Governance with the Department of the Interior. The FY 92 Interior Appropriations Conference report included \$500,000 to cover Tribal expenses and directed IHS to develop evaluation and transfer model methodologies. Given the reluctance of the BIA in the initial planning years, IHS was directed to initiate internal planning prior to consideration of Tribal planning grants.

The Cherokee Nation was selected to manage much of the IHS research and planning from the Tribal perspective. 17 Tribes were allocated resources through the Cherokee grant, and all 17 Tribes participated at appropriate stages of the IHS planning process to ensure Area-specific budget details were developed for FY 92. Tribes met with the IHS Director, and his key staff on January 15-16, 1992 to outline the research tasks and budget information needed during the first year. Seven Tribal Self-Governance representatives from the five IHS Areas with Self-Governance Tribes provided a consultation role in the development of a scope of work regarding IHS budget research and Self-Governance resource transfer models for the planning phase.

The IHS Office of Tribal Self-Governance, in compliance with the provisions of P.L. 102-184 and P.L. 102-573, which passed in October 1992, to expand the Demonstration Project to 30 Tribes, held competition for planning grants in early 1992. A series of meetings were held relating to negotiations, tribal shares and residuals. Initial budget information was shared with Tribes by the IHS in March 1992 and the IHS Budget Process was discussed.

**P.L. 103-413 [Appendix B-39]**

On October 25, 1994, P.L. 103-413 [Appendix B-39] - (Self-Determination Act Amendments, Title I, and Self-Governance Permanent Authorization, Title II) was signed into law by President Clinton. This law was the culmination for the Department of the Interior of nearly two years of Congressional hearings on proposed permanent Self-Governance legislation:

- S 550 - Tribal Self-Governance Demonstration Technical Amendments Bill of April 1993
- HR 3508 - Tribal Self-Governance Act of 1994
- S 1618 - The Tribal Self-Governance Act of 1993
- HR 4842 - Indian Self-Determination Act Amendments of October 1994
  - ◆ Title I - ISD Contract Reform Act of 1994
  - ◆ Title II Tribal Self-Governance Act of 1994

In addition to key elements of Title III [Appendix B-19] carried over into the Permanent Legislation, P.L. 103-413 [Appendix B-39] also includes Negotiated Rulemaking, access to Central Office Tribal shares and the development of a list of Non-BIA Programs eligible for Tribal Compacting. P.L. 103-413 [Appendix B-39] also provides for up to 20 new tribes per year to negotiate compacts with the Department of the Interior.

**P.L. 103-472 - Technical Amendments Act of 1994**

A Technical Amendments Bill, P.L. 103-472, was also approved; it authorized up to 30 new Tribes per year to enter into IHS Compacts for the next 10 years under the Demonstration Project.

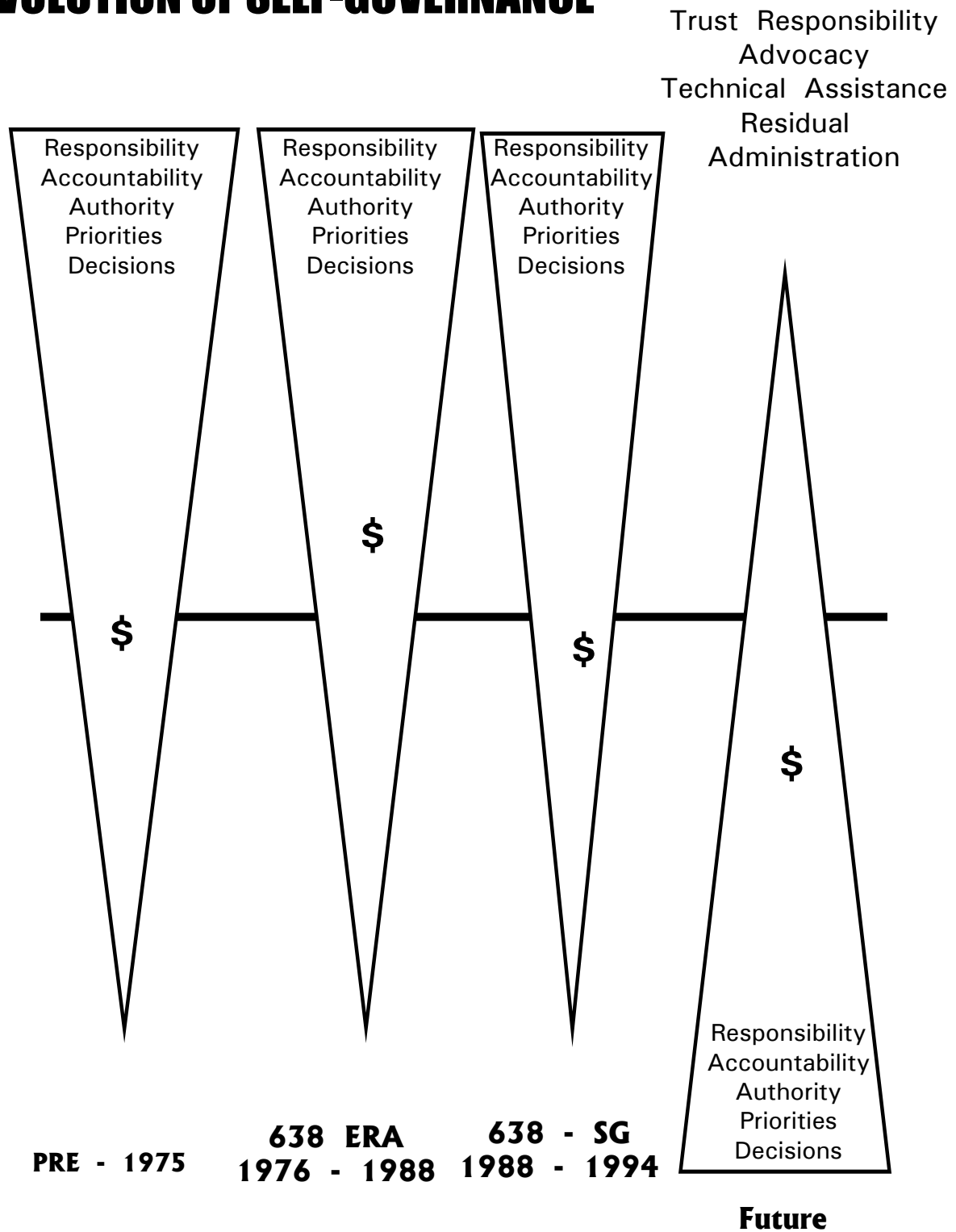
*There's nothing new about Tribal Self-Governance. It's been around for thousands of years. What we're pursuing, though, is an end to paternalism and a new approach to establishing a positive relationship between Indian and non-Indian governments based on a mutual respect for each other's rights and duties.*

W. Ron Allen, Chairman  
Jamestown S'Klallam Tribe





# EVOLUTION OF SELF-GOVERNANCE



***Future of Self-Governance***

Each Tribe, as an independent sovereign government, with its own distinct culture, traditions, institutions, and politics, must be able to determine its government-to-government relationship with the United States. This relationship has been historically determined by four key entities:

- The U.S. Congress
- The Federal Executive Branch
- The Federal Courts
- Indian Tribal Governments

However, all too often policies, whether good or bad, have been shaped by institutions rather than the Tribal Governments. Historically, negative shifts in Federal Indian Policy, whether or not the policy may have looked good at the time, have lingered for decades, sometimes centuries.

The exercise of Self-Governance with respect to dealing with each Federal department and its agencies is ultimately the choice of each Tribal Government. Each Tribe, not Congress, not a Federal bureaucrat, not a Court, determines the relationship it should have with the Federal Government. Self-Governance is not equal to sovereignty; but Self-Governance can provide the administrative freedom and the framework for Tribes to make decisions appropriate to the authority of sovereign entities. Only through Tribal decisions, exercised with responsibility, will sovereignty come closer to reality and meaningful.

Self-Governance evolved from the vision of Tribal leaders historically seeking to reduce or eliminate the bureaucratic control of the United States government over Indian Tribes. Essential elements to achieve this objective include bringing decision-making authority and financial resources back to the Tribal level. The ability of Tribal Governments to determine their own destiny, their own future, creates a more meaningful government-to-government relationship between Tribes and the United States.

Tribes must be diligent to instill the underlying philosophies and principles of Self-Governance recognized in the United States Constitution - into all branches of the United States Government. Indian Tribes, in their pursuit of Self-Governance, should expect no less than the right to determine their own destiny as distinct governments, unique and separate within the boundaries of the United States. Tribes must pursue an aggressive agenda where

Tribes will participate in all decisions affecting us and our people and to protect our right to independently manage our own affairs.

Over the past two centuries, the Bureau of Indian Affairs and Indian Health Service bureaucracies were primarily structured for the convenience of the Federal government instead of for those they were supposed to serve. Tribes ought to be actively involved in the restructuring of the roles and functions of Federal agencies that are responsible for protecting Tribal interests. Tribes need to assure that Federal agencies do not use restructuring processes to perpetuate bureaucratic existence. A major threat to Tribal Self-Governance, independence and creativity will be the inevitable, relentless cower of the bureaucracy to expand its authority over Tribal government through oversight and monitoring functions.

Self-Governance could very well become the key part of redefining and restoring the "government-to-government" relationship between Tribes and the United States into the 21st century and beyond. Additionally, Self-Governance may serve as a useful model for indigenous peoples in their negotiations for independence from colonial rule throughout the world. For two decades, Congress and each President has affirmed a Federal policy of Indian Self-Determination and government-to-government relations with Indian Tribes. Tribes have collectively changed Federal policy in principle. It is now time to change the actual practices.

Existing Federal regulations continue to control and stifle Tribal operations. Tribes must not permit indecision to shape their future. Executive Branch officials speak glowingly of Self-Governance principles, but have shown a decided reluctance to press policy into practice. For example, the Self-Governance regulation waiver process, which languished in theoretical discussions since 1990, had to be incorporated into P.L. 103-413 [*Appendix B-39*].

Self-Governance policies must be generally binding on all departments and agencies of the Federal government and must be liberally interpreted to accomplish the objectives. Tribal-regulations should be given priority consideration in determining the rules/regulations applicable to a Self-Governance compacted program.

Obviously, the implementation of Self-Governance across all Federal Departments and agencies is a major, formidable undertaking. Independent Tribal management of our own

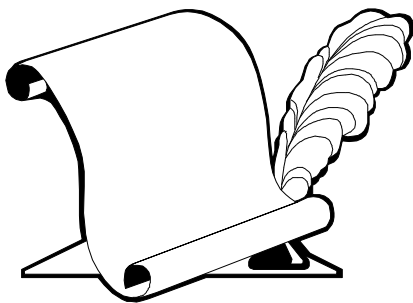
affairs and government-to-government relations must be constantly promoted as the guiding principles of Self-Governance.

Consistent with the Tribally-driven, Self-Governance initiative, Tribes must take the leadership in structuring how the Federal government carries out its responsibilities to Indian Tribes. The government-to-government relationship between Tribes and the United States can best be protected and enhanced through active Tribal participation in decision-making, policy formulation of all Federal Indian policy. The administration of the sacred trust of the United States to Tribes requires the continued development of a comprehensive government-wide application of these principles.

If we continue to allow Federal bureaucracies, to make decisions on our behalf, individually or collectively, we will perpetuate the dependency of Tribes and continue to empower the United States as an antiquated guardian for “incompetent” Indian wards. We must aggressively and responsibly assert our role as the key policy-maker on Indian Affairs. The stronger we become individually as Tribes, the more powerful we collectively grow, and the better we will be able to serve our future generations and again become truly Self-Governing Indian Nations.

*“Self-Governance is a modern day Treaty.”*

Merle Boyd, Second Chief  
Sac & Fox Nation



## ***Planning, Negotiations and Implementation***

Self-Governance provides maximum flexibility for Tribal governments to design programs and services, as well as to allocate funds to address Tribal priorities and concerns.

When the Bureau of Indian Affairs and the Indian Health Service provide direct services or manage Self-Determination (P.L. 93-638) *[Appendix B-1]* grants or contracts, the program design and funding level decisions are made by the Federal bureaucracy. Most BIA and IHS guidelines, policies and regulations are prepared for national application and are not tailored to a specific Tribe, reservation, or to local conditions. Over the years, the programs and organizational structures of Tribal government have evolved to correspond to these Federal programs and their funding mechanisms and regulations. Tribal structures, therefore, have mirrored the Federal bureaucracy.

Under Self-Governance, along with pre-existing Tribal responsibilities, Tribal governments become the primary policy-makers for the programs and services, funding allocations, and administrative structures on their Reservations. Tribal governments through the planning period should carefully prepare to manage both the new responsibilities and freedoms associated with Self-Governance. To date, however, some Tribal governments with Compacts of Self-Governance have maintained essentially the same administrative structures and programs that existed under BIA and IHS direct services and Self-Determination contracts.

### **Planning**

Tribal reorganization for Self-Governance is determined by the particular needs and unique situation of each individual Tribe. The planning processes should take into consideration the requirements of Title II of P.L. 103-413 *[Appendix B-39]*, and Title III, P.L. 100-472 *[Appendix B-19]* as amended, provisions contained in the Tribe's Constitution, Tribal Laws, Tribal policies and procedures, the model Self-Governance Compact and Annual Funding Agreement, and the auditing requirements reflected OMB Circular A-87. It is important to internally reorganize according to individual Tribal priorities and operational preferences.

## Tribal Planning Considerations in Preparation for Self-Governance:

### **Tribal Council Budget Procedures for the Allocation of Resources to Tribal Programs and Services**

- *Administrative mechanisms to ensure responsiveness to Tribal community concerns and conditions.*
- *Staff preparations for program budget justifications and financial management.*

### **Internal Program Monitoring Procedures**

- *Documentation of Tribal organization restructuring, revised processes and procedures.*
- *Preparation of financial expenditures documentation and program performance evaluation procedures.*
- *Internal and external reporting systems*

### **Research and Analyze Available BIA and IHS Budgets and Programs**

- *Analyze BIA/IHS budget allocation criteria by program and likely amounts available by program for transfer to the Tribe from BIA Central/Area/ Agency budgets and IHS Headquarters/Area/Local Service Unit budgets without reducing services to other Tribes.*
- *Determine BIA/IHS programs to be transferred to Tribal Control and those programs to be retained by the BIA/IHS.*
- *Review and prepare for legislative and Compact compliance requirements.*
- *Determine financial shortfalls resulting from BIA/IHS failure to provide services and/or diversion of funding due to bureaucratic indirect cost charges for administering the programs services and functions.*

### **Education/Communication with Tribal Members and Neighboring Tribes**

- *Educate Tribal members through community meetings, seminars and printed media about the purpose and scope of the Self-Governance initiative and its implications for the Tribe throughout the planning period.*
- *Educate neighboring Tribes in the BIA Area/Agency and IHS Area/Local Service Unit as to Tribal intentions of participating in the Self-Governance initiative in order to reduce misinformation and false rumors.*

The importance of education and communication with Tribal members cannot be overstated. Tribal members need to clearly understand what Self-Governance means, how

the trust and Treaty relationship is protected, and how Self-Governance will change and benefit Tribal operations. Lack of information and misinformation among Tribal members is the greatest threat to Self-Governance implementation.

### **Negotiations**

The Self-Governance negotiation process results in a compromise agreement between Tribal and BIA/IHS representatives. For the Federal Government and the Tribes, negotiations is managed by either the Office of Self-Governance or the Office of Tribal Self-Governance staff. The resulting Compact of Self-Governance and Annual Funding Agreement will determine the future relationship between the Tribes and the BIA/IHS in terms of roles, responsibilities, programs retained by the BIA/IHS, and BIA/IHS "programs, services, functions and activities" assumed by the Tribe.

Tribal experience, thus far in the negotiations process, has highlighted a pattern of particular problems. As Self-Governance is an evolving process, some of these problems may be resolved over time. Some of the basic factors creating negotiation issues that have surfaced include:

1. Although Self-Governance is not designed as needs-based funding, the fact that Area/Agency/Local Service Unit program budgets, in most instances, are very seriously under-funded affects decision-making;
2. The Annual Funding Agreements, by law, may not reduce the funds, contracts or services that other Tribal governments or Tribal contractors are eligible to receive;
3. Divisibility of programs for partial transfer of funds involving one or two federal personnel may be difficult;
4. Negotiations were based on the Presidential Budget Justification information which does not provide detail of internal budgets for Central/Area/Agency/Local Service Unit budgets;
5. The BIA/DOI and IHS/DHHS have made arbitrary determinations on allocation questions such as unavailability of funds from competitive grant programs (e.g., economic development) or accessing IHS Office of Environmental Health & Engineering programs;

6. The BIA and IHS have not been willing to structurally reorganize or downsize in response to Self-Governance, assuming that the Demonstration Project would end in three years;
7. The Passage of Title II of P.L. 103-413 [*appendix B-39*] for permanent status of Self-Governance, along with executive orders from President Clinton to "down size" the Federal Government, are only now beginning to force the BIA and IHS to reorganize;
8. The Tribal/BIA Reorganization Task Force recommendations will dramatically alter BIA budgets in the future, creating allocation uncertainties.
9. The influence of other initiatives on Self-Governance such as the Reorganization Task Force, National Performance Review, and the Federal budget deficit reduction is difficult, if not impossible to project.
10. Not all BIA/IHS budget information has been made available to Tribes.
11. Structures for negotiating (such as the IHS "ratifier") have not worked. Decision makers need to be at the negotiation table.
12. After decisions are negotiated and finalized at the negotiation session, Federal bureaucrats still attempt to alter the Annual Funding Agreement throughout the year.

During the first year and subsequent years of the BIA Self-Governance Demonstration Project negotiations, each Tribe or Compact was provided with an arbitrary \$45,000 — the BIA Central Office contribution to the Demonstration Project. Since then, the Self-Governance Policy Council approved, in principle, allocation formulas to be applied to all BIA Central Office programs. These formulas were never utilized during the demonstration project and meaningful negotiations did not occur.



Additionally, under P.L. 103-413 [*Appendix B-39*], Title II the BIA/DOI has been mandated to negotiate central office shares. Other Interior programs are now subject to compact negotiation; these programs are being studied by various DOI/Tribal workgroups to develop a listing of eligible programs that should be included in the FY 1996 negotiations.

IHS Headquarters has organized several IHS/Tribal Workgroups to study numerous unresolved negotiation issues regarding residual, funding allocation formulas, contract support, IHS restructuring, etc., to provide recommendations to the Director of IHS. Congress has recognized that Self-Governance is still new and evolving, and that unique circumstances will surface whereby the BIA and the IHS cannot divide programs or immediately restructure. There also were unexpected implementation costs at the Tribal level associated with Self-Governance. A supplemental budget account was supported by Congress to BIA/IHS for program shortfalls and implementation costs. However, Congress has stipulated that future shortfalls by the BIA and IHS will require a corresponding plan to reorganize and restructure to ultimately transfer these funds to the Tribe.

The Congressional Appropriations for Interior and Related Agencies, including IHS, will determine the actual moneys available to determine the Annual Funding Agreement. Although tentative funding levels can be determined in the negotiations, Annual Funding Agreements are revised, once the actual Congressional Fiscal Year Budget is enacted. This requires Tribal budget adjustments. Title II - P.L. 103-413 [*Appendix B-39*] and Title III - P.L. 100-472 [*Appendix B-19*] require that the negotiated Compacts of Self-Governance and Annual Funding Agreements be submitted to Congress ninety days prior to the implementation. Tribal representatives, therefore, are cautioned to allow plenty of time for negotiations prior to the Congressional deadline. In the first year negotiations, there should be at least sixty days prior to the Congressional deadline. Additional consideration should be given as to whether a Tribe is on a fiscal or calendar year. At the first session, timetables should be negotiated for future sessions and for required deliverables, by the Tribe, and the BIA/IHS.

## **Implementation**

During the negotiations, "Designated Officials" are identified to represent the Department of the Interior, the Indian Health Service, and the Tribe on administrative and procedural matters. The actual transfer of funds, information, and records to implement the Tribal Compact of Self-Governance should be a priority consideration of these representatives during the ninety-day Congressional review period. All financial transfer documents need to be finalized to ensure a timely transfer of funds and records from BIA/IHS Central/Headquarters Office to the Area/Agency/Local Service Unit and Tribe. In the event of a Congressional "Continuing Resolution" during the initial weeks of the new fiscal year, a proportionate amount of funds will be made available. These Designated Officials should maintain communications throughout the year to resolve any administrative difficulties.

As mentioned above, the Self-Governance negotiations for Compacts and Annual Funding Agreements is an evolving process. With each additional year's experience, refinements are being made and difficulties are being resolved. However, each Tribal situation is a unique circumstance requiring careful review and deliberation to insure that each Tribe receives fair consideration throughout the negotiations.

## **Congressional and Compact Restrictions on Expenditures**

A Tribal Council may allocate funds, redesign programs, or create new programs with the Self-Governance funds within limitations contained in Title II P.L. 103-413 and Title III, P.L. 100-472 [*Appendix B-19*] and the negotiated compact terms. At least eight specific Offices of Management and Budget (OMB) Cost Exceptions have been secured by the Self-Governance Tribes and are outlined in Model Compact. Otherwise, the OMB Cost Principles for State and Local Units of Government (OMB Circular A-87) apply to Self-Governance expenditures for administrative guidance and audit purposes.

## **Tribal Budgeting Process**

After the negotiations, the Tribal Council should have a good estimate of the amount of funds to be available in the next year. A Tribal internalized budget process should take place during the ninety-day congressional review period in order to prioritize services and

goals for the next year. Tribal program staff should prepare their budget requests for approval. Based on the appropriate process for requests and available funds, the Tribal Council can make its allocations. Consolidation of programs for cost-effectiveness and new initiatives can also be considered. During the year, appropriate Tribal authorities should review the budget to determine actual versus projected expenditures, with adjustments made accordingly.

### **Regulation Waiver Opportunities Available**

Tribes implementing compacts of Self-Governance **must abide** by published regulations of the BIA/IHS. P.L. 100-472 [*Appendix B-19*] and P.L. 103-413 authorization provisions allow Tribes to seek a waiver of regulations that are identified as obstacles in implementing Self-Governance Compacts. Although the law advises the Secretary of the Interior and Health & Human Services to give positive consideration to Tribal waiver requests, this process has been slow in getting established and has been underutilized.

Obviously, the approval of regulation waivers present administrative difficulties based on the manner that the Office of Self-Governance has internalized the process within Interior including the involvement of the Office of the Assistant Secretary - Indian Affairs, Office of the Solicitor, the BIA, the Office of Self-Governance and the Tribe. Although several regulation waiver requests have been submitted and approved: few were acted on in a timely fashion. The Self-Governance Tribes worked with the Office of Self-Governance to develop specific procedures for the process. This process was made a part of P.L. 103-413. In the future, a Self-governance regulations waiver data bank is envisioned for Tribes to utilize other Tribe's approved guidance documents.

Although a waiver request may also be submitted to IHS, there is no legislated procedural process. It is anticipated that the problems that occurred with waiver requests within the Department of the Interior could also occur with IHS unless a formalized procedure is developed and adhered to by Federal officials.

Congressional statutes, of course, cannot be changed by the regulation waiver process. Tribes are only obligated to follow regulations properly developed and published. Non-published material, such as guidelines, such as those contained in manuals or the BIAM, of the BIA/IHS are not binding on the Tribes, such as those contained in manuals BIAM, and can be replaced simply by Tribes adopting their own guidelines and notification to the BIA/IHS.

### **Baseline Measures Report**

These documented reports were intended to compare progress by the Self-Governance Tribes with the BIA/IHS Self-Determination grant/contract and direct services operations. The reports served as the foundation for reporting to Congress, IHS/DOI and the Tribes. Typically, the report will measure the costs and benefits of Self-Governance, impediments, and processes under Self-Governance. Under permanent legislation, The Baseline Measures report requirements for DOI compacts was removed; Tribes must, however prepare annual reports.

### **Independent Annual Assessment Initiated**

A Tribal/BIA Baseline Measures Task Force had recommended that an independent Annual Assessment be performed by an independent third party to provide an unbiased view of project development to Congress. A Request for Proposals was announced in January 1992 for an independent Annual Assessment contractor to review the first Self-Governance Tribes and BIA progress in Fiscal Year 1991. A review panel representing the first seven Tribes who had signed Compacts of Self-Governance in 1991 and the Office of Self-Governance selected Northeastern State University of Oklahoma as the first year assessment contractor in March, 1992. The report published in May, 1993 revealed generally that Self-Governance had a positive impact at the Tribal level and should continue. Some tribes have since developed procedures for conducting their own annual assessment.

**Few Implementation Guidelines Available**

To date, only the individual experiences of the participating Tribes are available to assist other Tribes in Self-Governance implementation. The DOI/IHS Office of Self-Governance and the Lummi Indian Nation Self-Governance Communication & Education Project host conferences and educational workshops for Tribal representatives and the BIA/IHS to share experiences, create administrative processes, and resolve issues. The negotiated existing agreements, the authority, responsibility and opportunity of the Tribes to function as sovereigns, provide the most significant existing "guidelines".

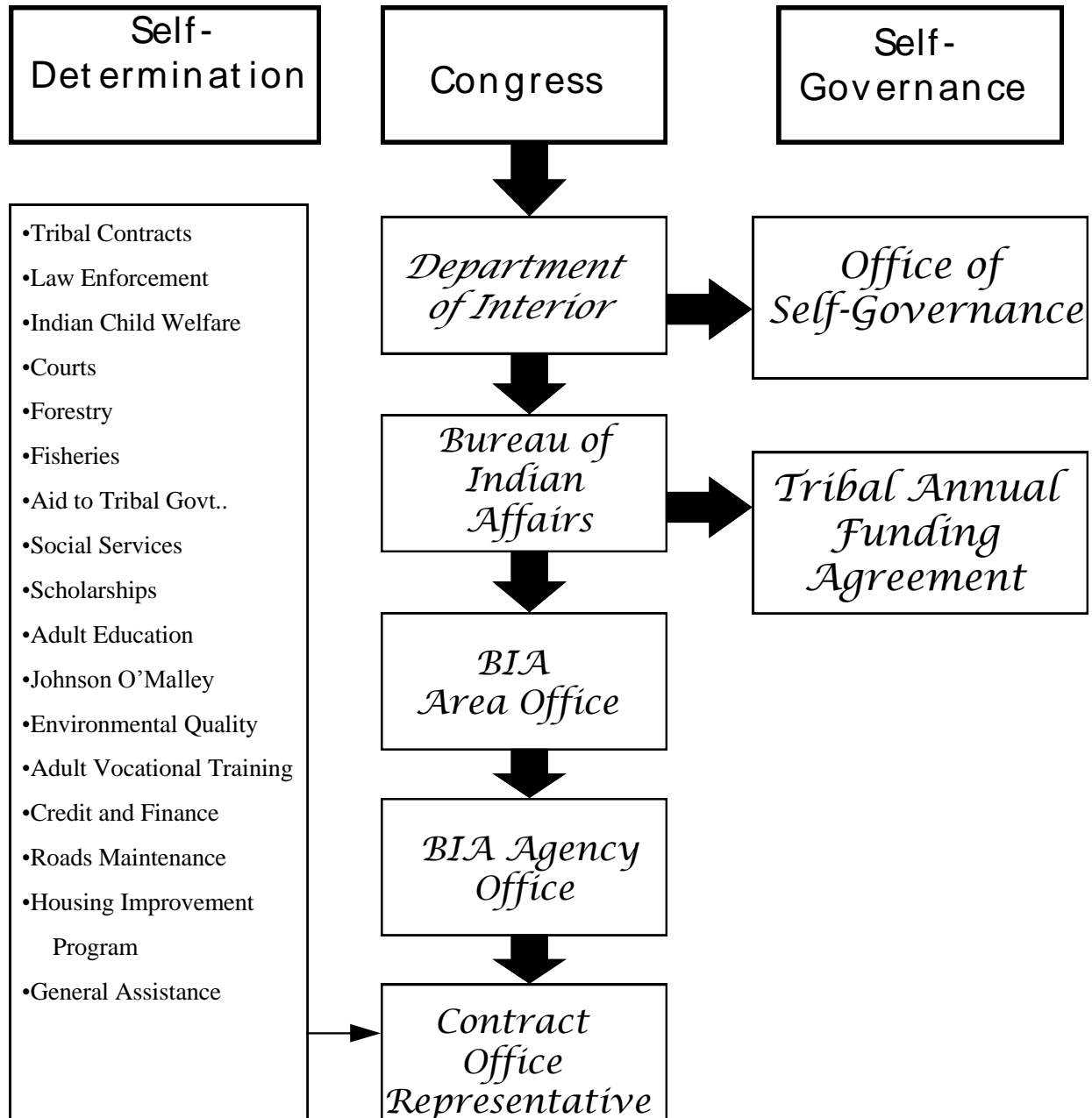
P.L. 103-413 requires the Secretary of the Interior, at the request of the Tribes, to enter into negotiated rule-making with Self-Governance and non-Self-Governance tribes to create regulations for the permanent Self-Governance initiative. This process has been initiated in early 1995 with the creation of negotiated rule-making Advisory Committee. Within the statutory time frame of one year, this committee will develop proposed regulations for the Secretary to promulgate according to the normal notice and comment process.

**Basic Differences between Self-Determination and Self-Governance**

The graphics provided on the following pages illustrate the differences in the government-to-government relationship between Self-Determination and Self-Governance. This streamlined process, in time, should reduce both costs and time from the Tribe and Federal perspectives in exercising the government-to-government relationship.

<b>Comparison of Financial Resource Allocations and Program Management Flexibility</b>	
<b><i>Self-Determination</i></b>	<b><i>Self-Governance</i></b>
<b>Financial Resource Allocations:</b>	
<ul style="list-style-type: none"> <li>◆ Tribal staff prepares Self-Determination contract applications for Tribal Council.</li> <li>◆ Tribal Council submits Self-Determination contracts for BIA Agency/Area approval with required documentation of compliance.</li> <li>◆ BIA approves or negotiates contracts and funding provided for each contract.</li> <li>◆ Tribal Self-Determination contract expenditures limited to each separate contract.</li> <li>◆ Tribe submits quarterly reports on expenditures limited to each separate contract.</li> <li>◆ BIA Financial Requirements and OMB Circular A-128 audit requirements apply.</li> </ul>	<ul style="list-style-type: none"> <li>◆ Tribal staff make program expenditures justifications to Tribal Council.</li> <li>◆ Tribal Council allocates financial resources according to Tribally determined priorities.</li> <li>◆ Tribal Council expenditures from aggregate funds provided in negotiated annual funding agreement.</li> <li>◆ Tribe must notify Office of Self-Governance if more than thirty percent of funds from trust-related program accounts transferred for other purposes.</li> <li>◆ Tribe submits quarterly reports on total expenditures.</li> <li>◆ OMB Circular A-128 audit requirements apply; some special exceptions approved by OMB.</li> </ul>
<b>Program Management Flexibility:</b>	
<ul style="list-style-type: none"> <li>◆ BIA rules and regulations apply to all contract activities.</li> <li>◆ Bureau of Indian Affairs manual applies to all contract activities.</li> <li>◆ Various BIA policy memoranda applies.</li> </ul>	<ul style="list-style-type: none"> <li>◆ BIA rules and regulations apply to all expenditures; however, Tribe may replace guidelines with its own guidelines. Regulations may be waived by the Secretary.</li> <li>◆ BIA manual DOES NOT apply.</li> <li>◆ Various BIA policy memoranda DO NOT apply.</li> </ul>
<b>Reporting Requirements:</b>	
<ul style="list-style-type: none"> <li>◆ Tribal staff prepares quarterly narrative reports and submit 30 days after end of quarter on each contract.</li> <li>◆ Tribal staff prepares annual narrative reports and submit 90 days after end of year on each contract.</li> </ul>	<ul style="list-style-type: none"> <li>◆ Semi-annual reports to meet baseline measure requirements prepared and submitted to Office of Self-Governance 90 days after end of half-year.</li> <li>◆ Annual Trust Evaluation prepared jointly by Tribe-BIA-Office of Self-Governance team at end of fiscal year activities.</li> </ul> <p>Program outcome evaluations on both BIA and Tribal activities prepared separately by BIA and Tribal staff at end of fiscal year.</p>

## Comparison of Federal to Tribal Financial Transfer Process



### ***The Trust Responsibility and Compacts of Self-Governance***

Throughout the history of this initiative, there has been a concern that Self-Governance may somehow diminish or even terminate the Trust Responsibility that the United States has to Indian people. This concern comes from the Interior Department attempt in 1987 to tie the provision of funds to the Tribes to a waiver of its trust obligations. Termination or reduction of the trust responsibilities of the United States to Indian people is neither acceptable to participating Tribes nor is it part of Self-Governance initiatives.

To ensure the trust responsibility of the United States to Tribes and their members is protected, specific language was included in the P.L. 100-472 [*Appendix B-19*] the original Self-Governance Demonstration Act, and in P.L. 103-413, the Tribal Self-Governance Act of 1994.

#### **The Trust Language**

"The Secretary shall negotiate and enter into, an annual written funding agreement with a governing body of each participating tribal government in a manner consistent with the Federal Government's laws and trust relationship to and responsibility for the Indian people." [Section 403(a) Authorization.]

(9) Prohibit the Secretary from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, and other laws. [Title IV--Tribal Self-Governance, Section 403(b)(9)]

... funds for trust services to individual Indians are available under an agreement entered into under this section only to the extent that the same services that would have been provided by the Secretary are provided to individual Indians by the Tribe;  
[Section 403(g)(4)]

Nothing in this Act shall be construed to diminish the Federal trust responsibility to Indian tribes, individual Indians, or Indians with trust allotments. [Section 406(b)]



## **What is the Trust Relationship**

Although many Indian people view the Trust relationship as the obligation of the United States to protect, to provide for, and to enhance all things Indian -- for example, property, health, education, social services, jurisdiction, and tribal government -- the United States often argues a more limited view of the Trust Responsibility; i.e., to protect Indian property rights.

The "trust relationship" is an evolving concept. Today, at minimum the trust is the obligation of the United States to manage and preserve Indian property. Property is a fairly broad concept including land, money and other resources, such as, fish, timber or similar holdings. Technically, the United States holds legal title to this property, and Indians hold what is known as beneficial title. As such, income from Trust assets is exempt from State, and local taxes.

The obligation of the United States to manage Indian property in a productive manner is similar to but not identical to that of a private trustee. Courts will often look to the underlying treaties or statutes to determine the extent of the responsibility that the United States has undertaken with respect to particular Tribes or resources. In addition to the underlying treaties and statutes, an examination of the actual scope of the Federal control over the Indian property can give rise to an obligation to properly manage and protect the Indian property. With respect to Indian moneys, the United States' obligation is perhaps clearest and closest to that of a private trustee - prudent fiscal management.

## **Protecting the Trust - Holding the United States Responsible**

Even though there have been a fair number of "successful" Court of Claims cases against the United States for its failure as a trustee, these cases have not assured that the United States has been or will be a productive or efficient manager of Tribal assets. The Courts have shielded the United States from liability to Tribes in situations where Congress has mandated conflicting public interests to tribal interests. The United States also does not have the obligation to produce the maximum financial returns on tribal assets, nor may it have any obligation to protect or enhance tribal property or assets what-so-ever where the statutory scheme does not evidence sufficient Federal control.

Some commentators have been very critical of relying on the "Trust" Relationship with the United States to protect tribal assets, at the expense of Tribal control and Self-Determination. Often this criticism comes from actual experiences where such reliance has proved to be ineffective and damaging to Tribal interests. Some commentators look to keeping the benefits of the Trust Relationship and bringing it into modern times. This process will require providing the Tribes with input as the beneficiaries of the Trust, and having the Government as Trustee give up its paternalistic attitudes and vestiges of the racist guardianship philosophy that so often characterized the Trust Relationship in the past.

### **The Trust in Non-Property Areas**

In the non-property areas, the role of the Trust is important but less clear. Courts have used the existence of the Trust Relationship as a basis for the political status of Indians as a group for constitutional equal protection analysis purposes. Political status is a very important status, because it allows the United States to legislate for the special benefit of Indians, without violating the Constitution of the United States. Simply put, special Indian programs are not illegal discrimination.

In other instances or situations, the existence of the Trust, supports the rule of construction in Indian cases that ambiguities are to be construed in favor of Indians. Also, the existence of the Trust requires the Federal government to utilize enhanced procedural fairness in special Indian programs. In a few situations, the existence of specific statutory Trust language has been the basis for courts ordering provision of services, such as health services to Indians. Generally, however, the existence of the Trust Relationship, without specific Congressional direction, is insufficient to mandate any particular program, to obtain adequate funding, or to assess damages against the United States for its failure to provide social or political services to Tribes or Indian people.

## **The Trust in Self-Governance Compacts**

Given these background and legal considerations, key issues for the Tribes in drafting the Self-Governance Compacts were:

- (1) To maintain the positive aspects of the Trust;
- (2) To assure sufficient United States involvement and technical "control" in the management of tribal property and assets to meet existing Court standards for ascertaining financial liability; and
- (3) To provide the maximum control and involvement for the tribes over their own property and assets.

The method chosen by the Tribes for the Self-Governance Initiative was to delineate the specific Trust Responsibility in the Compact. The United States specifically pledges its Trust Responsibility to the individual Tribe to protect and conserve the trust resources of such Tribe and pledges its utmost good faith in upholding said trust responsibility. The Tribe also pledges its utmost good faith in upholding its responsibilities to provide services under the Annual Agreement.

The Tribe has the full authority, subject to any statutory requirements, and any specific regulations (although such regulations may be waived) to manage tribal property and assets, if it so chooses. The compacts provide for annual Trust Evaluations. The Trust Evaluation allows the United States to exercise the necessary supervision or oversight relative to its obligations to the Tribe and to individual Indians. An escape clause is provided whereby the United States may assume direct management of the physical Trust assets, upon proper notice to the Tribe, if the trust assets are in imminent jeopardy. Imminent jeopardy is defined as significant loss or devaluation of the physical Trust asset, caused by the Tribe's action or inaction. This process has now been codified by section 403 (d) of the permanent Self-Governance Act of 1994.

How to manage the Federal Government trust responsibility has been an important issue between Self-Governance tribes and BIA/IHS. As tribes negotiated their tribal shares, a number of budgetary areas remained in dispute between BIA/IHS and the Tribes regarding the withholding of funds/functions by the BIA/IHS that were considered by the Federal representatives to be statutorily uniquely federal. These issues will be addressed in negotiated Rule-making.

*We must thank our Federal “Fathers” for trying to do it their way, but it is now time for us to take control of our own affairs and look to the future. A future that will dictate the survival of our most valuable resource — Our People.*

*Pearl Capoeman-Baller, President  
Quinault Indian Nation*



*“The Indian Nations had always been considered as distinct, independent, political communities...and the settled doctrine of the law of nations is that a weaker power does not surrender its independence—its right to self-government—by associating with a stronger, and taking its protection.”*

United States Supreme Court  
Worcester vs. Georgia, 1832



# Part II

## *The Coordinator's Manual*



## **Part II - The Coordinator's Manual**

### ***The Tribal Self-Governance Initiative***

#### **Introduction**

There are three major components of Self-Governance. These components include the planning phase, the negotiations process, and actual implementation. An overview of these components has been provided in Part I. It is the intent of the following sections to expand on each of these components in order to provide a more comprehensive and technical approach to Self-Governance. Whatever extent a Tribe chooses to enter into Self-Governance, completion of each of these components is essential to successful implementation. The following sections should be utilized as a resource tool in assisting new Tribes participating in Self-Governance.

#### **Planning**

One of the primary objectives of Self-Governance is to provide the maximum flexibility to Tribal governments to design programs, activities and services to address Tribal priorities and respond to local concerns. When programs intended to serve Indian people have been managed by the Bureau of Indian Affairs (BIA) and Indian Health Service (IHS) in the past, or managed by Tribes under P.L. 93-638 grants and/or contracts, most of the decision making and funding priorities were made by the Federal bureaucracy. Tribal or local concerns often did not fit into the funding and program parameters established under BIA and IHS policies and regulations. Most of the BIA and IHS guidelines, policies and regulations are prepared for national application and are not tailored to specific Tribes, Reservations, or local conditions.

Self-Governance is designed to allow Tribes to plan and implement BIA and IHS programs, activities, and services that best meet their needs. In effect, along with existing Tribal responsibilities, Tribal governments become the primary policy makers for the programs, services and activities on their Reservations, including the allocation of fiscal resources. Under Self-Governance, Tribes become responsible for BIA and IHS programs, services, functions, and activities assumed by the choice of the Tribe.

## **Legislative Requirements**

As outlined in both the permanent Self Governance law (P.L. 103-413) and the Self-Governance demonstration legislation (Title III, P.L. 100-472, as amended), a qualified Tribal applicant shall:

- Successfully complete the planning phase including legal and budgetary research; and internal tribal government planning and organizational preparation;
- Request participation in the Self-Governance by resolution or other action by the Tribal governing body; and
- Demonstrate financial stability and financial management capability for the previous three years by having no material audit exceptions in the required annual audit.

## **Initial Contacts**

Tribes which meet the legislative requirements, depending on which programs they wish to compact, should send a tribal resolution and cover letter to either the Department of the Interior Office of Self-Governance or the Indian Health Service Office of the Tribal Self-Governance.

Additionally, interested Tribes may request additional information from the Self-Governance Communication and Education Office of the Department of the Interior. This Office was formed to share information regarding the purpose, process, and benefits of Self-Governance. The Lummi Nation serves as administrator for the Communication and Education Project and has been distributing materials and information, providing educational workshops, coordinating national conferences and other forums discussion concerning critical Self-Governance issues.

As the demand for Tribal-specific technical assistance and interest in Self-Governance has greatly increased, it is helpful to contact other participating Self-Governance Tribes, Tribal leaders, and Self-Governance Coordinators. Information such as specific Self-Governance job descriptions, sample Tribal budget ordinances, internal personnel policies and procedures, other administrative and fiscal processes, and Tribal laws can be obtained and reviewed for application and adaptation to each Tribe's unique governmental and administrative structure.



## **Internal Reorganization**

The planning basis for internal Tribal reorganization should be determined by the particular needs of the individual Tribal government and should take into consideration the requirements included in the law, provisions contained in the Tribe's Constitution, Tribal Laws, Tribal policies and procedures, the Self-Governance Compact and Annual Agreement, and the federal audit requirements as reflected in OMB Circular A-87. How an Indian Tribe reorganizes its government for participation in Tribal Self-Governance is solely an internal Tribal matter for each individual Tribe to decide.

The "new partnership" and reaffirmation of the "government-to-government" relationship under Self-Governance enhances the authority, responsibility, and opportunity to function as an independent Tribal government. Under a typical 638 contract, a Tribe's obligation was principally to the Contracting Officer at the Area or Agency level who reported to the multiple layers of the BIA and IHS bureaucracies. Tribes and Tribal program managers often had to respond to the 638 contract/grant "Scopes of Work" rather than to the elected Tribal Council or needs of their people.

Under a Self-Governance Compact, the participating Tribe, the Department of the Interior and/or the Indian Health Service identify "Designated Officials" as the individuals responsible for resolving issues, problems, or for any matter arising under this new relationship. Generally, the Tribes have identified the Tribal Chairman as their "Designated Official" and the Department of the Interior and the Indian Health Service has identified either an Area Director or the Director of either of the Office(s) of Self-Governance as the Federal "Designated Official".

Because of this "new partnership" role, internal Tribal government reorganization takes on additional importance. Tribal reorganization may be as simple as identification of the Tribal Designated Official, or may be a major restructuring of how the Tribal government conducts its business and activities. Reorganization may be at the policy, legislative, administrative, or program levels. For example, some Self-Governance Tribes have undertaken major reorganizations of Tribal governmental structure and have amended their Tribal Constitutions. This reorganization effort has also included the enactment of several new Tribal laws designed to address specific areas of concern and, at the same time, to prevent unnecessary intrusion into internal Tribal affairs by outside forces. For other Self-Governance Tribes, most of the reorganization has occurred within existing federal programs

and Departments. Increased program responsibilities have required the development of new processes and procedures to handle the new responsibilities. Many Self-Governance Tribes, found their existing institutional structures, Constitutions, and Ordinances adequate to address the responsibilities of Self-Governance and to serve the needs of Tribal members.

Many Tribes also found the need to develop or expand:

- (1) Budget procedures;
- (2) Internal monitoring procedures;
- (3) Performance and evaluation procedures; and,
- (4) Internal compliance systems.

Major considerations in approaching Tribal reorganization are: identifying methods for timely decision-making; communicating policy decisions from the Tribal Council to Tribal programs and to Tribal members; and, developing cost-efficient program operations. Effectiveness of organizational structure will in part determine how well Tribes can respond to problems and issues as they arise. Cost efficiency of program operations dictate how much it costs to provide programs and services. Combined, effectiveness and cost efficiency will effect the opportunities the Tribe will have to redesign programs, reallocate funding, and most importantly, improve the delivery of services to people.

As with any organization, a hierarchy of decision-making authority must be established. Reasons for delegation of authority must be established by Tribal Councils and understood by all levels of Tribal government. Generally, the closer decision-making is to the actual implementation of decisions, the more efficient the government operates. Tribal Councils retain policy and legislative authority while administrators make administrative decisions, managers make management decisions, and program line staff make program decisions. The respective roles and responsibilities need to be defined and understood. Government operations, including Tribal government, require the delegation of authority and responsibility. The concept of delegation of authority and responsibility to Program Managers is essential for effective and efficient government operations.

### **Tribal Budget Process**

With a few limitations contained in P.L. 103-413, Title III of P.L. 100-472, as amended, and the Compacts of Self-Governance, Self-Governance Tribes are free to design and allocate funds based on Tribal needs and priorities. Self-Governance Tribes may also

need to establish or expand their own internal budgeting process. This may depend on the extent of their existing budgeting process for Tribal funds or "hard money" budgets.

A few important limitations exist for how a Self-Governance Tribe decides to design its programs and allocate its funds. Those limitations are:

- (1) No more than 30% of funding for BIA trust programs may be reallocated within any year without an explanation of how the trust responsibility will be met, (trust programs are limited to physical resources and financial management);
- (2) Funds specifically appropriated or that are "earmarked" for specific activities by the Congress may only be used for those statutory purposes;
- (3) Funds awarded to a Tribe from BIA or IHS statutory designated competitive grants and incorporated into Annual Funding Agreements must be allocated for the purposes of the grants: except grant funds may be combined with other funds provided the objectives are accomplished - for example Indian Child Welfare funds may be combined with other social services funds to create stability for an overall comprehensive program that deals with matters involving child welfare, alcohol, drug abuse and family counseling; and
- (4) Construction funds must be spent on construction activities, but operating dollars may be spent for construction.

Based on the annual Self-Governance negotiations, a Self-Governance Tribe receives a block of funds based on what funds the Tribe would be eligible to receive at all levels, including the dollars from the BIA Central, Area and Agency Offices and IHS Headquarters, Area, and Service Unit associated with the programs, services, functions, and activities assumed by the Tribe. Essentially, each Self-Governance Tribe is responsible for internally allocating these funds, subject to the limitations identified above. Under Self-Governance, it becomes a practical matter for the Tribe to have a formal or defined budgeting process established. The budgeting process should be responsive to the needs of the Tribe, Tribal members, and Tribal programs.

Some Self-Governance Tribes have enacted Budget Ordinances which set forth formal mechanisms for handling the Tribal budget process. These Ordinances can serve as Tribal "anti-deficiency" laws enabling Tribal programs to operate within the established budgets approved by Tribal Councils. The procedures established by these Ordinances help prepare the Tribes for assuming their responsibilities under Self-Governance. For example, prior to Self-Governance, the BIA and IHS would establish program budgets. Now, Tribes

are solely responsible for internally allocating or appropriating the funding for each program through internal budgeting procedures. All of the budget procedures and decisions require better information, programmatic and community involvement, and formal adoption by the Tribal Councils.

In general, Tribal managers and program staff prepare operational plans, justifications and corresponding budgets for the next fiscal or calendar year. Depending on the Tribal budget procedures these programs/budgets are presented to the Tribal Council and/or the responsible Tribal authority. The Council then allocates funds according to its priorities and availability of funds. It is very important that these program plans include evaluation tools so the Tribal Government and Tribal management can periodically assess program progress.

Self Governance planning requires a complete review of existing operations, establishment of internal policies and procedures, communication and education, efficient and effective use of management resources, determination of Tribal priorities, and the identification of short and long-term goals. The intensity of the planning process will vary for each Tribe. For Tribes just entering Self-Governance, typically this process will range anywhere from six months to two years. Self-Governance planning does not end with negotiations and implementation.

The planning activity is also an ongoing effort.



## **Negotiations**

### **Introduction**

Self Governance negotiations have been a dynamic, evolving, and Tribally-driven process. The negotiations are conducted on a government-to-government basis as each Tribal situation is unique. Negotiations require careful review and deliberation to ensure that each Tribe receives fair consideration. With each additional year's experience, refinements are being made and difficulties and obstacles which have been encountered are being resolved.

### **Required Documents**

The Self-Governance Tribes have developed the organic documents for negotiations. These documents include the Compact the Annual Funding Agreement, and other associated financial worksheets. The Compact of Self-Governance basically defines the government-to-government relationship between the Tribe and the Federal Government. The roles and responsibilities of each government are outlined. A model Compact of Self-Governance is available in the Appendix. Although most Tribes have adopted or modified the model Compacts, each negotiating tribe has the option to negotiate its own terms and conditions for its written agreement.

The Annual Funding Agreement documents the actual BIA/IHS "programs, services, functions and activities" to be transferred to the Tribe and their respective funding levels, programs retained by the BIA and IHS, method of payment, and assurances that other Tribes are not adversely affected. A model Annual Funding Agreement is also available in the Appendix. This agreement is negotiated annually as the BIA/IHS shift budget levels and Congress adds or reduces specific appropriations. The BIA/IHS must specifically document the programs and funds transferred for allocation purposes, and a record needs to be retained in case a Tribe should choose to retrocede or allow the BIA/IHS reassume any or all of the programs. This agreement will likely have identical requirements for all Tribes.

The Tribe should establish a checklist for the negotiations that includes all issues and objectives of the Tribe to be incorporated into the Compact and Annual Funding Agreement. Included in the checklist should be a determination prior to the negotiations of precisely

which programs or parts of programs the Tribe intends to assume and those programs, if any, it expects the BIA or IHS to retain.

The draft Compact and Annual Funding Agreement should be produced on computer disc to facilitate modification in the negotiations. A computer and printer should be available for the negotiation sessions. Tribal policy makers, Self Governance Coordinators, technical budget staff, and as appropriate, Tribal lawyers should be present at the negotiations. Finally, records should be kept on the negotiation proceedings.

### **Steps for Determining Tribal Shares in the Negotiation Process**

Although the negotiations are conducted on a government-to-government basis, the technical steps listed below should be undertaken during the process:

1. Identify each program and budget amount
2. Identify residual amount, if any
3. Calculate amount available for Tribal share distribution (Total budget amount less residual)
4. Determine Tribal share distribution formula (allocation methodology)
5. Calculate Tribal share based on distribution formula
6. Tribe determines which programs to Compact under Self Governance

The following section provides further information on each of these steps.

### **Identify Each Program and Budget Amount**

Budget information at all levels, (including BIA Central, Area, and Agency Offices and IHS Headquarters, Area, and Service Unit) should be collected and analyzed. A complete identification of current P.L. 93-638 contracts by program and amount should also be prepared.

The BIA and IHS each submit an Annual Budget Justification to Congress which outlines Agency funding requests for the next fiscal year by programs, services, functions, and activities. This book is part of the President's Budget (The BIA version is commonly termed "The Green Book,"). These publications are the basic budget document utilized to determine actual program funding levels and funds available for negotiated transfer consideration. In as much as the Budget Justification does not contain detailed Central/Area/Agency/Local Service Unit budget information, Tribal representatives will have to depend on budget information produced by the BIA and IHS Central/Area/Agency budget

officer(s). This information should be reviewed for significant changes with emphasis for each program the Tribe intends to negotiate for in their Agreement.

Prior to negotiations, the BIA/IHS staff at all levels should prepare a program-by-program listing of funding available for the next fiscal year. This information should include:

- Program Title and Description Total Budget Amount
- Identification of Residual
- Justification of Residual
- Identified Tribal Share
- Basis for Determining Tribal share (Distribution Formula or Allocation Methodology)

In order to allow adequate time for Tribal review and evaluation of the program and budget information, these materials should be prepared and submitted to the participating Tribes at least 90 days in advance of the final negotiation deadline. Standardized formats have been developed during the Self Governance demonstration period to assist in streamlining collection of this information.

In theory, the underlying factual materials should be shared and agreed upon early in the negotiations process. When the facts cannot be agreed upon, they become issues for negotiation. For the Self-Governance negotiations, the operative facts are the complete budgets for all levels of the BIA and IHS. These budgets should have been presented to the Tribes with both sides presenting budget figures for justification and negotiations.

### **Identify Residual Amount**

During the Self Governance negotiations, much debate, discussion, and confusion has surrounded the definition and identification of residual. In the simplest terms, the residual is defined as *"the amount of funds necessary to maintain those activities which by law must be carried out by Federal officials. The residual is used for calculating theoretical Tribal shares if all Tribes were to compact or contract for all programs, activities, functions, and services"*. For example, the preparation of the President's budget is asserted to be an example of a residual function which must be performed by a federal official. The identification of residual should include an outline of those federal functions to be retained

by the Agency and the identification of personnel and budget amount related to performance of those functions.

It should be emphasized that the amount identified as residual is **not** made available for distribution to Tribes or Tribal Organizations under an Indian Self-Determination Act contract or a Tribal Self-Governance Demonstration Project Compact. This amount remains with either the BIA or IHS to perform those identified federal functions. A clear understanding and outline of those retained residual functions should be included in the final negotiated documents.

### **Determine Tribal Share Distribution Formula**

A "Tribal Share" is the proportionate share of an BIA or IHS program, activity, function, or service which a Tribe is entitled to receive under a Compact. The "Tribal Share Methodology" is the allocation formula which is used to calculate a Tribe's or Tribal Organization's share of an program, activity, function, or service.

The basis of these allocation formulas are generally determined by the nature of the activity and should have a functional and reasonable relationship to the particular funding category to which they are applied. For example, the number of acres may be used in an allocation formula for BIA programs such forestry or agriculture; population served or Tribal Enrollment may be used for social services and education programs; or the number of Tribes in the Area or Agency may be relevant for administration and executive direction activities.

A key determination about the use of any particular factor is whether or not the resources and cost required to adequately develop, verify and maintain the necessary data on a national basis is justified. This cost may be too high or yield little value. However, some factors such as geographic isolation may be so significant that they require adjustments to the basic formulas. Some programs and proposed formulas may require application of several factors. This task is complicated by the fact that over 550 Tribes can be affected and each Tribe has different demographic and Tribal service/system characteristics. However, simplicity in allocation formulas serves to reduce confusion as well as Tribal, BIA, and IHS costs associated with determining and verifying workload statistics. Proposed allocation formulas continue to be refined as negotiation experiences increase.

### **Tribe determines which programs to Compact under Self Governance**



Once a Tribal share has been determined for each program, a Tribe then elects to Compact all or part of that program, or leave that program or part thereof, with the BIA or IHS. The Annual Funding Agreement should clearly specify funding levels, describe services to be provided, the functions to be performed, and/or the activities and responsibilities of the Tribe or Tribal Organizations and the Secretaries pursuant to the Agreement.

## **Negotiation Issues**

### *Divisibility of Multi-Tribe Areas, Agencies, and Service Units*

Negotiations for multi-Tribal Agency and Service Units, and divisibility of small BIA/IHS programs can present difficulties during the negotiations process. Factors related to these difficulties include the following:

- (1) BIA Agency and IHS Service Unit program budgets, in most instances, are seriously under-funded;
- (2) The negotiations by law cannot reduce funds, contracts, or services that neighboring Tribal governments or Tribal organization contractors are entitled to receive;
- (3) Divisibility of programs for partial transfer involving one or two federal personnel are often not practical;
- (4) The BIA and IHS Budget Justification does not provide details of internal Area/Agency budgets;

In order to avoid theoretical or meaningful reductions in services to non-participating Tribes, allocation formulas should be fair, objective, and consistently applied to all Tribes. Additionally, it is essential that the BIA or IHS begin restructuring efforts and other creative methods of providing services in order to fund the negotiated Tribal shares associated with the transfer of programs and responsibilities to Tribal governments.

### *Shortfall/Supplemental Funding*

During the initial year of Self Governance negotiations and implementation in Fiscal Year 1991, the BIA was not prepared to administratively restructure and reorganize to accommodate the Self Governance Tribes, nor was it willing to divide small programs managed by few staff.

The initial Self-Governance Tribes presented their concerns to Congress to cover the shortfall in BIA funds as well as start-up and implementation costs. The Congress appropriated \$3 million for Self-Governance Supplemental funding in FY-91. Since that time, the BIA basically has demanded utilization of the shortfall funding in the negotiations based on their own assessment of funding transfer effects on other non-Self Governance Tribes and the BIA capabilities to deliver services. As the BIA Area/Agency Offices must document their shortfall needs, transfer of shortfall moneys and determination of remaining funds available for start-up and implementation costs by Tribes have been delayed for distribution to the Tribes.

Congress did not intend for shortfall funding to be a permanent part of Self-Governance. The BIA and IHS have been directed by Congress to restructure and reorganize to fund all negotiated Tribal shares. The BIA and IHS should not depend on Congressional shortfall appropriations to maintain their operations. The shortfall funding should be used as a temporary means to accommodate the transfer of dollars from the BIA/IHS to the Tribes.



### **Timetable to Complete Negotiations**

The authorization laws, P.L. 103-413 and P.L. 100-472, Title III, as amended, require a 90-day review period for negotiated Self-Governance Compacts/Annual Agreements. The documents are provided to the Committee on Indian Affairs of the Senate and the Subcommittee on Native American and Insular Affairs of the Committee on Natural Resources of the House of Representatives. For Tribes operating on a fiscal year, negotiations and final documents are to be completed by June 30; for calendar year Tribes, final documents should be completed by September 30. However, to assist in the fund distribution process, negotiations should actually be completed by June 1 for fiscal year Tribes and September 1 for calendar year Tribes.

It is important to keep key Congressional offices advised about Self-Governance developments. Congress has been a strong, often key, bi-partisan partisan supporter of Self-Governance. As with any negotiations, the results must be within the law. Negotiations always require some compromise, and the process will continue to evolve with each subsequent annual negotiation as the Self-Governance initiative progresses.

*As Tribal Leaders in today's world, we have a formidable task ahead in order to overcome the obstacles that hinder or impede the advancement and strengthening of our nations. We must keep in mind our forefathers and the great obstacles they had to overcome so that we could be here today to discuss and plan our futures. And, at the same time, we must keep in mind the young and unborn who are relying on our leadership...Self-Governance is a mechanism that can assist Tribal Nations in advancing their governments into the future.*

Dale Risling, Chairman  
Hoopa Valley Tribe



## ***Implementation***

### **Post Negotiations, Tracking of Fund Distribution**

Once the Annual Funding Agreement has been negotiated, it is important to begin the tracking of the efforts of DOI/BIA and IHS to identify and distribute funding identified in the agreement. Many factors within the federal government can affect the distribution of funds to Tribes under these agreements. Some of these factors are listed below:

- Internal departmental budgeting of funds for direct and indirect/administrative costs.
- New Federal Government Policy Initiatives such as recessions and deauthorization designed to reduce federal budgets.

Tracking the distribution of these funds is performed through consistent and appropriate contact with the staff of the Department of the Interior Office of Self-Governance and BIA Administrative staff and DOI Secretarial staff as needed. Similar efforts are needed with the staff of the Department of Health and Human Services, Public Health Services, Indian Health Services, Office of Tribal Self-Governance. Such contact is often coordinated among Self-Governance Tribes in order to effectively utilize Tribal and Federal staff resources.

Tracking means developing and maintaining an awareness of the federal process for fund distribution, federal action and/or decision-making requirements and taking action either individually or in coordination with other Tribal Governments to facilitate or stop a federal action that is not consistent with the negotiated Annual Funding Agreement or with the provisions of current statutes.

### **Redesign of Programs**

One of the primary objectives of Self-Governance is to provide the maximum flexibility to Tribal governments to design programs, activities, functions and services to address Tribal priorities and respond to local concerns. When programs intended to serve Indian people have been managed by the Bureau of Indian Affairs (BIA) in the past, or

managed under P.L. 93-638 grants and/or contracts, most of the decision making and funding priorities were made by the Federal bureaucracy pursuant in some fashion to federal regulations. Tribal or local concerns often do not fit into the funding and program parameters established under BIA policies and regulations. Most of the BIA guidelines, policies and regulations are prepared for national application and are not tailored to specific Tribes, Reservations, or local conditions.

Tribal Self-Governance is designed to allow Tribes within the context of the federal - tribal relationships to plan and implement Tribal programs, activities, and services that best meet their needs. In effect, along with existing Tribal responsibilities, Tribal governments become the primary policy and regulation makers for the agencies, programs, services and activities on their Reservations, including the allocation of fiscal resources. Under Tribal Self-Governance, Tribes become more responsible for BIA programs, services, functions, and activities assumed by the choice of the Tribe.

### **Regulatory Framework**

When a Tribe assumes the operation of a specific federal program, it is responsible for the operation of the program consistent with federal regulations, unless waived and the Tribe develops its own regulatory framework to guide the operation of the program. However, when a Tribe allocates funding to a program, service or activity which is not covered by federal regulations, it is solely responsible for the development and implementation of tribal regulations needed to properly operate the program, service or activity. The content of these regulations is limited to lawful activities: consistent with either Federal or Tribal regulations, Tribes can develop program guidelines and other interpretative materials.

## **Reporting**

### Baseline Measures

Baseline Measures means the basis or standard of comparison of the provision of programs before and after Self-Governance implementation.

During the Planning Phase, Tribes who are interested in becoming Self-Governing, should identify baseline measures of the performance of both Tribal and Federal governments, agencies, programs, services, functions and activities towards meeting the needs of Tribal membership and the capabilities and abilities of Tribal governments to effectively meet the needs of its membership. The establishment of baseline measures should be a part of the planning activity is required of all Tribes seeking Self-Governance status. These measures are crucial to the Tribe's ability to make informed decisions concerning the development and implementation of its capacity to become Self-Governing. Baseline measures provide the federal agencies, Congress and most importantly the Tribe with a basis for measuring the progress towards the development and operational goals established by the Tribe for itself.

### Self-Governance Annual Assessment Report

Section 405 P.L. 103-413 lists the reports that are required of the Secretary of the Interior to the Congress concerning Self-Governance. The reporting requirements are summarized below:

By January 1, of each year the Secretary will submit to Congress a written report regarding the administration of Title IV (Tribal Self-Governance Act of 1994). The report contents will include the following:

- identify the relative costs and benefits of Self-Governance;
- identify with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to Self-Governance tribes and their members;
- identify the funds transferred to each Self-Governance tribe and the corresponding reduction in federal bureaucracy;
- include the separate views of the tribes; and
- include the funding formula for individual tribal shares of Central Office funds, together with the comments of the affected Indian Tribes.

Self-Governance Tribes should be prepared to provide the Secretary with Tribal specific information related to each of the requirements listed above in order to ensure that information provided by the Secretary to Congress accurately represents the experience of the Tribe and not the experience of the Secretary and his/her staff.

*Mr. President, for too long the Federal Government has dictated the policies and procedures that govern Federal Indian programs. Self-Governance, on the other hand, returns the management and decision-making authority to the Tribes and gives the Tribes the flexibility to design and allocate funding in a manner that each Tribe determines will best meet the needs of its citizenry.*

Senator John McCain  
Congressional Record  
November 23, 1993





**In addition to this overall report, the Secretary will provide the following reports:**

**Non-BIA Programs Report**

Within 90 days of the enactment of PL 103-413 and by January 1 of each year thereafter, the Secretary is required to develop a list of the non-BIA program, services, functions and activities, or portions thereof operated by the Department of the Interior that can be included in agreements with tribes participating in Self-Governance under Title IV of P.L. 103-413. In addition to the list of non-BIA programs, the Secretary is required to establish programmatic targets, after consultation with Self-Governance Tribes, to encourage bureaus of the Department to assure that a significant portion of such programs, services, functions, and activities are actually included in the agreements negotiated.

Self-Governance Tribes need to generate the information needed to complete this annual report from the Secretary to ensure that the information presented to Congress accurately represents the experience of the tribe in seeking to include non-BIA Department of the Interior programs in their compacts and annual funding agreements.

**Trust Evaluation, Annual Assessments**

An annual evaluation of the activities of both the Self-Governing Tribes and the Federal Government to protect the trust resources of each tribe will be conducted by the Department of the Interior, Office of American Indian Trust and each Tribe. Trust resource evaluations are required by Law to include an evaluation of activities of the federal government to fulfill its continuing responsibility to protect the trust resources.

**Internal Reporting**

As a practical matter, although not required by law, Self-Governance Tribes must develop internal reporting systems so Tribal Councils can be informed about programmatic activities. The information collected is utilized for both internal evaluation and external reports.

It is important for Self-Governance Tribes to develop an internal activities reporting system. This system should provide sufficient information to Tribal government, to manage the development and implementation of Self-Governance Policies and Procedures. These

will enable staff to manage the development and operation of Tribal government programs, services, functions and activities.

- To measure progress towards Tribal goals and objectives.
- To evaluate performance of staff assigned to operate program.
- To determine appropriate development of Self-Governance
- To support budget justifications to Tribal Councils

### **Annual Report**

The Self-Governance Tribes should include in their internal reporting system a requirement to develop an annual report describing the programs, services, functions and activities supported by funding received through the Annual Funding Agreement, under the Self-Governance Compact with the United States to the Tribal Council and other appropriate Tribal organizations, agencies and institutions.

### **Internal Education, Coordination and Review**

Self-Governance Tribes have found it necessary to develop internal education systems for Tribal staff, decision makers, and Tribal members in order to implement the internal re-organization plans that they have developed. These systems will help facilitate the development of the capacity and ability of Tribal Government to be Self-Governing.

**Review of Annual Funding Agreements Programs (Assumption, Re-design, Operation)**

Self-Governance Tribes should, on an ongoing basis, or at least periodically, review their Annual Funding Agreement to identify the following and take appropriate action:

- Operational problems and strengths that provide the basis for future development and operational activities.
- Adjustments in funds that need to be developed and submitted to the OSG/DOI or the IHS/OTSG.
- Additional BIA/IHS non-BIA DOI programs and non-IHS DHHS programs for Tribal assumption and operation.
- Program re-design planning needs to assume additional BIA/IHS/Non-BIA DOI programs and non-IHS DHHS programs.

**Internal Evaluation**

Each Self-Governance Tribe needs to develop an internal evaluation system that employs the basic evaluation concepts presented below in order to identify its own progress towards its own goals. Performance of this internal evaluation should be consistently scheduled and include all participants.

**Basic Performance Evaluation Concepts:**

The process of evaluating the performance of any activity requires the following:

- Identify the activity to be evaluated
- Establish baseline measures for the activity to be evaluated.
- Performing the service or activity including new services or activities.
- Describing the actions which are both new and existing services or activities.
- Performing an analysis of the differences in outcomes that could be attributed to the new activities and services.
- Developing a written document describing the results or findings.

**Conclusions**

Implementation of Tribal Self-Governance demands careful and ongoing assessment of the organization of the Tribal government and the Tribal budgeting process. This assessment and refinement of the organization of Tribal government and budgeting process does not end with the planning and research activities in preparation for Tribal Self-Governance. It is during the implementation stage that Tribes learn whether the procedures and organizational structure which looked good on paper beforehand actually worked and whether changes are needed. Tribal Self-Governance is a learning experience.

Internal Tribal government reorganization and development of budget procedures are critical activities of Self-Governance. Participating Tribes will address these activities in their own individual ways. The objectives can be effective operations, cost efficiencies, and Tribal stability. Tribal stability in the political, administrative, and programmatic arenas is the foundation for success for Tribal Self-Governance.

Tribes should not overlook the need for continuing education for Tribal membership regarding the activities taking place within Tribal government. Self-Governance is about managing our own affairs. The more people understand the Self-Governance process and Tribal Council decisions, the more likely they will support Tribal operations.

*“I’m a very strong defender of Tribal sovereignty and Tribal governmental power. The U.S., when it needed to, made a whole series of deals with the Indians; we made a series of deals, we ought to live up to them. Tribal governments say they can govern their lands, let’s let them (have the opportunity).”*

William Lavell, Former Director  
DOI Office of Self-Governance

### ***Communication and Education Project***

During the initial two year planning phase, the BIA, with the exception of the Federal Register announcements on planning grants, provided no formal descriptions or explanations to Indian Country about the Self-Governance Demonstration Project. Other than the actual provisions, of the law itself, no information on Self-Governance was available.

By mid-1989, the Tribes realized that the lack of available information concerning the Self-Governance Demonstration Project allowed for a most vulnerable climate in which rumors, misinformation and Project opposition could flourish. With planning funds, the Quinault Indian Nation, Lummi Indian Nation, and Jamestown S'Klallam Tribe developed "Shaping Our Own Future", a publication on the history, legislative purposes, and experiences in Self-Governance. The first Self-Governance educational seminar was held in Seattle, Washington in January 1990. The Hoopa Valley Tribe joined this educational initiative after the Seattle seminar.

By 1992, the Quinault Indian Nation, Lummi Nation, Jamestown S'Klallam Tribe and Hoopa Valley Tribe developed the "Red Book II" entitled: "Self-Governance: A Tribally Driven Initiative." This document describes the history, purpose and progress of the Self-Governance Demonstration Project, itself, as well as the reasoning and aspirations behind this historic Tribally driven initiative.

In early 1993, the Sac & Fox Nation of Oklahoma joined this educational initiative.

The purpose of the Communication and Education Project is to share knowledge with Self-Governance Tribes, Tribal communities, Office of Self-Governance (DOI), Office of Tribal Self-Governance (IHS) with focus on: What Self-Governance means to our Tribes, defining and exploring relationships, and the key provisions and intent of the Self-Governance statutes.

It was decided, by the five Tribes working together on the Education Project that the one of the most effective mechanisms to convey accurate information about Self-Governance was to sponsor regional and national workshops. These workshops provide local presentations at the request of a Tribal government. Based on amount of funds available, the Project also distributes information by mail and at national conferences, and distributes a monthly newsletter entitled the "Sovereign Nations". The overall goal has been to provide factual information about Self-Governance, to assist other Tribes interested in participating in the Demonstration Project, and to create an open atmosphere where the Self-Governance concept could be discussed and debated.

As Tribes were entering the first year under Compacts of Self-Governance in FY 91, Congressional assistance was requested to continue the education/ communication initiative. Congress supported continuation with appropriations of \$175,000 in FY 91 and \$150,000 in FY 92 and \$150,000 in FY 93 and \$100,000 in FY 94. The Indian Health Service FY 94 and FY 95 Budget Justification supports the Self-Governance Communication and Education effort at \$50,000 each year. The Lummi Nation serves as Project administrator, but the general direction and activities of the Project are determined by the five Self-Governance Tribes.

The interest expressed about the Self-Governance Project and requests for technical assistance continue to grow. The Communication and Education Project has been effective in the distribution of information and providing forums for discussions about the Project. However, the demand for Tribal-specific technical assistance extends beyond the scope and purpose of the Communication and Education Project.

The Self-Governance Communication and Education Project initiative will continue efforts to reach all areas with Tribal workshops, provide forums for BIA Area/Agency personnel serving Self-Governance Tribes, and develop/disseminate up-to-date factual information on Project problems, accomplishments and experiences. The quarterly newsletter highlighting individual Tribal experiences implementing the Self-Governance concept and summarizing legislative/administrative developments is being disseminated to all Tribal governments, Alaskan Native Villages, Office of Self-Governance (DOI), Office of Tribal Self-Governance (IHS), and interested parties. The distribution list currently exceeds over 5,000 individuals.

The Communication and Education Project is vital to insure that the Project and its purposes are clearly understood by federal agency officials & employees as well as the non-participating tribes. Everyone - the Tribes, the agencies, and the Congress needs to understand that the Self-Governance Tribes are not attempting to dissolve the Bureau of Indian Affairs or the Indian Health Service, but rather to change the Tribal/BIA and Tribal/IHS relationship.

As a result of the workshops, presentations, printed materials, telephone inquiries, and monthly newsletters, numerous misconceptions and misinformation about Self-Governance have been identified and addressed. There has been substantial interest expressed by other Tribes to participate in the Project. A critical audience for future

workshops will focus on BIA and IHS and eventually other Federal Agency personnel, particularly in those Areas with Self-Governance Tribes.

*Indian Self-Determination policy is based on the unique government-to-government relationships between the Federal Government and Indian tribes. Many our Indian Tribes entered into their "Contract With America" through treaties signed over one hundred years ago -- not this past November. This Congress shares with the Executive Branch the Nation's obligation to fulfill its treaty agreements and other statutory commitments to the Tribes.*

Ada Deer, Assistant Secretary - Indian Affairs  
before the Committee on Indian Affairs U.S. Senate  
March 20, 1995



### ***Tribal Success Stories***

#### **The Squaxin Island Tribe**

The Squaxin Island Tribe will begin construction of the Sally Selvedge Memorial Health Center in April of 1995. The 8,000 square foot facility will house the programs of Primary Care, Dental, Mental Health, CHS, and Community Health. It will serve a population of 1,500 Community members. The current health programs are scattered over four locations with the Clinic comprising less than 800 square feet. The space situation was so bad that patients had to exit the side door of the Clinic and use the Natural Resources department's restroom for urine analysis. The new facility will be used to

consolidate health programs into one facility and to greatly expand new services not available due to lack of space.

The Squaxin Island Tribe decided to use Self-Governance to fund the construction. They secured a \$500,000 long-term, low-interest loan from the FHA. The Tribe also contributed close to \$300,000 of their own. They used carry-over and Self-Governance Tribal shares for the Tribal portion of the construction and have dedicated \$35,000 a year to pay off the FHA loan debt. In other words, they leveraged \$35,000 into \$500,000. In the past, IHS would wait until they had full funding before construction could take place. Because of Self-Governance we are able to leverage our funds and begin construction now instead of several years down the road.

Self-Governance and the ability to use and leverage funds as we see fit, has allowed the Squaxin Island Tribe to construct a Health Center which will serve as the focal point for the promotion of the mental and physical well-being of Community members.

### **The Cherokee Nation of Oklahoma**

In April, the William P. Mankiller Health Center, a 37,374 square foot state-of-the-art outpatient clinic in Adair County, Oklahoma, became the most recent addition to the Cherokee Rural Health Network facilities, and was dedicated in honor of Chief Mankiller's leadership. Respect for traditional cultural wisdom, strong leadership and the empowerment of management teams has been the hallmark of success for the Mankiller administration, and has been the framework of construction for the tribe's healthcare delivery system.

The Cherokee Rural Health Network provides services to Indian people who are members of any federally recognized tribe residing in the 14-county jurisdictional service area in Oklahoma which comprises the Cherokee Nation. Additionally, because non-Indians living in Jay and Salina, Oklahoma, had no other source of primary health care available in their communities, the Cherokee Nation Tribal Council has approved services from those two clinic sites for non-Indians on a fee-for-service basis.

The Network has been built through a cooperative relationship between the Cherokee Nation and the United States with the Indian Health Service as a vehicle for its evolution. Presently, it is the resources allocated to both the Tribe and the IHS which combine to fund the "benefit package" of the Cherokee Rural Health Network, with an



increasing emphasis on the billing of third-party resources to augment the healthcare monies.

The trust obligation of the United States to provide for Indian healthcare has been the only constant throughout the development of the CRHN.

While tribal leaders have always been concerned with the services available to our people, it has been through the implementation of self-governance that we have been afforded a real voice in determining and developing those services.

Many challenges have been a part of integrating resource management with the IHS, but because of the advanced development of our infrastructure and administrative base at the time the IHS adopted self-governance as a demonstration project, Cherokee Nation has been a leader in maximizing the opportunities of self-governance in health care delivery. Also, we had already begun administering a wide variety of Department of Interior programs under self-governance.

Cherokees are experienced at negotiation and integration. We are possessed of a diverse culture which is the legacy of a tribal heritage rooted in the value of individuals in community. We have paid dearly for our progress, and we have learned that it is the relationship between people which facilitates the relationship between institutions and that successful relationships are based upon respect for the contributions of all concerned parties.

### **The Shoshone Paiute Tribes**

We're the most isolated reservation in the lower United States, said Edith Manning, Self-Governance Coordinator for the Shoshone/Paiute Tribe. "But with Self-Governance, we are finding that it is possible to continue some things, such as health programs, which would have otherwise shut down. Enforcement, tribal courts, water protection, and so on. Self-Governance is now a big part of many of our important operations...and when the Tribal Council sits down, as a government body, to really consider the proposals of program managers...it is exciting to see."

### **The Duckwater Tribe**

The Duckwater Tribe, located in east central Nevada, consists of about 300 members on a reservation of about 4,000 acres. "Self-Governance is a positive step

forward," said Millet. "We make our own decisions, and our available annual budget has been increased by about \$80,000...due to Self-Governance. We just negotiated our second year, and it looks like our available income increase so far will amount to \$150,000. It's benefitting our law enforcement program, our judicial services, road maintenance, social services and housing improvements. We're also working to bring our education programs under Self-Governance. "Self-Governance is a positive step forward,"

### **Coeur d'Alene**

Before 1990 Members of the Coeur d'Alene Tribe in Northern Idaho had two options for medical care: drive 20 miles east down a winding road to St. Maries, or drive 34 north on U.S. Highway 95 to Coeur d'Alene. Limited on-site facilities could not do lab work, and specialists did not visit the reservation.

In addition, Tribal members had to through the Indian Health Service's office in Lapwai to get approval for medical treatment. This meant long-distance calls and sometimes as long as two years before paperwork was processed. As a result, individuals ran up large unpaid medical bills which were often sent to collection agencies.

"We decided it was time to address the health needs of the reservation ourselves," says Tribal Chairman Ernie Stensgar. This sentiment led Stensgar and other Tribal Leaders to build Benewah Medical Center--touted as one of the most successful rural health clinics in the country.

Completed in June 1990, the clinic serves the Coeur d'Alene Tribe's 1,300 members, 700 of whom live on the reservation. The clinic is also open to the general public. "Non-Indians had the same health care problems as us, so we worked together," says Stensgar. "Community involvement was critical."

Funding to build the clinic came from a variety of sources including the Bureau of Indian Affairs, the Department of Housing and Urban Development and a grant obtained by the City of Plummer. Construction was made possible by bringing together these disparate funding sources.

Multiple Sources also account for the clinic's operating funds. IHS funding comprises 85% of the clinic's budget, with other monies coming from insurance payments, reimbursements from Medicaid and Medicare and private dollars.

Tribal Leaders decided early on that the clinic would handle making IHS payments to specialists and hospitals, so patients would not have to deal with the tiresome and protracted process. Today a clerk handles paperwork, and clinic patients see their medical bills paid promptly.

It is an approach that works for the Coeur d'Alene Tribe and the surrounding non-Indian community. Many Indian families travel hundreds of miles to avoid the bureaucracy of the IHS, with the clinic gaining an average of 50 to 100 new patients each month overall.

In February of 1994, a \$1.4 million expansion of the health and dental clinic was completed. Capacity had been stretched, and the Tribe did not want to limit their ability to serve non-Indians. Cindy LaDeaux, Clinic Administrator says that with the expansion the clinic now provides "one stop shopping for medical care needs." The Tribe hopes the expansion will meet the needs of the community well into the future.

Although not originally a Self-Governance Project, the Tribe negotiated a contract for the clinic this June, with the compact starting October 1. Stensgar says, "We are going the Self-Governance route because we were doing it anyway. We have a state of the art facility. We don't want to jump through all the bureaucratic hoops." The Tribe is also in the process of compacting its social services, roads and police.

Meanwhile the medical center has become a national model for rural health care. The IHS frequently holds the clinic up as a model for Tribes across the country--this year giving it three awards.

### **Cocopah -Indian Reservation**

"Twenty-three years ago in LOOK magazine, June 1970, Cocopah was listed as one of the ten poorest Tribes in the U.S. Now it is a Tribe providing for their people and just a step away from Self-Governance," said Bob Kennerly, Self-Governance Coordinator/Planner for the Cocopah Tribe.

Kennerly said their experience of planning for Self-Governance has been good. "The Self-Governance Tribes have been very helpful to the new Self-Governance Tribes. They are carrying the banner." The Cocopah Tribe sat in on the negotiations with their Area office observing Duck Valley; Duck Water and Ely Shoshone. "It was helpful to us in

knowing what to do when our time comes for negotiations." Kennerly added this is an example of Inter-Tribal cooperation.

Kennerly said they will be planning negotiations, submitting a proposal for their Compact --- the Annual Funding Agreement.

"What is key in Self-Governance is the Tribal Council will have the authority to budget and spend funds without restrictions; then, you have to be accountable for those funds. This is a new responsibility and part of the independence of being a government" said Kennerly.

"This is a great opportunity for the Tribes to be finally recognized as a government and be able to function as a true government," he said.

"Self-Governance will be another step for Tribes in deciding their own destiny," concluded Kennerly.

The Cocopah Tribe is located in Somerton, Arizona, consisting of 750 Tribal members, including three reservations.

The Cocopah Indian Reservation was established through Executive Order No. 2711 by President Woodrow Wilson on September 27, 1917. This Executive Order established the West and East Reservation with approximately 1,772 acres.

On April 18, 1985, President Reagan signed the Cocopah Land Acquisition law which increased the Cocopah Reservation by nearly 41,237 acres, including the establishment of a third separate reservation of 600 acres.

The community is governed by a Cocopah Tribal Chairman; Vice-Chairman; and three Council members.

The Tribal economy traditionally relies on agriculture including mainstay grain and vegetable crops. Since agriculture is very important to the Cocopah economy, with about 1,600 acres of irrigated land on the reservation. Approximately 900 acres of land are farmed through land leases to non-Indians.

With the acquisition of 4,000 acres of land in 1985, the Tribe started several new businesses and developments. In 1987, a convenience store, gas station, smoke shop and the Cocopah Bingo Hall were opened in joint ventures with private developers. Job opportunities were created for Tribal members, along with a goal in mind...self-sufficiency for the Cocopah Tribe.

The Tribe operates a bingo hall and casino directly under a gaming compact with the State of Arizona. The 40,000 square foot facility offers slot machines and a 500 seated capacity bingo hall.

The Cocopah Bend Recreational Vehicle Resort is four miles from downtown Yuma, Arizona. The resort has full hook-ups, on-site management, and a full-time activity director. Amenities include an 18-hole golf course, olympic-size swimming pool, tennis courts, community building and dance hall. Initially under contracted management, this will soon be a Tribal operated facility.

### **Absentee Shawnee Tribe**

If there is an example of the strength of Self-Governance and of the ability of the system to continue to work in the face of overwhelming problems, that example is the Absentee-Shawnee. During the period of the initial years under Self-Governance. The Tribal Leadership of the Absentee-Shawnee changed and the Tribe was faced with conflict, including armed partisans. The conflict was internally resolved and the Self-Governance provisions and programs continued to operate effectively and efficiently through the transition from one government to the next.

The Absentee-Shawnee Tribe has made significant advances under Self-Governance in budgeting, planning and services. These have included expansion to the education department and the police department. Tribal accounting has been streamlined, and there is significant more Tribal involvement by members in setting priorities.

"The Tribe attributes the increased involvement reflected by greater attendance at their General Council Meetings to the chance for participation in priority setting allowed under Self-Governance and the Tribe believes that the Self-Governance Demonstration Project has significantly improved the lives of individual Shawnees and greatly increase the effectiveness of the dollars expended.

### **Hoopa Valley Tribe**

The Self-Governance Demonstration Project can offer an excellent opportunity to experiment with better ways to deliver improved and expanded health care to Indian people. At the Hoopa Tribe, we have already undertaken two years of planning and

design and are ready to implement these solutions. Providing flexibility within the Indian Health Care Improvement Act amendments with an authorization for Tribes to implement the Self-Governance Demonstration Project with the Indian Health Service will create the model.

### Project Overview

Rural health care programs today, like the Hoopa, face problems of recruitment retention of quality medical staff, poor facilities, inadequate equipment and financial limited resources. Health care delivery systems throughout the nation are undergoing dramatic changes with improvements in technology, communications, and networking with other existing health systems.

Hoopa Hospital Project is designed to place our outdated and obsolete systems new and innovative methods for providing health care services, including preventative medicine. Two years of research and analysis have resulted in the development of "Alternative Rural Hospital Model" (ARH which provides health care to the people and adjacent to the Hoopa Reservation. The model is designed to coordinate health care activities with all the area's health organizations and agencies through a cooperative networking system.

The Hoopa Valley Indian Reservation was established by Executive Order in 1964 as a result of negotiations for a Peace and Friendship Treaty Between the Hoopa's and their allies and the United States. Upon creation of the Reservation, the Federal Government placed a physician for Hoopa at the Indian medical dispensary which later became a hospital at Fort Gaston, the Reservation's military out post. In 1916, a permanent 15 bed hospital was built, and in 1937, it was enlarged to 29 beds.

In 1955, the Bureau of Indian Affairs transferred control of the Hoopa hospital to the U.S. Public Health Service, Indian Division. During this same period the Federal government began implementing the national termination policy. Part of the termination plan was to eliminate all Indian hospitals, including the Hoopa hospital. In response to the threatened total elimination of the Reservation's health services, a group of local residents in 1953 formed the Community Health Association (CHA). After several failed attempts to transfer the Indian hospital to the CHA, the Public Health Service began preparing to close the Hoopa Indian Hospital.

In 1958, negotiations were initiated to build a new Hoopa hospital to be operated by the CHA, and in 1950, the present Hoopa hospital was constructed. In 1972, with CHA facing sentencing continuing revenue losses the local County government assumed operations of the hospital. In 1978, because of a California State-wide initiative to reduce government spending, the County began to reduce its financial assistance to the health facilities. In attempts to relieve themselves of the expense of the Hoopa hospital, the County began a series of transfers of the Hoopa hospital operations to various private health care providers.

Five different providers operated the Hoopa hospital since its construction in 1960. In early 1987, West World Inc., the manager at that time, filed for bankruptcy. After West World failed, the Mad River Community Hospital in Arcata, California, assumed control of the facility, restructured the operation and closed the inpatient services to maintain the hospital's profitability. Leaving, only an emergency room and the medical lab. In August, 1987, Mad River announced plans to close the emergency room and lab.

The Hoopa Tribe persuaded Mad River to continue providing emergency, lab and X-ray services to the local area by committing to subsidize the emergency room operation expenses. In April, 1988, after the Federal Court decision in the Puzz case, the BIA assumed control of the Tribe's entire Tribal Budget and stopped any expenditure including the hospital subsidy. Despite repeated Tribal requests for funds to maintain the emergency room, lab and X-ray, the Bureau denied the Tribe's use of its own monies. Immediately following the loss the Tribal subsidy, Mad River closed the emergency room, lab and X-ray operations.

After the Mad River closure of medical services, the Hoopa Tribe and IHS were confronted with a crisis situation. The Sacramento Area Indian Health service temporarily continued to fund the X-ray and lab services for the Reservation community; however, no funds were provided for the emergency room. Without the emergency service on the reservation, all emergency patients must be transported to Arcata, some 65 miles and 1 1/2 hours away over mountain ranges. The hospital's closure preceded by the abandonment of the area's only ambulance service. The Tribe has assumed responsibility for the ambulance service and now operates California's only Indian EMS program.

The Hoopa Tribal outpatient program was developed in 1973 to supplement, not duplicate, the services of the former hospital. Thus, the loss of emergency room and

inpatient services was a devastating blow to our community. Since the Tribe is the largest health care provider in our rural area, we have been working diligently to restore as many of these lost services as possible. Through a series of negotiations, the Tribe has now obtained title to the former hospital building. However, these facilities require renovations and repairs to conform to present day standards prior to its utilization as an out patient clinic.

Unfortunately, the IHS has advised the Tribe that the Indian population within our service area of 3,100 scored very low on the assessment methodology developed by the Indian Health Service and Congress for determining priority allocations of IHS construction and renovation funds. Ironically, Federal laws prohibit us from using the building regardless of who pays for the renovation unless we meet the impossible standards set by the IHS. Our problems are not with the IHS standards themselves, but rather that they were never intended to be applied to situations like Hoopa. Therefore, we are being unnecessarily stymied from addressing our health care delivery problems due the inappropriate application of standards creating impossible compliance obstacles.

Thus, while the hospital building sits idle and vacant, our outpatient clinic is serious overcrowded due to the expanded service population following the closure of the hospital. As a result of this situation, an over crowded unplanned, and piecemeal health care system has evolved that is in jeopardy of total collapse. Because the Hoopa Tribe health service area is too small to rank high on the IHS needs assessment methodology the Reservation and surrounding communities have been in effect without any solution options.

The need for exploring viable system alternatives for small, rural Indian health systems is well documented. The California Areas IHS Program Director, T.J. Merwood, in his December 5, 1988, Health Facility Priority System Report to the IHS Central Office stated, "We would like to explore the possibility of designing the criteria for small facilities which would make them better compete in the existing priority system. Perhaps with your assistance, we could design a "model" which would be applicable to the smaller health centers."

Although the need for exploring and experimenting with alternative and locally responsive systems is understood, there is no consensus on the practical applications. Presently, Federal officials influential in the delivery of health care in Indian Country, i.e.



contracting officers, have no guidelines for such experimentation. Without the opportunity to actually demonstrate the benefits resulting from experimental models, the Federal government and Indian Tribes simply have no alternative but to accept existing inadequate health care systems. Although the Hoopa Tribe has been supported by Federal policy officials, the IHS administrative technicians have not been as supportive. This IHS Administrative reluctance is caused, in large measure, by the fact that new experimental models necessarily mean creating an environment that stimulates change and flexibility within the established restrictive Federal rules and regulations governing health care systems.

Following the closure of the hospital, in efforts jointly funded by the Tribe and the IHS, the Tribe initiated a multi-phase study to determine the most feasible solution to addressing the local health care needs. In Phase I, the Tribe conducted an assessment for determining the best method for re-establishing basic health care services to the I community. Following a detailed research and analysis of available local services financial resources, the study team determined that the Alternative Rural Hospital Model (ARHM) which has been utilized in the other parts of California was the most practical approach for the Hoopa Reservation. In a more detailed planning and implementation study during 1991, the study team developed a report that determined the actual components and the necessary implementation plan for a self-sufficient and self-sustaining operation within the existing funds available.

Our studies have proven that, through the design and implementation of the Alternative Rural Hospital Model, we can almost immediately improve and expand the present health care delivery system, including the provision of on-Reservation emergency services and temporary holding beds, in a self-sufficient manner. Presently, the Tribe cannot compete within the present-day arena for health care professionals because of the inadequacies within our health care system through the networking system included in the ARHM, we will create a cost-effective and efficient alternative method for selecting and supporting health care professionals instead of being solely dependent on the IHS system.

After over two years of study, planning a design at Hoopa, the existing Federal regulations have become the obstacles that prevent successful implementation of "new" way delivering improved and expanded health care to Indian people. This is precisely why the Hoopa Tribe is seeking to include the IHS into the Self-Governance Demonstration

Project (SGDP). Under the SGDP with resources transferred from the BIA, we have taken age-old problems on our Reservation and found new and innovative methods solving them. We expect the same result can happen once Tribes are allowed to experiment in the service areas involving the IHS.

Many existing health care systems serving Indian people through the Country are inadequate. Among the reasons these inadequate systems perpetuate are the inflexibility of the available delivery system and simply the lack of tested and proven experimental models. The existing self-perpetuating system and its inherent limitations, whether political, personal or regulatory, have not provided any solutions to these problems.

If self-sufficient alternatives are to be developed, Tribes must be given the opportunity to develop experimental models and the discretionary freedom to apply flexibility in how health care is being delivered in Indian Country. We believe Self-Governance will provide the Hoopa Tribe the opportunity.

### **Kawerak**

Kawerak Incorporated, an Alaska Native regional non-profit corporation located in Nome, becoming part of the Self-Governance Demonstration Project in November, 1990 was a natural step. Even before compacting, the 638 contractors in the Nome Agency had contracted every possible program from the Bureau, leaving only four staff in the agency offices. "Our interaction with agency and area staff was pretty minimal before compacting, especially with the area office, since they are located 800-900 miles away," says President Loretta Bullard.

Kawerak differs from most other Self-Governance participants in that they are a Tribal consortium, authorized by Tribal resolution to compact and provide services to the membership of 19 of the Bering Straits region's 20 Indian Reorganization Act or Traditional Tribal Councils. "Our Tribes created a consortium in 1973 to contract and provide BIA and other Federal and state services. Tribal memberships range from 125 to 1,600 members per community (for a regional Tribal membership of about 6,500) and it's not cost effective for smaller Tribes to administer some programs at the village level. By working together, we were able to minimize administrative expenses and maximize services," states Bullard.

The Bering Straits region is unique in that the Region's Native American population consists of three diverse Eskimo Groups. Siberian Yupiks live on St. Lawrence Island and are closely related to Yupiks in Russia; mainland Yupiks reside in the southern villages and speak the same language as Yupicks in Southwestern Alaska; Inupiats reside in the region's northern villages and share the language and culture of the northern Inuit who live in northwest Alaska, Northern Canada and Greenland.

Kawerak's service area encompasses the entire Bering Straits region, an area of about 26,000 square miles.

Service delivery can be difficult in the region due to the distance involved, the need to travel by air, the cost of providing services, and unpredictable weather. All villages are accessible by road during the summer months. "Region residents hop small airplanes like people in the lower 48 take taxis, and we face barriers not experienced in the lower 48," notes Bullard. "A good example is Little Diomede. The island is so steep they cannot build an airport there and the only means of access during the ice-free months is by boat or once a week helicopter service." Until recently, Diomede had just one phone for the entire community of 140 people and communications were difficult at best.

Kawerak provides diverse services, ranging from Headstart and Adult Basic Education to Village Police Officers, Social Services, Indian Child Welfare, JTPA, Childcare, TERO, and Village Planning Assistance services. They operate the only Native American Adoption agency in the State of Alaska. Their compact encompasses the full range of BIA funded programs, from Higher Education, Adult Vocational Training, General Assistance, Tribal Operations, Rights Protection, Realty, Housing and other services. Kawerak uses their BIA Agriculture funding to support the reindeer industry in rural Alaska. There are approximately 25,000 head of reindeer in Northwest Alaska, all privately owned by Alaska Natives. Reindeer are considered a trust resource by the Federal Government.

Kawerak's governing board consists of the President or Chief of each of the regions twenty Indian Reorganization Act or Traditional Tribal Councils, plus two elder representatives and the Chairman from Norton South Health Corporation. Norton Sound Health Corporation is Kawerak's sister Native non-profit organization in that they are authorized by Tribal resolution to provide health services to Tribal members. Norton Sound owns and operates the regional hospital and provides health services to Natives and non-

natives throughout the region. Norton Sound recently received an IHS Planning Grant to explore compacting Indian Health Services funding.

Kawerak became a Tribal Self-Governance participant in November of 1990. "When we saw the notice in the Federal Register, we immediately applied," notes Bullard. "Basically we packaged our frustration with the BIA 638 Contracting system and submitted it in the form of a written application."

After one year of planning, Kawerak rolled over their 638 contracts into a compact to take advantage of the reduced reporting requirements, the increased decision making authority at the local level, the ability to move funds between programs to address Tribal priorities, and the ability to create new programs to meet Tribal needs.

"During year one of compacting, the programs continued pretty much status quo, though the board did take advantage of their reprogramming authority to create a Tribal Employment Rights Office," says Bullard. Like many other areas of rural Alaska, the region's unemployment rate ranges from 50-75% unemployment during the winter time.

During 1993, year two of the compact, the Kawerak Board exercised it's decision making authority to create a Tribal Coordinator Program. Through this program, the board funded positions in each of the regions IRA and Traditional Council Offices and purchased computers and modems for all council offices. Kawerak is now providing training to the IRA Council staff in areas identified as priority by the various Councils. IRA or Traditional Councils with CPA certified accounting systems have the option of applying for and administering their share of Tribal Coordinator funding directly at the village level.

Over the past several years, Kawerak has administered a Village Planning Assistance Program to train Tribal members to work as grant writers for their Tribes. It's been very successful and additional funding is being made available at the village level to address local needs.

Because of the success of this program, Kawerak has made it a priority under the compact to work with the councils to set in place solid financial and administrative systems at the village level so the Tribal Councils can successfully administer grants at the village level. Kawerak has contracted with a CPA firm to develop a simple computerized accounting system for implementation in the villages which will enable them to meet all Federal and state accounting standards, and plans to provide computerized accounting training later on this fall. In the future, Kawerak plans to use the computers to provide

grant writing assistance and set up a regional computerized Tribal enrollment system via modem.

Kawerak has also used the compact to access roads maintenance funds. These funds are being provided to the Tribes in the region with BIA roads. Kawerak was also able to access funding to contract with their Regional Native Profit Corporation to conduct historical and cemetery site assessments in the region. The sites need to be identified so they can be protected.

Kawerak's compact is unique in that it has a subcontracting arrangement with Gambell IRA. Prior to entering into the compact, Gambell was an independent 638 contractor. Gambell's IRA Council decided to participate in the compact to take advantage of the benefits under compacting. Kawerak created a Memorandum of Agreement between Kawerak and Gambell similar to a compact document, established an Annual Funding Agreement, and passes Gambell's share of funding directly through to Gambell. It's a simple arrangement and is working well. None of these activities would have been possible under the old 638 system.

The compact is not without problems though, according to Dan Duame. Self-Governance Coordinator for Kawerak. He notes it's been a real challenge to get the funds transferred to Kawerak and that the tracking of dollars through the system has been extremely time consuming. "We look forward to the time when these problems are alleviated," said Duame.

In the future, Kawerak is very interested in compacting other Federal programs and looks forward to the passage of permanent Tribal Self-Governance legislation. Kawerak has begun exploring other programs within the Department of the Interior which they would like to compact within the next year or two.

"It's more difficult to work with 19 Tribal councils as opposed to working with one," notes Bullard. "Thank goodness sharing, working together cooperatively and avoiding conflict, are cultural attributes of the Inuit people. Otherwise this demonstration project could be extremely difficult. As it is, I feel we work well together. We've accomplished a lot and will continue to do so."

As one Kawerak board member observed, "This is the biggest step taken by the Federal Government toward true Self-Determination since the passage of the Indian Self-

Determination Act." This is one opportunity Kawerak and it's member Tribes plan to take full advantage of.

### **Salt River Pima-Maricopa**

Because the Salt River Pima-Maricopa Indian Community in Arizona has been handling most of its own contracting since the "Buy Indian Days" of the early 1970's, the concept of Self-Governance is very familiar there. It truly appears to be a natural next step for the Tribe ... one that it hopes will result in even greater governmental efficiency, progress toward Self-Determination and more influence in land management ... without disrupting the trust responsibility of the U.S. government.

"We just received our planning grant in September, so we're still getting the feel for the specifics of the Self-Governance process," says Tribal Self-Governance Coordinator Earl Pearson. "And even though our extensive contracting experience seems to have made the process second nature to us for the most part, we have been having fun discovering that we really are responsible for managing the areas that the Bureau did take care of for us before."

Land management is a key area in which the Tribe hopes to see positive results from the Self-Governance process. Management of real estate has been very important to the Tribe for many years, and is clearly one of its priorities for the future. "We had the first Tribal realty contract in the country under 638," said Pearson. "And we did everything ourselves except appraisals and the management of the Federal trust function." The Tribe's government includes a highly efficient Planning Commission and a Land Board, and operates under a proactive development ordinance. The entire reservation is zoned, and the procedure for reservation development initiatives is truly comprehensive. "Leasing is big business for us," said Pearson. "It develops a major portion of the Tribe's annual income, and results in the employment of a lot of our people. But we have always recognized the significance of professionalism in our land management activities," he said. "That's why we have land management ordinances that require two hearings before our Land Board and our Council before our Council can take action on leases. If a zoning change is involved, another hearing is required."

With so many years experience managing 5 1,000-plus acres on the reservation (which, incidentally, shares a common border with the city of Scottsdale, one of the most

affluent cities in North America), the Tribe's approach to governmental management has had much in common with the Self-Governance concept. "Because of this, the transition to the Self-Governance process has, for the most part, not been a big deal to us. It does increase efficiency, though, if for no other reason than it reduces duplicative reporting requirements to the Bureau," said Pearson.

As with most Tribes, there are members who are hesitant to cut strings with the BIA, for fear of termination. "Many of us actually share that concern, just as we did when the 638 program came into being years ago," said Pearson. "I think it's probably a healthy concern, because it is so important for the Tribes to maintain a vigil on the Federal trust responsibility. It does, however, appear that the permanent Self-Governance legislation will continue to protect this relationship."

Pearson said there are some obvious advantages to getting away from negotiations with the BIA, particularly in Arizona where, in the fall of 1987, the *Arizona Republic* newspaper published the series of articles entitled "Fraud in Indian Country". These accounts alleged serious waste and mismanagement in the Bureau of Indian Affairs. The articles led to the oversight hearings held by U.S. Senator Sidney Yates, in which proposals were made which in turn led to the development of the Self-Governance Demonstration Project. "One of the net results of all this is that the BIA here in this state is very protective of itself...very protective. That makes it difficult to negotiate a land lease deal, for instance, when the BIA comes in and negotiates at 20 percent higher than anyone else," said Pearson.

"We are interested in developing income for the Tribe, employing Tribal members, protecting our land and resource base and achieving the highest possible level of self determination. Again, it appears that the Self-Governance process is a natural next step for us to take," he said.

Among other Tribal businesses are the second largest cement company within the state of Arizona and one of the state's largest sand and gravel operations. Another strong economic anchor of the Tribe's economy is one of the largest and most successful shopping centers in the state. Located on 160 acres owned by a Salt River Tribal member, the center consists of many major businesses, all of which provide income through the tribe's sales and property tax structure. So it does appear that the Salt River Pima-

Maricopa Indian Community in Arizona, and its 5500 members, have good reason to look forward to a positive, prosperous future ... as a self-governed Tribe.

## **Lower Elwha S'Klallam Tribe**

### **An Elder's Perspective**

"I have seen the water rippling with giant fish, from one side of the river to the other," reflected Beatrice Charles, elder of the Lower Elwha S'Klallam Tribe of Western Washington. Aunt Bea', as her fellow tribal members affectionately call her, served as star witness in a recent Congressional hearing which helped lead to federal legislation authorizing studies for either alternative fish passages or the removal of the two dams on the Lower Elwha River. "I know what it's like to have a lot of fish," she said. Elk was always picking on smaller creatures, when one day Wren flew into Elk's nostril. Elk cried for Wren to please get out. But Wren wouldn't leave until Elk promised to stop bullying the younger animals.

This brief Indian legend, and others like it, are used to convey a lesson to the children of the Elwha Tribe, through its cultural education program. The lesson here obviously is for big kids not to bully smaller kids. Other such lessons involve everything from getting a good education to staying away from drugs and alcohol.

"S'Klallam means 'strong people'," said Jamie Valadez, cultural coordinator for the Elwha Tribe. "I want the children of the tribe to know this, and to feel good about who they are."

She explains that this type of strength, which is being taught in the Tribe's Cultural Education Program, is the strength that will produce strong and productive Tribal citizens. The program uses such tools as arts and crafts instruction, the conveyance of legends through plays and story telling, sports and recreation and preventative education and field trips to teach the children of the Tribe about their heritage.

"It is working well with the kids we have, which is about 10 to 20 percent of the 150 kids who belong to the Tribe," she said. "But we need to accommodate more kids, year 'round, with reliable transportation."

Jamie looks forward to a day when more and more S'Klallam children will be able to write their own language, as well as sing and dance to traditional songs. "Not too long



ago, a band in Victoria, Canada, gave us back a traditional song. We need to have the wherewithal to team from one another this way ... whether we're learning arts from the teachers of another Tribe, or being enlightened to our own history by our own elders. We've got to get back into good memories about our Tribe, and we need to do it in a big way.

Jamie is already preparing program justifications for Tribal Council review in implementing Self-Governance at Lower Elwha. Tribal Council Member Alfred Charles sees the day when the leader of each of the departments in Elwha's Tribal Government will be able to write justifications for their annual budgets, and thus be individually responsible for supporting the professionalism of the Tribal governmental process. "This will not only save us work," he said. "It will increase our efficiency and enhance the skills of each department head."

Budgeting at the Tribe, like most, has historically been a centralized process. But program managers are now being trained to manage their own programs, and the process is thus being decentralized. The Council will now be able to devote more time to the consideration of specific budget requests that will come hand-in-hand with researched justification.

Charles credits Self-Governance for improving the Tribe's opportunities to increase efficiency, and he sees improved government-to-government relations between the Elwha Council and local, state and federal levels of non-Indian government as a resulting benefit.

"We're already seeing this happen," he said. "Local city and county governments are listening to us like they never have before. They are far more open-minded to Indian problems and rights, and we are able to help them better understand Indian ways."

He said this improved relationship is especially important with the growth of the Tribe's economic base. "I've had to watch the fish runs in our river die over the years," he said. "But as we were able to show non-Indian agencies and organizations that we are serious about improving management of the river, and we're not out to get rid of them, they came out of the woodwork to support us. It has been amazing."

He said you would be hard-pressed to find a smokehouse full of salmon on the Reservation these days, but that, with the cooperation of government at all levels, he is now confident the day of full smokehouses will return. "Hopefully it will be in my lifetime," he said. "If not, that's all right. At least our future generations will benefit."

Patty Elofson, Lower Elwha Business Manager, said the likely removal of the dams will increase the Tribe's law enforcement responsibilities, as more houses will be built on the Reservation and as the Tribe's responsibilities in flooding and dam safety issues in. She said that with increased revenues made available by the Self-Governance process, the Tribe has already been able to negotiate the hiring of an additional police officer. Also, one additional FTE has already been secured for the Tribe's social services program.

She said the Tribe stands to gain another 1,000 acres of trust property, in the Lake Aldwell area, as the waters recede following removal of the dams. Tribal planners are already working on plans to assure, the highest and best use of these lands, with the intention of managing it in a way that will complement the bordering Olympic National Park.

"We're going to be needing land for housing development, too," she said. We already have approval to build 44 more houses for Tribal members. And we're going to be needing from 75 to 100 more. We're also looking into a resort area purchase, and other investments in tourism."

"It is time for us to roll up our sleeves and really go to work," said Carla Elofson, Tribal Chair and Self-Governance Coordinator. "Self-Governance will be a reality here. We want it to succeed. It will mean more vocational training, along with cultural education for our children and our adult Tribal members." One of the objectives of the Tribe is to maximize the number of Tribal members who are employed by the Tribe. Already, more than 60 percent of the employees are Tribal members or spouses. "Self-Governance will mean a lot to our cultural program, our social programs, employment and our economic development," she said.

"We have recently signed a Gaming Compact, had a River Restoration bill pass, and now have signed a Self-Governance Compact. Our Tribe has made markable progress this last year," she said.

### **Tanana Chiefs Conference**

#### *How's this for a challenge?*

Coordinate the implementation of Self-Governance programming for about 11,000 Tribal members at 41 Tribes, in a region of 235,000 square miles...in the rugged interior

of Alaska? Only nine of the Tribes are accessible by road, and the airfare to some of them exceeds the cost of a trip to Hawaii.

Challenges just don't seem to come in small packages in that part of the country, but such is the challenge being tackled head on by the Tanana Chiefs Conference (TCC), based in Fairbanks. It's not really a totally new challenge, because TCC has operated for decades, primarily coordinating Indian Health Service (IHS) programs for its member Tribes.

The TCC was initially formed in 1915 to press for the land claims of the Tribes. It eventually grew to be an organization of, by and for the member Tribes, concerned with delivering a wide range of services to Tribes and Tribal members, as well as serving as a unified advocate for their positions and their needs.

But Self-Governance has added a new wrinkle because it, by definition, requires that the Tribes all develop an efficient administrative capacity. And, with the Tribal villages ranging in population from 11 to 900 people, and with economic, language and cultural diversity casting a similar span, the order is a tall one. Top of the heap of specific challenges is communication. The ability to disperse and receive current information quickly is a must in self-governance.

"We do face some tough challenges," said TCC President Will Mayo. "But they're outweighed by the benefits we hope to obtain for the Tribes."

"Thank God for fax machines," Mayo added. The advent of fax machines and computers has already meant a great deal to efficient communications in the region, although many of the Tribes are just now acquiring them for the first time.

Still, there is sometimes just no substitute for personal visits in such an operation, and so the travel plans being made by Mayo and his staff are somewhat hectic for the next several weeks. Each and every Tribe will be visited in the effort to implement the Self-Governance process.

"We hope to complete the full Self-Governance Compact negotiations process in the first quarter of 1993," Mayo said.

"Many of the member villages are seeking enhancement of their Tribal government capacities," said Ed Rutledge, TCC's director of planning and development. "I see the development of efficient administrative processes as one of the primary benefits to the Tribes in this effort."

TCC wants to provide a full compilation of services to all its member Tribes, ranging from health and human services to natural resource management and economic development support.

TCC has concentrated much of its developmental effort on health services in the past, establishing a central health center and vision and dental clinics in Fairbanks, as well as health clinics at most of the Tribal villages. Obviously, the organization's main source of funding in the past has been the IHS.

"I think those services will be positively impacted by Self-Governance," said Rutledge. "Good health programs are of obvious importance. But it is high time for the Tribes, themselves, to have more say in how those and all other programs affecting them are operated. That's what this process is all about".

"We still have a long way to go," Rutledge continued. "Most of these Tribes still have 90 percent unemployment rates. There are incredible needs for improvement in economic development, as well as every other facet of life."

In addition to its base operation in Fairbanks, TCC serves its 41 member Tribes through sub-regional offices in the communities of Holy Cross, Tok, McGrath, Galena and Fort Yukon, as well as Fairbanks. The major watersheds that comprise the region are the Yukon, Koyukuk, Tanana and Kuskokwim rivers. Across the region are found a diversity of Native cultures and language dialects. In the midst of the diversity, a common thread is the fact that these are Tribes, heavily dependent on traditional subsistence lifestyles. A shared concern of the Tribes is the constant battle to protect their subsistence rights in the face of challenges ranging from sport hunting interests to extreme preservationists.

"The cultural diversity of the region points to a real need for Self- Governance," said Rutledge. "The Tribes need to be able to find common ground where they can negotiate solutions to their problems and be able to represent their own Tribal interests in the process. Self-Governance will help them develop the administrative ability to do so. The process should also aid in the development of improved government-to-government relations between the Tribes and the state and federal governments."

Mayo hopes Tribes will be able to take more action on what their individual Tribal priorities are, such as economic development, support for elders, cultural preservation, or youth program. "Whatever direction things go, the Tribes will make the decisions Mayo said. Maybe they will choose to continue their participation in regional programming

through TCC. Maybe they won't. For now, our course is clear. We have to do all we can to communicate the opportunities and options available to the Tribes, and help the develop the administrative abilities to make the best possible decisions for their own Tribal well-being."

## **Chickasaw Nation**

Chickasaw is a nation of proud people, rich in culture and history ... a legacy of leadership. Even prehistoric legends reflect that the Chickasaw people have always bonded together and have been inspired by great spiritual strength. Following an oracular pole, carried by Chickasaw holy men, the Tribe once migrated east from the "land of the setting sun" to its homeland in the Tombigbee highlands of northeastern Mississippi. There the Tribe flourished to an estimated 4,500 members with a highly structured society with responsive government, and a thriving cultural system. They were a spartan warrior people, characterized in colonial times as the "Terrors of the Mississippi Valley." Like so many other Indian Nations, Chickasaws witnessed the diminishment of their land over the next few centuries to a continuous flood of immigrants and constant Federal pressure. Chickasaw leaders shrewdly negotiated a peaceful policy with the U.S., which provided them the opportunity to negotiate for new settlement lands in Choctaw Country in what is now Oklahoma. The Chickasaw Tribe became the "Chickasaw District of the Choctaw Nation". In 1855, the Choctaw-Chickasaw Treaty created the Chickasaw Nation separate from the Choctaws, following which the Tribe established a constitution providing for a governor, house of representatives, a senate, judicial system, educational system and Bill of Rights. Eventually, the Nation was fused with Oklahoma Territory to form the State of Oklahoma. The Tribe contributed significantly to the development of the state and, to this day, remains known as "The Unconquered and Unconquerable Chickasaw Nation."

Today, the Chickasaw Nation flourishes, 26,000 members strong, principally situated in 12 counties in south-central Oklahoma as a non-reservation Indian nation. The 12-county region of the state which comprises the Chickasaw sphere of influence is blessed with outstanding agricultural lands, and hundreds of miles of rivers and lakes.

The Tribe's government is comprised of executive, legislative and judicial branches, with direct program services departments, including education, employment training, health services, human services and community assistance. There are also active business and Tribal development departments, as well as support services departments. As has been the case throughout its history, the Tribe's government structure and operation is highly efficient, well organized and service-oriented toward its constituency. Officials of the Tribe strongly believe that participation in the Self-Governance

Demonstration Project is a giant step forward in its ability to carry such programs and policies into the future.

The most fundamental element of success to the Chickasaws is a high energy level, directed tenaciously toward big future plans. This characteristic is strong in tradition. Centuries ago, trader James Adair described Chickasaws as exceedingly swift of foot: "In a long chase they will stretch away, through the rough wood, by bare track, for two or three hundred miles, in pursuit of the flying enemy, with continued speed, and eagerness of a staunch pack of blood hounds, till they shed blood."

Today, this Chickasaw energy is geared toward success - in government, good health, cultural pursuit, education, and business and employment - and it is clear that the tribe sees Self-Governance as a fundamental element in achieving this success.

The role of Self-Governance in the continued success of the Chickasaw Nation is evident in the words of Governor Anoatubby, "We have entered a period of enlightened cooperation and mutual assistance with the Federal government. Let us now grasp the opportunity of Self-Governance and mold the future direction of our great nation."

The greatest benefit offered by the Chickasaw Nation is its vast pool of human resources, according to Governor Anoatubby. Sixty-six percent of the Tribe's employees are Chickasaws. Business ventures currently owned and operated by the Tribe include the Chickasaw Motor Inn in Sulphur, Oklahoma; tobacco shops in Ada, Marlow, Thackerville, and Norman, Oklahoma; trading posts in Davis and Ada, gaming centers in Ada, and Thackerville, and Goldsby Central Business Services, an accounting firm, located in Ada.

The stated mission of the Chickasaw Nation is to enhance the overall quality of life for Chickasaw citizens. "Each elected Tribal official has a responsibility to uphold Tribal sovereignty as it is defined by the members of citizens of that Tribe," said Governor Anoatubby. Speaking of Self-Governance and the Tribes, he says, "Within our unique governmental structures, we must continue to support one another in this great effort."

Self determination -- economically, socially, politically and culturally -- is the Tribe's ultimate goal. There is great confidence that efforts associated with the Self-Governance Demonstration Project will lay the foundations for opportunity and prosperity for the Chickasaw generations to come.

"We must have a Tribal government which lends itself to self-sufficiency," says Governor Anoatubby.

In a column published in the July edition of the nationally distributed Chickasaw Times, Governor Anoatubby said Self-Governance Compacts "...basically and realistically place the full power of the government's operations the hands of the Tribe. This is truly Self-Governance, which indeed is an extension of self-determination.

### **Lummi Indian Nation**

As one of the first Tribes involved in the Self-Governance Demonstration Project. The Lummi Indian Nation would like to share its experiences regarding the opportunities and challenges of the process.

In an effort to help others benefit from the Lummi experience, SOVEREIGN NATIONS recently presented Raynette Finkbonner, Self-Governance Coordinator for the Tribe, a list of questions. Following are the questions and her responses:

Question: What are the most notable ways that the Self-Governance process has affected the Tribe?

Finkbonner: The process has let the Tribe create innovative approaches in redesigning programs to better meet our community needs. It has expanded the decision-making authority of the Tribal government the establishment of Tribal priorities and the allocation of resources to meet those priorities. We have a good budget ordinance and we have better fiscal accountability. We have involvement and input from the Tribal community in our budget process and the establishment of Tribal priorities. The flexibility we now have in reprogramming Tribal funds has provided for the expansion of the JOM tutoring program to all Lummi students. It led to the establishment of a Tribal Business Assistance Center, a Tribal Cultural Department and a Tribal Youth Program.

Because of the Self-Governance Process, we have been able to provide financial support for, Tribal Council Budget Committee, our Tribal Education Commission, our Seniors' Program, our Veterans' Office and our Local Volunteer Fire Department. We are better able to meet the needs of our people through our Scholarship Program. Tribal Court, Law and Order, Natural Resources, Forestry and HIP.

Tribal staff now report to and are accountable to the Lummi Indian Business Council, and the people that they serve. More people than ever before are now involved and have input in Tribal government. Greater numbers of people now vote in the Tribal election process.



**Question:** Who at the Tribe has benefited the most from the process?

**Finkbonner.** The youth probably more than anyone because of the expansion of the JOM tutoring program, the scholarship program, and the establishment of a Youth program.

Secondly, the Tribal electorate in general because of their new opportunities for input into the Tribal decision making process.

**Question:** What have been some of the hurdles the Tribe has had to overcome in implementing the process?

**Finkbonner:** Our biggest obstacle has been the federal bureaucracy. They have an ingrained and layered bureaucracy that has had over 100 years of experience in paternalism. On a regular and daily basis we have had to overcome and work towards changing the bureaucracy. We continuously encounter resistance and we found a distinct desire to maintain the status quo. Thus, they have demonstrated an inability to change. We are not trying to eliminate any federal bureaucracy - we are seeking to change our working relationship with those entities to that of protection of our treaty rights and upholding the United States trust responsibility.

Along these same lines we have found within most layers of the bureaucracy a lack of creativity. We have found a system that is still wanting to try and work in the same system that has been investigated year after year, and administration after administration - the BIA is now documenting that, throughout history, the BIA has mismanaged Indian Affairs. In some instances we still receive our Self-Governance funding under the old 638 process. The intent of the project has been to streamline some of those processes, not to make them more complicated. Lummi OSG staff continues to work with the OSG and the BIA on changing some of those antiquated processes and mechanisms.

Within the Tribal community and within the Tribal organizational structure, the rapid pace of change has caused some frustrations. But, we overcome these hurdles by continuous ongoing and extensive communication and education within all of the Tribal government and within our community. People develop a fear of change when they don't understand or have all of the information they need. We are still in a transitionary phase due to the fact that we have operated an organization in the past that relied on federal direction and supervision. We are striving to establish a truly functional and operational tribal government based upon what we identify will work best for the Lummi Tribal

community. We need to be able to move from the constant struggle to implement what has been negotiated to a position where we can be innovative at home for our own people.

**Question:** Where does the Tribe go from here, with respect to the Self-Governance process?

**Finkbonner:** The Lummi Nation is excited and we look forward to the future with new vision for our Tribal community. Our vision is to reaffirm the government-to-government relationship with the United States; to move forward in the future towards self-sufficiency, politically, socially, culturally, and economically; to becoming a community that is proactive rather than reactive, based on our plans for the future, and to create a capable, functional Tribal government for the benefit of our people. Self-Governance allows us to dream and plan for our vision of the future. Most importantly, through Self-Governance, these plans, dreams, and visions can become realities, today! We are planning to move into IHS as soon as possible. We look forward toward the project becoming permanent and expanding to all federal agencies. Our experience has proven that through Self-Governance, positive changes can occur within our community for our Tribal people. Tribal governments - know what the solutions are to our problems and through Self-Governance. We have begun to implement those solutions. They are working and helping.

There is a statement in the Redbook that sums up Self-Governance and the Future for the Lummi Nation:

"Self-Governance does not equal sovereignty; but Self-Governance can provide the administrative freedom and the framework for Tribes to make decisions as sovereigns. Only, through Tribal decisions, exercised with responsibility, will sovereignty come closer to reality.

If we continue to allow others such as the federal bureaucracies, to make decisions on our behalf, individually or collectively, we will perpetuate the dependency of tribes and continue to empower the United States as guardian. We must aggressively and responsibly assert our own role as the key policy-maker on Indian Affairs. The stronger we become individually as Tribes, the more powerful we collectively grow, and the better we will be able to serve our future generations and again become truly self-governing, sovereign Indian Nations."

**Question:** Any additional comments?

**Finkbonner:** Self-Governance is not the answer to all of our Tribal problems, issues, and concerns. Self-Governance may not be for all Indian Nations. But for the Lummi Nation, it is our road to the future and the next step toward true sovereignty. The Tribal Self-Governance Demonstration Project is of Tribal design and it is a Tribally-driven initiative. For the first time in over 100 years we as the Lummi Indian Nation will begin determining our own success and failures.

### **The Sac & Fox Nation of Oklahoma**

The way the Sac and Fox Nation sees it, after two years of contracting under Public Law 93-638 to operate all of the programs of the Bureau of Indian Affairs (BIA) Shawnee Agency in central Oklahoma, its participation in the Tribal Self-Governance Demonstration Project is just another step in its move to total tribal sovereignty.

The Sac and Fox Nation is one of five Tribes of the Shawnee Agency, that in 1988 decided to band together and contract to operate the programs of the entire BIA Agency. The Tribe took over its share of the Agency programs and services in 1989. These 18 programs included key functions such as Tribal Government Services, Social Services, Realty and Tribal Operations. Several years earlier the tribes had contracted to operate courts, Police and the Home Improvement Program.

Paula Williams-Gomez, Tribal Administrator for the 2,300 member Sac and Fox Nation, said the Tribe at the time it was involved with the P.L. 93-638 contracting effort viewed it as something good. "I think they (Tribe) looked at it as another step in exercising their sovereignty," she said.

There were, of course, some things the Tribe had to address to make the contracting arrangement work. The most critical being accepting the responsibility of operating programs that for decades had been run by the BIA. It was a responsibility that virtually had to be learned.

The Tribe learned quickly, said Williams-Gomez, and exercising this new found sense of responsibility allowed the Sac and Fox Nation to increase services to its people under the contracting arrangement.

She cited the General Assistance Program, which under the BIA provided only minimal service. By cutting out the high administrative and overhead costs carried by the

BIA, the Tribe was able to increase Field service by almost 200 percent. "We were more directly accountable to the Federal government and tribal members for our actions, as all Tribal governments should be," she said.

The ability of the Tribe to operate the Agency programs under P.L. 93-638 contracts, however, came with strings attached. The way the funds for the programs were spent was tightly controlled by the BIA, said Williams-Gomez, but even more inhibiting was "the extensive reporting and the regulations. And most of all ... the internal policy of the Bureau, not merely its dealing with regulations, but how they interpreted the policy."

This put the Bureau in a position where it tried to dictate how programs should be administered. A case in point, said Williams-Gomez: "They tried to include in the contracts the stipulation that we would abide by the BIA manual. We have our own policies and procedures, we felt they are adequate."

"They also wanted to dictate that we pay our employees using their salary scale" she said, which would have been financially difficult for the Tribe. She added that the Bureau also wanted the Tribe to adhere to its employee qualification standards, a move that would have eliminated many Tribal members from contract program jobs. The Tribe was bound by regulations and policies interpreted by the Agency whose programs were now operated by the Tribe, she said.

In 1990, the Tribe seized the opportunity to become a participating Tribe in the Self-Governance Demonstration Project. "For us, it was just another step in the process of sovereignty-Self-Governance. We would be operating all of the same programs."

The Sac and Fox Nation completed its Planning Phase of the Project in short time, began to negotiate with the Interior Department's Office of Self-Governance in March 1991, and had its Compact in final form six months later.

The Self-Governance Demonstration Project differs from contracting under P.L. 93-638 in two major areas, said Williams-Gomez. The Tribe gets to redesign the programs at its own discretion, and funds to administer the programs are controlled by the Tribe.

"In the area of redesigning programs, I think the Self-Governance Project is a huge step up from the 638 method of contracting. Our Education Department has already redesigned its program based on the needs of our people. Now we're in the midst of

working on the Johnson O'Malley Program, and redesigning the Home Improvement Program." she said.

As for the ability of the Tribe to spend funds for the programs as it sees fit, there are still spending guides the Tribe must follow, but they are a far cry from the method used under P.L. 93-638.

Instead of needing BIA approval for virtually every dollar spent on the program, the Tribe under the Self-Governance Project follows guidelines that states and local governments follow for managing Federal funds.

This, said Williams-Gomez, has eliminated delays experienced when the Tribe contracted under P.L. 93-638. As an example, she said, "if the Tribe wanted to transfer funds from a travel category to higher education so a Tribal college student could stay in school, the required budget modification and approval under P.L. 93-638 could take three months. By then, the student likely would have dropped out of school. Under the Self-Governance Project spending guidelines. The funds can be more easily and quickly moved because the decision is the Tribes to make.

Despite this Tribal determination approach to managing and operating reservation programs under the Self-Governance Project, the BIA is still very much in evidence, since it must interpret the policies that drive the project. "Of course, we still have that now ... in how the Bureau interprets Self-Governance." said Williams-Gomez.

The idea of getting the BIA off the Tribe's back when it comes to managing and operating individual programs hasn't moved the Tribe to let up its guard. "We still require the same internal reporting from program directors as we did before. And something we're very serious about is financial accountability. If a Tribe isn't prepared for it, it can slip away from them really quickly," she said.

If there is one thing that will contribute to the demise of the concept of Self-Governance as it is promoted by the Self-Governance Project, she said, it will be poor Financial accountability.

### **Squaxin Island Tribe**

The latest Tribe to join the Self-Governance Demonstration Project is a small, but enthusiastic Tribe located on the southern edge of the Puget Sound in the State of

Washington. The Tribe's name is the same borne by the three-mile long island retained as its reservation - Squaxin Island.

The Squaxin Island Tribe, created by the signing of the Treaty of Medicine Creek in 1854, is an accumulation of six bands of Indians from six inlets on Puget Sound; the Sahewah-mish, Squawskin, S'Homamish, Stehchass, T'Peeksin and Squi-aitl.

Because Squaxin Island is undeveloped and difficult for permanent settlement, the Tribe purchased property for a land base on the nearby mainland at Kamilche, about six miles south of Shelton, Washington. This is an area where one of the traditional bands lives and where many present Tribal members reside.

From here, this Tribe of about 400 members has made its presence well known to other Tribes and non-Indian communities in Washington. With its culture and its economy based on natural resources, including salmon, shellfish, deer and elk, the Squaxin Island Tribe has focused much of its energy on resource management and environmental protection. In fact, the Tribe has provided substantial leadership in these efforts at the local, state, national and international levels. In 1992 alone, for example, the Tribe's fisheries enhancement program released more than five million healthy young salmon. The Tribe has consistently been active in state-of-the-art aquaculture, such as pen raising of salmon and oyster culturing. Also, as a party to the U.S. vs. Washington Federal court decision of 1974, the Squaxin Island Tribe is one of 20 Tribes that co-manage the salmon resource with the State of Washington. Squaxin Island has been integrally involved in such government-to-government processes as hunting agreements with the State, and agreements to protect salmon from timber harvest, pollution and over fishing.

The Tribe's accomplishments are also substantial in health services, education and economic development. The Tribe operates a health clinic and a drug and alcohol counseling program, as well as mental health counseling and family services programs and an active youth recreation program. The Tribe has just completed negotiations for a 35-bed alcohol treatment center in the nearby community of Elma, which will be available to serve all Native Americans, as well as non-Indians, as space is available. The Tribe also operates a pre-school, a vocational training program and a financial aid program for Tribal members to continue higher education. The Tribe also operates a trading post, a bingo operation, a large fireworks stand, a grocery store and the Harstene Oyster Company, which produces quality oysters and clams.

Little wonder that the Tribe opted to become part of the Self-Governance Demonstration Project.

The Squaxin Island Tribe pulls no punches in its effort to operate functional, independent government, and it is clear that Self-Governance is viewed as a significant step in this process, evidenced by the Tribe's determination to be a sanctioned planning Tribe. The Tribe funded the planning/negotiation phases of its Self-Governance Demonstration process on its own and completed the process in a period of nine months.

"We look forward to the development of our Self-Governance program," says Tribal Chairman Dave Lopeman. "We are very capable of setting our priorities at the local level, providing top level services to our people, preserving our culture and protecting our resources for the generations to come."

Tribal Self-Governance Coordinator Mike Peters says the immediate effect of the process at the Tribe has been an "opening up of government to the Tribal community. It is a process that involves our Tribal members in the effort to determine what our priorities should be... as opposed to living with priorities someone else establishes for us. Everybody is very excited about this process here, and we all anticipate that it will continue to expand our opportunities through true Self-Determination."

### **Quinault Indian Nation**

Generally stated, the purpose of the Quinault Indian Nation Education Program is to provide culturally relevant education, services, resources and opportunities needed to raise the education level of Tribal members, and members of other Tribes residing there.

With the advent of the Self-Governance Project, an additional goal became getting accustomed to the "new way of doing business." Although the Tribe was determined to ease into the process, so as to minimize interference with current students' educational careers, the Project has already brought major structural change to its Department of Education. The decision of the Quinault Business Committee to shift education programs from the department of Human Services and to establish the Department of Education emphasized the priority placed on education. All Tribal education programs were combined under this new department, and the education budget was increased by more than 30 percent.

Other signs of progress with the Tribe's education program attributable in part to the Self-Governance Demonstration Project included an increase in post-secondary financial assistance, improvements in over all grade point average and an increase in career counseling sessions. Fifty students have received financial assistance this past year. The overall GPA is at 2.85 and there were 124 counseling sessions in a six-month period. Also, a new scholarship committee has been activated. The real significance of such advancements is becoming very clear at Quinault, with more and more young Tribal members choosing to make the most of their lives through education, and then making the decision to devote their energies to the service of their Tribe.

### **Other Tribal Programs**

Although the increased investment in education by Quinault enabled by Self-Governance is seen as a "top of the heap" priority, there are many other important Tribal programs that also benefit from the Self-Governance Project. Following are some brief assessments of those programs:

**Business Finance-** This new program is considered a high economic development priority. About 40 Tribal members per year are expected to receive financial assistance and counseling through the program.

**Fisheries Enforcement and Other Law Enforcement** - Self-Governance has helped establish more competitive salaries for fisheries enforcement officers, and to establish new positions, including two new forest patrol positions. The Tribe's Department of Public Safety consists of Law Enforcement, Fisheries Enforcement and Emergency Medical Services. Each department reports increases in enforcement actions by Tribal officers, and numerous Tribal officials have completed or are about to complete Emergency Medical Technician training.

**Tribal Court-** The increased Tribal budget led to the hiring of a court administrator and a court counselor. In part, this reflected a coordinated effort to strengthen law enforcement, Tribal court and social services and provide a comprehensive approach to substance abuse, domestic violence and youth problems. Quinault also provides for both a prosecutor and a public defender.

**Fisheries Management** - Many accomplishments in fisheries management were supported by Self-Governance, in such areas as catch sampling, spawning ground surveys, broodstock programs and other enhancement work (in the fall, 4.2 million eggs



were taken and 177,100 fish were tagged). Harvest management and catch recording were other supported programs.

**Tribal Administration** - Budgeting, and internal reporting systems, auditing and monitoring systems have been developed or enhanced as a result of Self-Governance and an office was established to help implementation efficient program in the future. In one six-month period, 17 Tribal administrative staff positions were filled.

**Youth Opportunity Program** - During Fiscal Year 1991, the summer youth program was shifted to Tribal Administration, increasing its priority, the budget, and the number of participants to 105. There have also been many youth recreational developments, such as the construction of new baseball fields.

**Environmental Protection** - Self-Governance increased funding available to support environmental protection programs, which consist primarily of Spotted Owl and Timber-Fish-Wildlife-related efforts. The Forestry Program probably experienced the greatest increase in responsibility. Under Self-Governance, the Tribe accepted responsibilities for timber sales on Tribal lands, forest internships, forest marketing, forest protection, forest inventory, plans on Tribal lands and fire pre-suppression. The Forestry Program also became involved in major land acquisition activities, increasing from under 8,000 acres in 1987 to over 48,000 acres in 1992. A Tribal planning crew planted 236,085 tree seedlings in FY '91 and the Tribe expects that its annual plantings will reach 1.3 million trees in both FY 1992 and 1993.

**Social Services** - Among other things, the Tribe has been able to hire two caseworkers and a new director for the Social Services program, and more efficiency has developed as a result of combining caseloads.

"We are generally pleased with our participation in this historic initiative," said Lynda Jolly, Coordinator of the Quinault Self-Governance Office. "It has been a learning experience, and the transition, at times, has been a struggle. But assuming greater responsibilities and being more accountable has resulted in positive change."

## **The Oneida Indian Nation**

The Oneida Indian Nation's objectives in becoming a participant in the Self-Governance Demonstration Project have little to do with funding. Very little. The Tribe's own enterprises account for *95 percent of its estimated FY 1994 \$110 million budget.*

The Tribe's objectives in the process are far more related to a belief that social development must keep pace with economic development if progress is to continue toward true self-sufficiency. The Tribe's government is dedicated to the development of a process which will address all aspects of the infrastructure which the community will need in order to resolve competing needs and demands. This process will require that the Tribe have control over as many of the resources available to it as possible, to make incremental changes as it implements future development strategies.

The Self-Governance program is one such resource the Tribe considers valuable in its quest for self-sufficiency as a Tribe ... and in its assertion of sovereignty as a nation.

The Oneida Tribe has its share of experience in self-sufficiency, successful, movement and sovereignty ... it is a member of the Iroquois Confederacy, a league of Indian nations that has been credited for inspiring the development of the Constitution of the United States. In the mid-1770's however, the Oneida's decision to support the American Revolution led to the loss of their homes, crops and animals at the hands of other members of the Confederacy. Also, early developers desired the Oneida homeland in New York State, because it was choice farmland and it was in the area of the Erie Canal route. Faced with a difficult situation, in which their lands were being eroded, many Oneidas chose to move to Wisconsin. In the 1820's, Oneidas settled along Duck Creek, about 10 miles from the city of Green Bay. The original five million acres of land purchased by the Oneidas from the Menominee Tribe in the 1820's was reduced to 65,000 acres by the U.S. Government. In 1838 the U.S. signed a treaty formally recognizing the present boundaries of the reservation, which encompass the Townships of Oneida and Hobart.

The traditional form of Oneida government deteriorated after the Tribe settled in Wisconsin. In 1934, the Oneidas formed a constitutional government under the Indian Reorganization Act and provided for elections by a General Tribal Council. The Tribe struggled through the next three decades, but in the 1960's, after passage of the Indian Self-Determination Act, the Tribe began to grow.

In the early 1960's, the Tribe employed four people. It now employs 1,800 people. Eighty percent of these people are Tribal members, and most work for Tribal enterprises.

### **The Tribe Today**

The Oneida Tribe's dramatic growth and economic prosperity during the last three decades has resulted in an overall improvement in the general health and well-being of members living on or near the Reservation. Substantial revenues from the Tribe's extensive gaming and other business operations are allocated to health programs, social services, education and job training, public safety, conservation and environmental protection programs. Many of these activities depended almost entirely on federal funds for their existence during the early years of the Tribe's resurgence. Today, the Tribe's dependence on federal inter-governmental transfers has been significantly reduced. As a result, individual members of the Tribe, the Tribe itself, and the environment of the Oneida Reservation have grown and prospered. The Tribe's economic success has made things possible that were only dreamed of in earlier years. The Tribe took action several years ago to vigorously pursue the re-acquisition of land within the original Reservation boundaries. More recently, the Tribe decided to establish and administer a trust fund for the benefit of Tribal elders those people whose hard work, perseverance and dedication to the Tribe made possible the success the Tribe enjoys today. At the other end of the age spectrum, the Tribe has broken ground for a new K-8 school and is aggressively pursuing plans to expand the school through the high school grades. Traditional Oneida language and culture form the foundation of the entire curriculum of this new educational institution.

Because of its financial success, the Tribe is able to concentrate more fully on programs and issues of cultural significance. Reflective of this is the fact that the Tribal school is being built in the shape of a turtle, one of the symbols upon which the Tribe's culture is based.

"Ten years ago we couldn't have considered such things to this degree," says Chris Johns, Oneida's Self-Governance Coordinator.

### **Self-Governance Objectives**

"Self-Governance is the natural next step in our Governmental evolution," said Johns. "It is a good example of the full exercise of sovereignty." He said the Tribe is looking forward to the adoption of permanent legislation by Congress, and to the time when every Federal Agency and every Federal Department will be subject to permanent Self-Governance legislation. The way it should work is that once a year our chairman should get together with the President of the United States and sign a compact. We'd also

like to see the process adopted at the state level." The state of Wisconsin, where the Oneida Tribe is located, is a PL 280 state. "That means the state has some say about what happens on the Reservation. We've lived with that long enough. It can complicate things sometimes. We want it to change."

Over all, the Tribe sees very positive things happening with the Self-Governance process and the prospect of greater opportunities to secure true sovereignty, particularly at the Federal level. The addition of two close long-time associates as top ranking Federal officials - Ada Deer as the Director of the BIA and Donna Shalala as the head of the Department of Health and Human Services will hopefully help assure this. The Tribe worked with both in their former capacities at the University of Wisconsin, and with Ada Deer in her former capacity as chair of the Menominee Tribe.

"We are looking forward to great things ahead," said Johns. In fact, the combination of economic success, high employment rates and true Self-Governance seems to be the way to go. It is the right combination to permit the greatest possible opportunity to plan for the future. As is the tradition in Indian Country, the Tribe aspires to make decisions based on how they will affect their children in seven generations. "We have gone from the point of having to think only of today and are now planning five, 10 and even 20 years into the future. Making the most of Self-Governance, and doing the best we can to have the ability to make our own decisions, at the Tribal level, is an important part of those plans."

## **Siletz**

You've heard of the "Comeback Kid." How about the "Comeback Tribe"? In 1955, the Siletz Tribe was terminated by the United States government, an experience that might be likened to being KO'd by an uppercut or a strong right cross. But like the tenacious downed boxer who somehow musters the strength to get back up and fight on to victory, the Siletz got back up on their feet, too. And in 1977, the Confederated Tribes of Siletz became the second Tribe in U.S. history to be restored to federal recognition.

It was a new beginning for this confederation of 24 Indian bands that originally ranged from northern California to southern Washington. Just a beginning.

Since that time, the Siletz have reinvented their form of government, established an outstanding health clinic, established the independent Siletz Tribal Economic Development

Corporation (STEDCO), developed a vibrant housing program, and become an active participant in the Self-Governance Demonstration Project.

"It's been an interesting process," says Tribal Chair Delores Pigsley. "We serve 2200 tribal members, on and off our reservation. We have members in all the metropolitan areas of western Oregon, and we want to be able to provide services to them all. The planning process we have gone through with Self-Governance has really helped. We're much better off, much more capable of serving all our people because of this process."

"We are much better off," agreed Tribal Self-Governance Coordinator Nelson Witt, who is also the Tribe's Chief Executive Officer. "The fact that the Siletz Tribe was terminated has made things difficult through the years. But our resolve to overcome such difficulties has put us on an upward path. We have become more and more independent, more responsible for all our programs. By the time we decided to go with Self-Governance, it was clear that it was the logical next step we had to take. And we're, going to keep on taking the steps we need to take, contracting for all BIA programs, for all Indian Health programs, and so on ... to be more in control of our own destiny."

The Tribe's central office is located in the town of Siletz, 23 miles southeast of Lincoln City, on the beautiful Oregon Coast prior to being terminated, the Tribe had a huge reservation. With reinstatement, it secured 3600 acres of public domain land, scattered tracts, primarily located in Oregon's coastal range. The patch work nature of the ownership makes for many management challenges. The service area of the Tribe includes 11 counties, with regional offices in Portland, Salem and Springfield. The Tribe is looking at the possibility of restoring more of the former reservation, i.e., possibly acquiring some of the public domain land in Lincoln County.

Substantial progress in programs has been made to provide members educational ties and employment assistance. The Head Start program is offered There is a cultural program and library. The Tribe sponsors the second largest Pow Wow in the state in mid-August and there is a vibrant elders' program and food distribution program. Vocational training has been effective. The Tribe employs about 120, and functions with growing efficiency.

The Siletz Community Health, which opened in 1991, provides medical/dental services to Tribal members and non-Siletz community and the surrounding area. Services

are comprehensive and include "deferred services", such as eye care, hearing aids and elective surgery.

The Tribe's Economic Development Corporation was formed as an independent entity to develop economic enterprises that create employment opportunities and foster the economic and social betterment of tribal members. STEDCO projects include marketing tribal timber and the Siletz Smokehouse in Depoe Bay. A custom box manufacturing plant has recently been purchased and other forms of economic development are being explored.

The Tribe is developing an integrated resource management plan which will be under the supervision of the Natural Resource Department. The program will include timber resource management, which is already in place, and will further address the needs of salmon, eel and other wildlife for survival. This program places the Tribe at the heart of environmental activities in the region, as well as economic activities directly dependent on healthy natural resources.

One of the Tribe's most impressive projects has been the restructuring of its government. It now operates with a highly effective system of checks and balances involving three distinct branches of government ... the judicial, legislative and administrative. The Tribal court operates independently from the council, reviewing council decisions for constitutionality. The council serves in the legislative capacity, establishing regulations. And Mr. Witt of the administrative end of things, enforcing the regulations established by the council. All in all it's a system that works very well, he said.

"And it's a system that works hand-in-hand with the Self-Governance program," said Pigsley. "Not only does the Self-Governance approach generate more funding to support our programs. It also supports our independence and sovereignty."

### **The Chippewa Cree Tribe on the Rocky Boy Reservation**

The Chippewa Cree Tribe on the Rocky Boy Reservation in Montana is the smallest in the Billings region. It's also the only one opting to go Self-Governance so far. Tribe is in the planning stage, set to take its 638 contracts, with an eye on following suit with all other programs not contracted now.

That perks a few ears up among some Tribes in the vicinity, as well as the members employed by the Bureau of Affairs in the Area Office.

"Things have been going well, but there been a lot of rumors that have caused BIA employees some concerns. Some them have heard that our Self-Governance process will mean they'll lose their jobs benefits. But we don't think this will necessarily be the case," said Chippewa Cree Council Member Kelly Eagleman.

"We've been telling them that Self-Governance is going to benefit all Tribal members," said Tribal Self-Governance Coordinator Ronnie Henry. "Who's better qualified to coordinate these projects, and the jobs associated with them, than the Tribe, itself. We want to see them get good benefits. And we think the Tribe is in the best position to ensure these things in the years to come."

The Rocky Boy Reservation consists 120,000 congruous area in North Central Montana. About 40,000 of these acres are in the scenic green mountainous area, rippled with free-flowing rivers and streams, as well as lakes and reservoirs, most of which provide some of the most outstanding trout fishing in the world. The Cree ancestors of the Tribe hail from Canada and the Chippewas are emigrants from the eastern United States.

Today, there are 4,000 members enrolled in the Tribe, 2500 of whom reside on the reservation. The Tribe is unique in that it owns all the acreage within its borders, a fact that underscores the logic of the Tribal government being directly responsible and accountable for Tribal programs.

A number of Tribal programs may come under the umbrella of Self-Governance in the future. In terms of economic development, the Tribe looks forward to maintaining its agricultural base under the process. The Tribe owns and operates two farms and a cattle ranch which raises cattle to sell at reduced rates to Tribal members through a tribally operated butcher shop/meat market.

The Tribe's top priority in the Self-Governance effort is education. Already, the Tribe operates a highly successful community college program, Stone Child College, named after one of the Tribal founding chiefs, Stoneman. The college is accommodating more than 300 students this semester alone. Most of the students are from the Tribe, but some are from other Tribes and the non-Indian community. (Historical note: The name Rocky Boy actually resulted from an inaccurate interpretation of Stoneman's name.)

"Some of the other Tribes in the region are concerned about the Self-Governance process," said Henry. "There is an attitude in Billings that since Rocky Boy is the smallest

and poorest of the Tribes in the region, we should be the least likely to have a Self-Governance compact. I guess we'll just have to prove them wrong. We've always been a pretty feisty Tribe...we'll make it work. Self-Governance is a creative process. And that's just what we need...to have the ability to be creative. Our Tribe has faced 60 to 80 percent unemployment rates over the years. We think the Self-Governance process is part of the remedy to this problem ... through education and economic enterprise."

Harold Monteau, Tribal Attorney and member of the BIA Reorganization Task Force, said, "Sovereignty doesn't mean anything unless it's exercised. Self-Governance is our opportunity to really exercise it. We're looking forward to the progress we think it will bring."

### **Jamestown S'Klallam Tribe**

When he talks about the concept of tribal self-governance the idea that only a tribe itself knows what is best for it. W. Ron Allen can move from one topic to another and not skip a beat.

It is obvious he has thought long and hard about the concept, and has definite ideas about why tribal self-governance is going to be around for a long, long time.

Allen is the Chairman of the Jamestown S'Klallam Tribe as well as its Executive Director, and he is one of the key figures in the Tribal Self-Governance Demonstration Project. He along with the leaders from several other tribes have helped to lay the groundwork for what is becoming a focal point for Indian tribes looking to gain real control of programs and services for their communities.

Allen's initial interest in tribal self-governance and the Demonstration Project was both widely encompassing and at the same time very pointed. On the wide side, he said it looked like an exciting opportunity to decentralize a federal government that wasn't doing a very good job of helping Indian communities subsist, much less thrive.

"I knew right away that this was what the bureaucracy was holding over Indians. I believe the system will work better if resources are put in the hand of people at the grassroots level," Allen said.

And on the pointed side, he said he wanted to show that his small tribe could handle things as well as the big tribes.



Not only was it a "desire to provide opportunity for my tribe to participate, but to show to Indian country and the bureaucracy that a small tribe like our can conduct a project like this, to not only disprove those who might think small tribes can't handle a project like this, but to do it well," Allen said.

Taking the lead in a project that bureaucracy as well as some Indian Tribes see as threatening can inflict personal risk, at least professionally Allen said.

"Personally, I consider the project a challenge. It's like looking to find a creative way to get around a bureau stumbling block."

"There is a high risk to it. If you're point entity who is leading the charge ... you can be the recipient of negative repercussions. You can lose favor among those people who can influence that can affect you."

For those Indian leaders who are to make headway for their tribes by becoming very visible in Indian country the price may seem steep.

"If you are considered a threat in this arena, other Indian agencies-such as the Indian Health Service and the Administration for Native American--they can treat you in a less favorable way, reducing opportunities not only funding for your tribe, but opportunity for you as a leader," Allen said.

Being at the point in a project like he said, can also raise doubts about vision and motives among some Indian tribes and communities.

"As a rule of thumb, Indian tribes do not take easily to change. They become very nervous that some Indian leader or some tribe may take them down the road to termination," he said.

Indeed many tribes fear the idea of termination, and well they should. Allen said he recognized and considered the risks, but the chance to take a project like this as far as it can be taken can only benefit Indian tribes everywhere.

Taking the Tribal Self-Governance Demonstration Project far enough along so that it can become a permanent program may take some doing in light of the struggle it has taken to get this far.

Because of the concept of tribes taking full responsibility in managing programs, handling funds and dealing with bureaucracies on a government-to-government basis, Allen said he expected resistance to the Tribal Self-Governance Demonstration Project from bureaucrats and the bureaucracy as a whole.

"It's not any worse than I thought it would be. Because of my involvement and experience with tribes, federal agencies and national organizations over the past 10 years, I have become very conscious of the magnitude of the bureaucracy and its underlying **mission** to justify its survival," he said.

Allen said he well understood the bureaucracy, its entrenchment and its drive to perpetuate itself, as well as many of the key players and their motives.

"I had a fairly good idea about how difficult it would be. We've met a lot of opposition; opposition that has become much more sophisticated once it realized the project was a reality," he said.

Because of strong and visible support for the Self-Governance Project by Senators and Congressmen, and the official position of support by the Administration, the opposition has had to become sophisticated. This was necessary in order for them to avoid the appearance of opposition to tribes' sovereign control over their own affairs, which this project represents, he said.

"They can't openly oppose it, so they have become more clever in how they oppose it," Allen said.

That opposition can be in the form of doing nothing. The report that accompanied S. 1287 by the Senate Select Committee on Indian Affairs, outlines such opposition.

The report says Indian tribes participating in the project, during hearings before the Senate Select Committee on Indian Affairs, testified that over the first three years of the project the BIA provided little or no support to those tribes seeking to negotiate self-governance compacts.

The BIA failed to provide adequate or even useful research and financial data to the tribes that would help them to determine their appropriate share of federal funds needed to manage programs previously operated by the bureau. This inaction by the bureau significantly delayed the project and put the tribes at a disadvantage during completion of the first negotiations on self-governance compacts, the report said.

The Interior Department has since set up an Office of Self-Governance, and performance and efficiency in implementing the project has greatly improved, according to the report.

Allen is undaunted by the sophistication and cleverness of any opposition that might try to impede the progress of the project.

"This project," he said, "is going to happen despite the attempts of people who are trying to subvert it."

"The project will work because it liberalizes what tribes can do with these federal resources, and creates better service flexibility in addressing our own communities' needs," he said.

Allen said his tube already has managed programs in ways that have been beneficial to the community, doing things that it couldn't do previously.

"We are able to define a number of our programs in ways so they can become more effective. For example, we have now established a cultural program under social services, something that we weren't allowed to do previously. That may not mean a lot to some people, but it means a lot in terms of the social value and cultural value to our community," he said.

Another example, he said, is the Housing Improvement Program. Work on a home in the community progressed satisfactorily, but \$6,000 more was needed to complete the work "We were able to move money into that project in order to finish the home, where previously we would have been forced to wait for the next funding year," Allen said, adding that with the time needed to restart work after funds were available, it would probably have been 18 months before the home was completed.

"The consolidation of education programs such as higher education, vocational education and adult education is another example. They each have different functions," he said, but they all focus on improving educational opportunities in the community.

The BIA, by allocating small increments of money to each program, constraints the usefulness of the money. The programs under self-governance have become more flexible based on the communities' needs, Allen said.

All this, of course, means tribes must become better managers of their programs, become good, responsible decision makers about what is best for their communities, become prudent money managers to ensure their money is well spent, and become efficient tribal bureaucracies to provide and deliver better services that the current federal bureaucracy now provides and delivers.

For those tribes involved early on in the self-governance project, Allen sees them evolving and progressing as government entities.

"What I see in 10 years is the tribes will have fully developed in their governmental operations; they will be more comprehensive and more complete. Because now we are functioning primarily as contractors, we don't have in place all the components of a complete, operational government the processes of appropriation, the guidelines and regulations in all tribal divisions necessary to manage their resources.

Allen warns though that tribes must be alert so they don't become the bureaucracy they are trying now to replace. "We must make sure we don't trade a bureaucracy for a bureaucracy. Our bureaucracy must be cleaner and will not absorb resources like the federal bureaucracy does now."

"Also in 10 years we will have probably made great strides in penetrating the Indian Health Service ... and taken a serious look, if not actually entering into other departments that have Indian programs, such as Department of Labor programs, HUD programs, EDA programs," Allen said.

In addition, Allen said he sees many, many more tribes following the direction of self-governance. In 10 years, nationwide, he sees a possible five-fold increase in the number of tribes involved. "I think 150 plus tribes. Out of 500 tribes out there, I see 150 plus. And right now, if it was allowed, you could have 75 to 90 tribes involved in this project," he said.

It would be difficult for tribes not to be interested. The idea is appealing-tribal governments dealing with other governmental entities such as states and the federal government utilizing the government-to-government principle, tribes setting their own agendas and truly managing and controlling their own programs and resources, he said.

"The whole idea of self-governance is very, very exciting, in particular the advancement of the government-to-government relationship," Allen concluded.

## ***Tribal Self-Governance Definitions***

For the purpose of this document, the following definitions will apply. It should be noted that in other contexts, the federal view of these definitions may differ. However, the following terms have historically been the accepted terminology utilized by both the Federal side and the Tribal side in conducting Self-Governance negotiations.

**Annual Funding Agreement.** An agreement negotiated and signed each year between an individual tribe and a federal government entity such as the BIA or the IHS. This agreement sets for the programs, services, functions, activities or portions thereof, to be transferred by the tribe and their levels of funding and the programs to be retained by the Government. The roles and responsibilities of each entity are outlined in the AFA.

**Compact.** An executed document based on the government to government relationship of Indian Tribes and the federal government that sets forth the terms and conditions of the self-governance relationship between the tribe and a particular federal governmental entity.

**Program Funds.** Funds allocated for programs generally operated at the BIA Agency or IHS Service Unit level. Program funds are utilized to provide services to Tribes and eligible American Indian recipients.

**Program Funding Methodology.** The formula/methodology that the BIA or IHS uses to determine the amount of funding a tribe receives to provide services under a Self-Governance Compact or a P.L. 93-638 Contract. This methodology is generally based on criteria that are relevant to the program such as tribal population and acres of land.

**Residual.** The amount of funds necessary to maintain those activities which, by law, must be carried out by Federal officials. Residual is used for calculating theoretical Tribal shares if all Tribes were to compact or contract for all programs, services, functions or activities.

**Inherent Federal Function.** Those programs, service, functions, activities or portions thereof, a federal official as determined by treaty, legislation, executive order, or other legal instrument must carry that out.

**Tribal Share.** The proportionate share of IHS or BIA administrative funds associated with each federal Program. These funds are commonly held at the Agency, Area and Central Office level for BIA; and, the Service Unit, Area, or Headquarters level for IHS. Administrative dollars represent program, service, function or activities that are not residual and that a Tribe is entitled to receive under a Self-Governance Compact.

**Tribal Share Methodology.** The allocation formula that is used to calculate a Tribe's or Tribal Organization's share of a program, service, function, activity or portion thereof, for BIA or IHS administrative dollars.

**Retrocession.** The voluntary return of a program operated under an AFA by a Tribe to the federal government before the agreement expires.

**Retained Tribal Share.** Those funds that are available as a Tribal share but determined by the Tribe under the AFA to be left with the federal agency to administer.



# SELF-GOVERNANCE

## ACRONYMS DE-MYSTIFIED

*(Special Thank you to Greg Anderson for his contribution to the list)*

Acronym	Definition
3PB	Third Party Billing
501c(3)	IRS Certified Non-Profit Organization
ACF	Administration for Children and Families
Across the Board Reductions	Usually Congressional decreases affecting all agencies (recissions)
ADA	American Dental Association
AFA	Annual Funding Agreement
AI/AN	American Indian/Alaska Native(s)
ANA	Administration for Native Americans
ANATV	All Native Alliance-Teaching Voices (Albuquerque Non-Profit org)
Appropriations	Final step in congress dividing up funds available
ASIA	Acting/Assistant Secretary for Indian Affairs (Currently Mr. James Cason)
Assisted Living	Ambulatory Long-Term Care Facilities
ATNI	Affiliated Tribes of Northwest Indians
AYP	Adequate Yearly Progress (DOI Standard)
Baseline	Beginning standard against which future performance is measured
BIA	Bureau of Indian Affairs
Capped Years	Congressional restrictions on the level of CSC available
CDC	Centers for Disease Control and Prevention
CFDA	Catalog of Federal Domestic Assistance, ex: 93.256
CHEF	Catastrophic Emergency Health Funds
CHPS	Choctaw Health Professional Services
CHSDA	Contract Health Service Delivery Area
CMHS	Center for Mental Health Services
CMS	Centers for Medicare and Medicaid Services
CO	Deciding Official (Court Cases)
Cognizant Agency	Federal agency responsible for indirect cost rate
CSAP	Center for Substance Abuse Prevention
CSAT	Center for Substance Abuse Treatment
CSC	Contract Support Costs
CSE	Child Support Enforcement
CY	Calendar Year
Deffered Revenue	Funds received from sources, but not yet spent
Delegations of Authority	Formal assignments such as supervision and check signing
DHAT	Alaska Dental Health Aide Therapist (A Program)
DHHS	Department of Health and Human Services
DHS	Department of Homeland Security
Direct	Expenses charged directly to a program
DNB	Dun and Bradstreet Number
DOC	Department of Commerce
DOI	Department of the Interior
DOJ	Department of Justice
DOL	Department of Labor
DSHS	Department of Social and Health Services
DUR	Drug Utilization Review
E.H.R.	Electronic Health Record

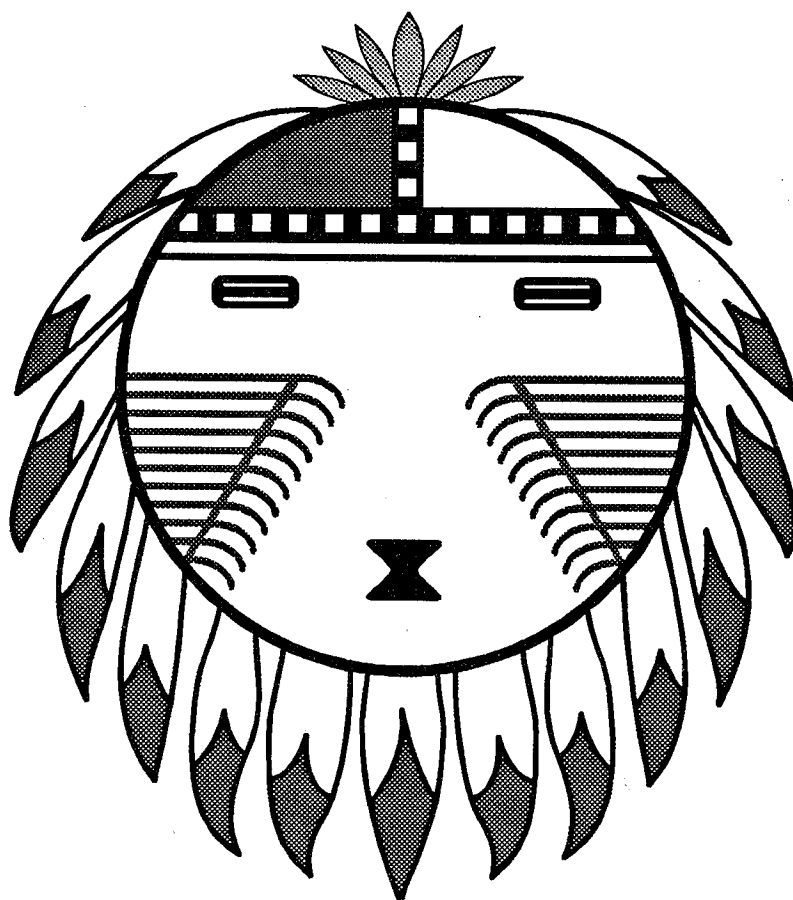
Early Headstart	Preschool education programs for very young children
FA	Funding Agreement
FAAB	Facilities Appropriation Advisory Board
FACA	Federal Advisory Committee Act
FICC	Federal Identity Credentialing Committee
FIPS	Federal Information Processing Standards
FMAP	Federal medical Assistance Percentage
FMCSA	Federal Motor Carrier Safety Administration
FOIA	Freedom of Information Act
FTA	Federal Transit Administration
FTCA	Federal Tort Claims Act
FTE	Full Time Equivalent
FTM	Fiduciary Trust Model
FY	Fiscal Year
GAO	Government Accountability Office
GPRA	Government Performance and Results Act of 1993
GSA	General Services Administration
H.R.	House Resolution
H5N1	Avian Influenza A Virus (What it's called after transfer to humans)
Headstart	Preschool Education Programs
HFCPS	Health Facilities Priorities System
HHS	Health and Human Services
HIP	Housing Improvement Program through the BIA
HOK	House of Knowledge
Honoring Nations	Harvard University program to cite Tribal best practices
HQ	Headquarters
HRSA	Human Resources and Services Administration
HSPD	Homeland Security Presidential Directive (Usually followed by a number, example: HSPD-12)
HUD	Housing and Urban Development
IAB	Interagency Advisory Board
ICNAA	Intradepartmental Council on Native American Affairs
ICPFMA	Indian Child Protection and Family Violence Protection Act (amended 2005)
ICWA	Indian Child Welfare Act
IG	Inspector General
IGRA	Indian Gaming Regulatory Act
IHCIA	Indian Health Care Improvement Act
IHS	Indian Health Service
IIM	Individual Indian Money Accounts (DOI Trust Management)
Indirect	Expenses not easily allocable to a specific program
Inflation Adjustment	Added funding to allow for increased cost of living
IRA	Indian Reorganization Act
IRRPCC	Indian Resrevation Roads Program Coordinating Committee (BIA/DOI)
ISDEA	Indian Self-Determination and Education Act
Judgement Fund	Fund created in anticipation of disbursement to lawsuit winner
LE	Law Enforcement
MAM	Medicaid Administrative Match
Match	Generally, Tribal share of project funded by another organization
MIT	Management Initiatives Team
MMA	Medicare Prescription Drug, Improvement and Modernization Act
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
NAHASDA	Native American Housing Assistance and Self-Determination Act
NAIHC	National American Indian Housing Council



NBC	National Business Center
NCAI	National Congress of American Indians
NCUIH	National Council of Urban Indian Health ( <a href="http://www.ncuih.org">www.ncuih.org</a> )
NICS	Northwest Intertribal Court System
NIEA	National Indian Education Association
NIHB	National Indian Health Board
NIST	National Institute of Standards and Technology
NNALEA	National Native American Law Enforcement Association
Nursing Homes	Skilled nursing facilities
NWIHB	Northwest Indian Health Board
NWPAIHB	Northwest Portland Area Indian Health Board
OCIO	Office of the Chief Information Officer (BIA)
OEHE	Office of Environmental Health and Engineering (IHS)
OJJDP	Office of Juvenile Justice and Delinquency Programs (US Department of Justice)
OMB	Office of Management and Budget
OPDIV	Operating Division
OPDQ	Office of Program Data Quality (BIA)
OPM	Office of Personnel Management
OPPB	Office of Policy Planning and Budget (IHS)
OSGSD	Office of Self-Governance and Self-Determination
OST	Office of the Special Trustee
OTSG	Office of Tribal Self-Governance (Indian Health Service)
Oversight Agency	Federal agency responsible for review of audits
PAMS	Patient Accounts Management Systems
PART	Program Assessment Rating Tool
PC	Pay Cost
PDP	Private Prescription Drug Programs
PGDA	Port Gamble Development Authority
PIV	Personal Identity Verification (Homeland Security)
PKI	Public Key Infrastructure (Homeland Security)
PL	Public Law
PL 102-477	Self-Governance type agreement for job-related programs
PL 93-638	The fundamental law allowing Tribes to operate federal programs
PMA	President's Management Agenda
PNP	Point No Point
PNPTC	Point No Point Treaty Council
Population Adjustment	An adjustment to funding formulae to account for population growth
Prompt Payment Act	A law requiring the federal government to pay promptly
PSFA	Programs, Services, Functions and Activities
RCRA	Resource Conservation and Recovery Act
Recissions	Usually Congressional decreases affecting all agencies
Retrocede	To return management of programs to a federal agency
RIFDS	Roads Inventory Field Data System (a software program)
RPMS	Resource and Patient Management System
SAFETEA	Safe, Accountable, Flexible, Efficient Transportation Act
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users
SAIANT	SAMHSA American Indian and Alaska Native Team
SAMHSA	Substance Abuse and Mental Health Services Administration
SBA	Small Business Administration
SCHIP	State Children's Health Insurance Program
SCIA	Senate Committee on Indian Affairs
Section 110	Former appropriation restriction on investment of BIA funds
Section 409	2006 Appropriations restrictions on Contract Support Costs (CSC)

SG	Self-Governance
SGAC	Self-Governance Advisory Committee
SIB	State Infrastructure Bank
SSA	Social Security Administration
TAAMS	Trust Asset Accounting Management System
TANF	Temporary Assistance for Needy Families
TBAC	Tribal Budget Advisory Council
TED	Tribal Education Department
Title I	The fundamental law allowing Tribes to operate federal programs
Title II	Self-Governance Permanent Authorization
Title III	Adding HIS to Self-Governance
Title IV	Amended BIA Self-Governance legislation
Title V	Amended HIS Self-Governance legislation
Title VI	Authorizing a feasibility study for self-governing DHHS
TOHP	Tribally Operated Health Programs
TOHP	Tribally Operated Health Program
TPA	Tribal Priority Allocation
TRAS	Trust Funds Accounting System
TSGAC	Tribal Self-Governance Advisory Committee
TTAG	Tribal Technical Advisory Group
U.S.C.	US Code (Law)
UFMS	Unified Financial Management System
USDA	United States Department of Agriculture
USET	United Southeastern Tribes
VA	Veterans Affairs
WWIETP	Western Washington Indian Employment Training Program
	(The portion of Medicaid costs the federal government reimburses the state - usually 50%-83%)
	(sometimes referred to as Performance Assessment Rating Tool)

# Appendix A



## *PERMANENT LEGISLATION NEW KEY AUTHORITIES*

The permanent legislation within DOI has provided some new key authorities that Tribes are now addressing. These areas include Negotiated Rulemaking, Compacting of Non-BIA Programs, Compacting BIA Central Office Shares, and Evaluating Trust Responsibilities. The following sections outline the issues now being considered by various these workgroups and/or committees.

### *Negotiated Rulemaking*

Once a new law is passed, the department or agency responsible for carrying out the new law, has the responsibility to develop regulations. Some laws are so detailed that few if any regulations are needed. Most laws, however, are a mix of general principles, goals, and some level of detail. How statutes are interpreted in regulations is often critical to how well the statute works and whether congressional intent is achieved.

Published final regulations are for all practical purposes the same as the law itself. Although regulations may be successfully challenged in Court as being over-reaching and/or not authorized by statute, the courts recognize a great deal of latitude in the federal agencies, and unless serious problems are proven, the courts tend to support agency discretion in developing regulations.

Usually, federal employees write draft regulations, which are then reviewed internally by the agency, approved by OMB, and published in the Federal Register as "draft" regulations. Once published, the public is given the opportunity to participate through public hearings and written comments. After the agency receives these public comments, it decides what the regulations will be and publishes "final" regulations. Frequently final regulations follow the form and substance of the "draft" regulations produced by the federal employees.

Because this process does not from the beginning involve the people affected by the law, regulations at times conflict with the intent of the law and can be oppressive. In order to try and correct these problems, there have been various efforts at involving affected parties. For example, there was an effort at "tribal consultation" for the 1988 Self-Determination Act Amendments Regulatory process; an effort which lasted over 5 years and did not succeed. Another process called "Negotiated Rule-Making" has been utilized successfully at certain regulatory agencies, such as EPA.

This process involves both the agency employees and public representatives working together to develop the "draft" regulations.

Negotiated Rule-Making occurs when a Rule-Making Committee is established pursuant to section 565 of Title 5 of the United States Code. The head of the agency selects representatives from the public affected by the potential regulations and staff of the agency to serve together on a Committee utilizing formal mediation process to produce the "draft" regulations.

For Title I of P.L. 103-413 (contracting), a classic Negotiated Rule-Making Committee has been established by the Secretaries of the Interior and Health and Human Services. For Title II, Department of the Interior Permanent Self-Governance, a somewhat more innovative approach to Negotiated Rule-Making has been permitted by Congress. First, the decision to pursue Negotiated Rule-Making is a tribal one; requiring a majority of the Self-Governance Tribes to request such rule-making within 90 days of the passage of the Act. The Tribes made such a request and recommended a 13 member Committee and nominated 7 tribal leaders to represent the Self-Governance Tribes. The Secretary agreed and appointed the 7 individuals, along with 4 other tribal leaders to represent non Self-Governance representatives. Additionally, the Self-Governance Rule-Making Committee is exempt from the Federal Advisory Committee Act, and can set its own public participation policy. The Committee is co-chaired by a Tribal chair and a Federal chair; these chairs have joint authority to call meetings, set agenda and preside over meetings. The use of formal mediation is optional. The Committee is to produce "draft" regulations for the Secretary to publish for public comment, as well as, to review the public comments received, and then develop the final regulations for publication. The Committee has set a goal of having final regulations in place for Fiscal Year 1997 negotiations (Spring 1996).

#### Non-BIA Programs Eligible for Compacts

Under Title III, Tribes only compact programs, functions, services, and activities, within the Bureau of Indian Affairs or programs passed through the BIA were eligible for Compacts and Annual Funding Agreements. Under Title IV, Tribes can now compact for programs, functions, services, and activities within the other 9 Bureaus and Agencies of the Interior Department. This expansion opens up a whole new area for Tribes. (Refer to the Interior Department organizational chart on page 14 of this book for a graphical representation.)

A Tribal workgroup was also established with the intent to ensure that this new authorization is implemented.

Sec. 405 (c) REPORT ON NON-BIA PROGRAMS - (1) In order to optimize opportunities for including non-Bureau of Indian Affairs programs, services, functions, and activities, or portions thereof, in agreements with tribes participating in Self-Governance under this title, the Secretary shall-

(A) review all programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior, other than through the Bureau of Indian Affairs, without regard to the agency of office concerned; and

(B) not later than 90 days after the date of enactment of this title, provide to the appropriate committees of Congress a listing of all such programs, services, functions, and activities, or portions thereof, that the Secretary determines, with the concurrence of tribes participating in Self-Governance under this title, are eligible for inclusion in such agreements at the request of a participating Indian tribe.

#### Central Office Shares

As the Interior organizational chart on page 17 shows, there are three basic levels of the BIA - the Central Office Level, the Area Office Level, and the Agency Office Level. Since FY 1990, Tribes have negotiated their Tribal Share of Area and Agency level funds on a "line-by-line" basis. A line-by-line basis means that each program under the Bureau, for example Forestry, Social Services, Johnson O'Malley etc., are listed and each program has a related formula developed in order to determine the Tribal Share. Line-by-line negotiations establishes a fair method in order for each Tribe to compact their rightful share of that program. This method has been implemented at the Area and Agency levels but not at the Central Office level. Instead, the BIA provided the Tribes with an arbitrary dollar amount of \$45,000 in-lieu of negotiating line-by-line within the Central Office.

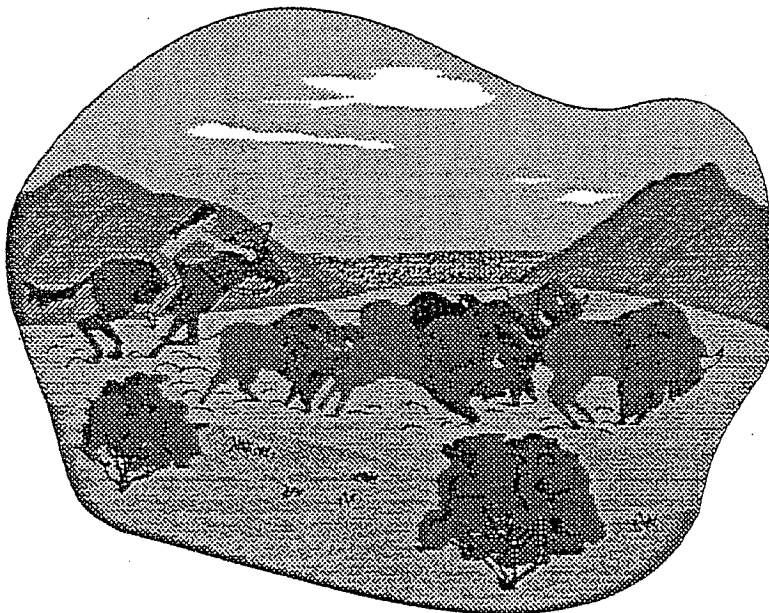
Since 1990, it has always been the intent of the Congress for Tribes to negotiate Tribal Shares from each level of the Bureau, including the Central Office. For example, the 1993 Senate Report of the 103rd Congress, directs the Bureau to negotiate Central Office funds. The Bureau did not, however, negotiate Central Office funds. Finally, step-by-step instructions had to be mandated within the new law which describe exactly what the Bureau is to do.

In summary, the law states - Tribes are allowed to compact programs, services, functions, and activities, or portions thereof, from the BIA Agency, Area, and Central Office.

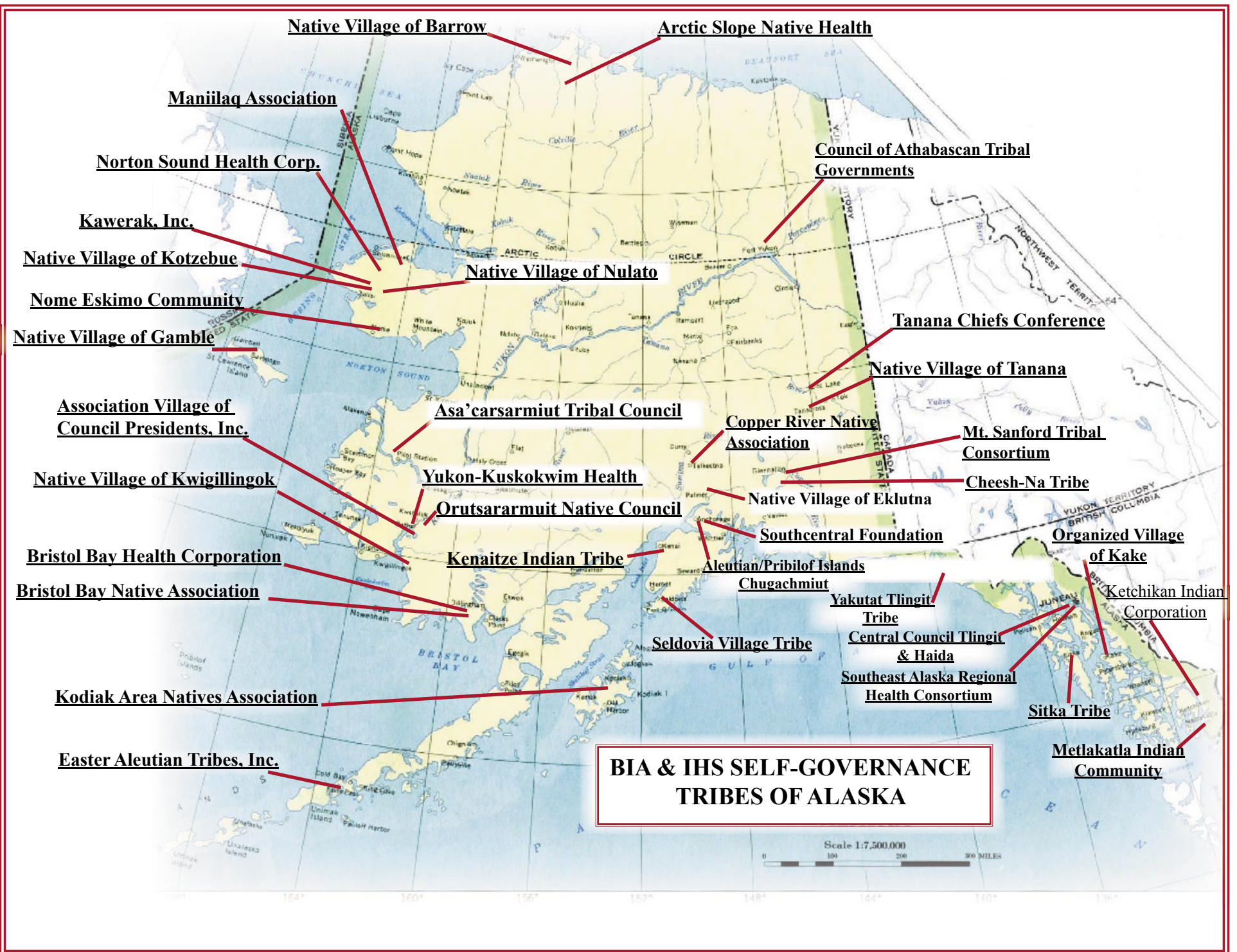
Also, the Secretary, in consultation with Tribes, is to develop formulas in order to calculate Tribal Shares of Central Office funds by January 23, 1995. Once these formulas are determined, Tribes can begin negotiating Central Office funds on a line-by-line basis and ~~include the negotiated funds in their Tribes' Compacts and Annual funding Agreements.~~ The workgroup established in November 1994 was charged with ensuring that these formulas be established and to ensure that this option is available to Tribes to compact for Central Office shares on a line-by-line basis.

*At the birth of our constitutional democracy, our Founding Fathers chose to recognize the original inhabitants of America as independent, Self-Governing nations which long predated European settlement. In calling for agreements by treaty with Indians, President Washington and the founders pledged that the United States would deal with the continent's native people with consistency, fairness and honor.*

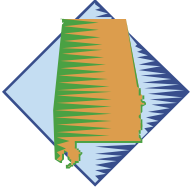
*Special Committee on Investigations of the  
Senate Select Committee on Indian Affairs,  
November 1989*



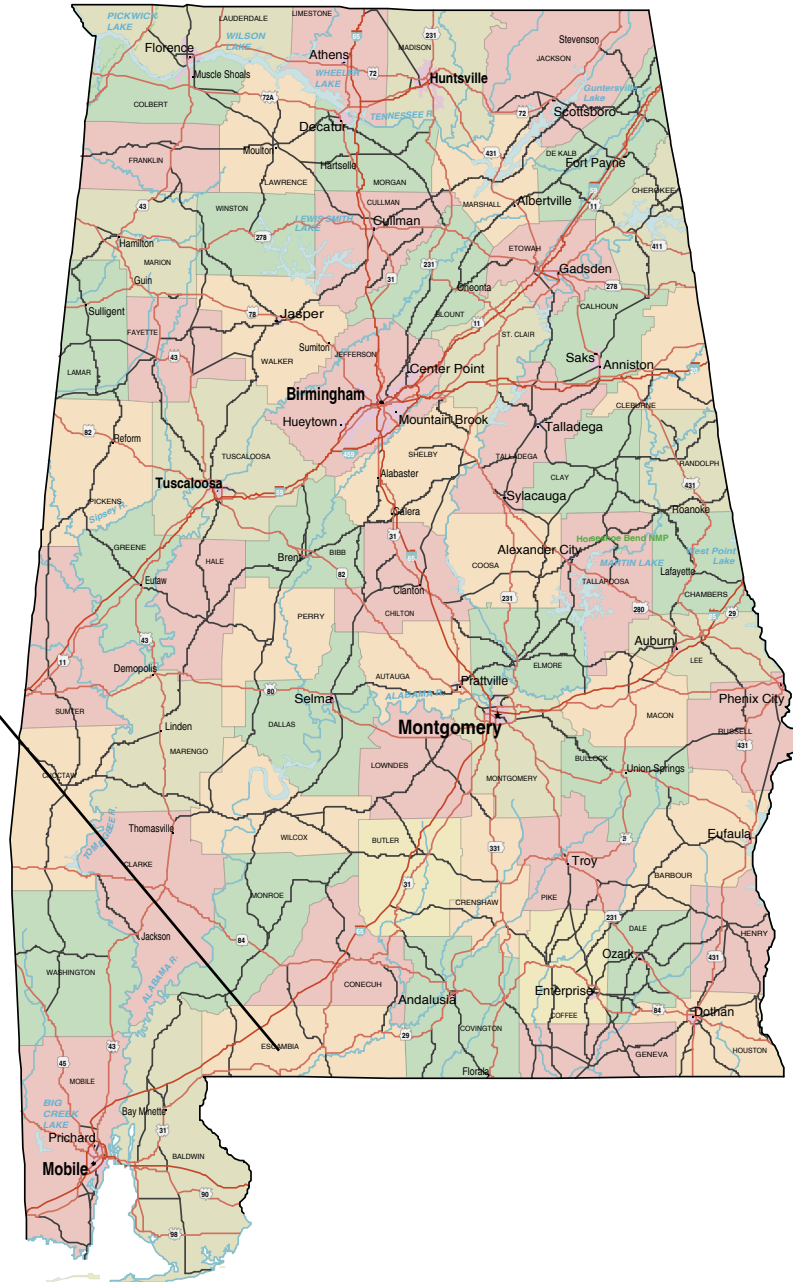




# STATE OF ALABAMA



Poarch Band of Creek Indians



**BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES**





**BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES**



# WASHINGTON STATE

BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES

Lummi Indian Nation

Jamestown S'Klallam  
Indian Tribe

Lower Elwha  
Klallam Tribe

Makah Indian  
Tribe

Quinault Indian  
Nation

Nisqually Indian  
Tribe

Shoalwater Bay  
Indian Tribe

Swinomish Indian Tribe

Suquamish Tribe

Tulalip Tribes of Washington

Port Gamble  
S'Klallam Tribe

Muckleshoot Tribe

Squaxin Island  
Indian Tribe

Skokomish Indian  
Tribe





# STATE OF OREGON

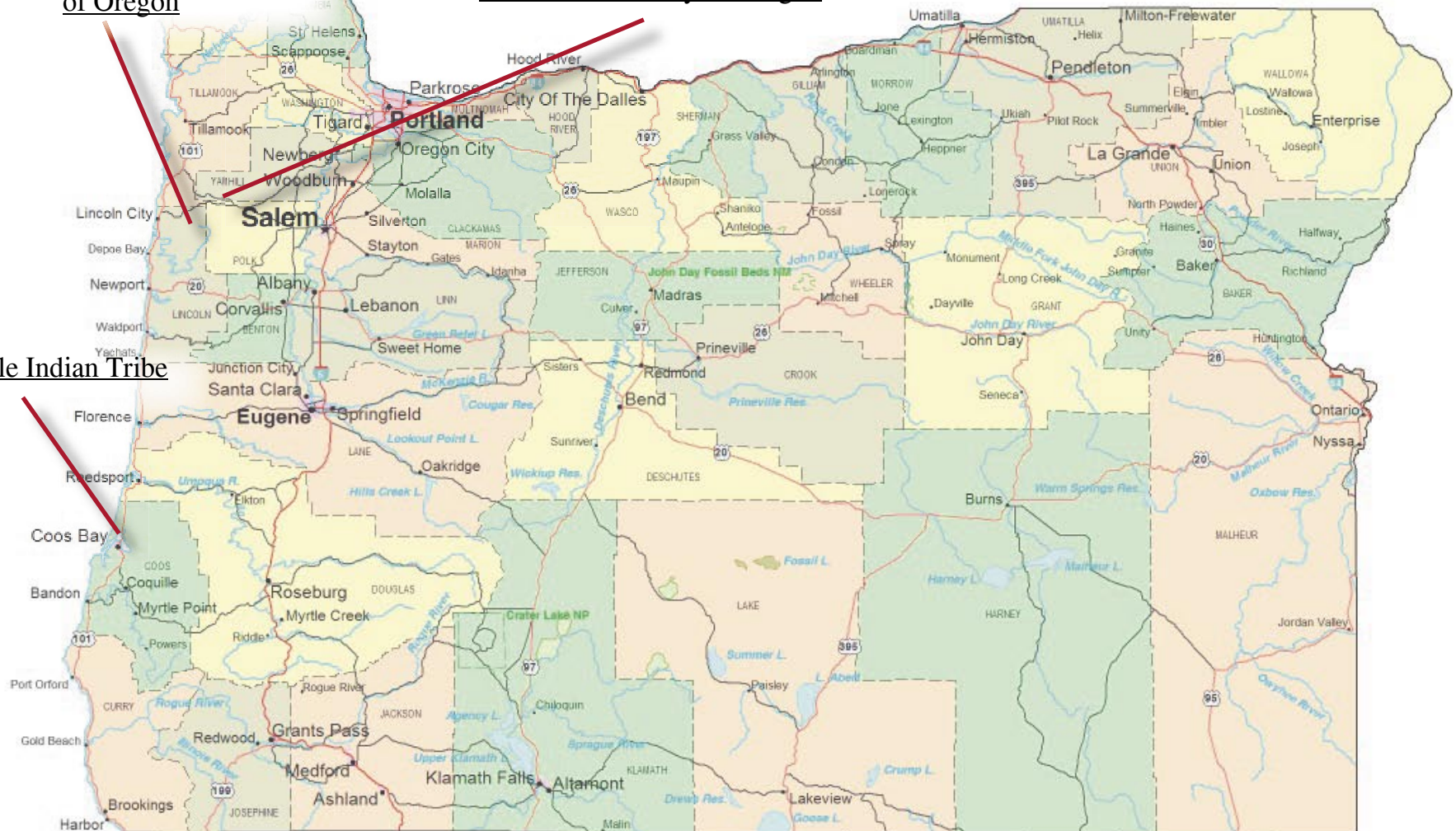


## BIA & IHS SELF-GOVERNANCE TRIBES OF THE LOWER 48 STATES

Confederated Tribe of Siletz Indians  
of Oregon

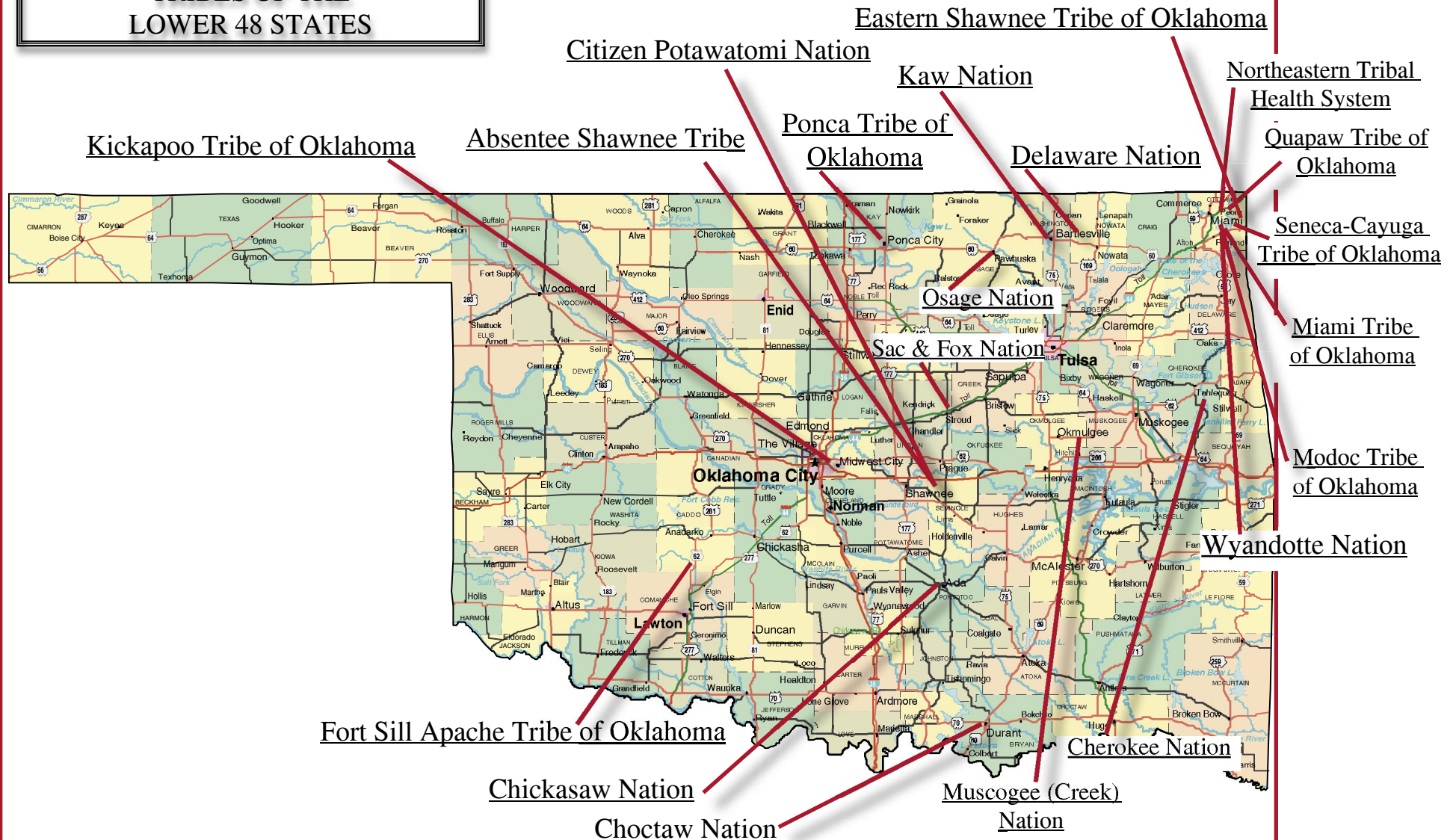
Confederated Tribes of the Grande  
Ronde Community of Oregon

Coquille Indian Tribe

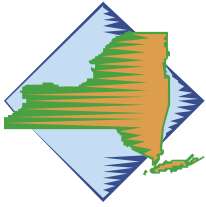


# STATE OF OKLAHOMA

BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES





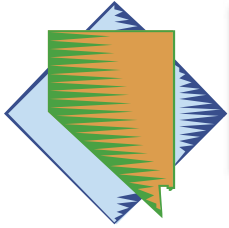


# STATE OF NEW YORK

BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES

St. Regis Mohawk Tribe





**BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES**

Duck Valley Shoshone-Paiute Tribe

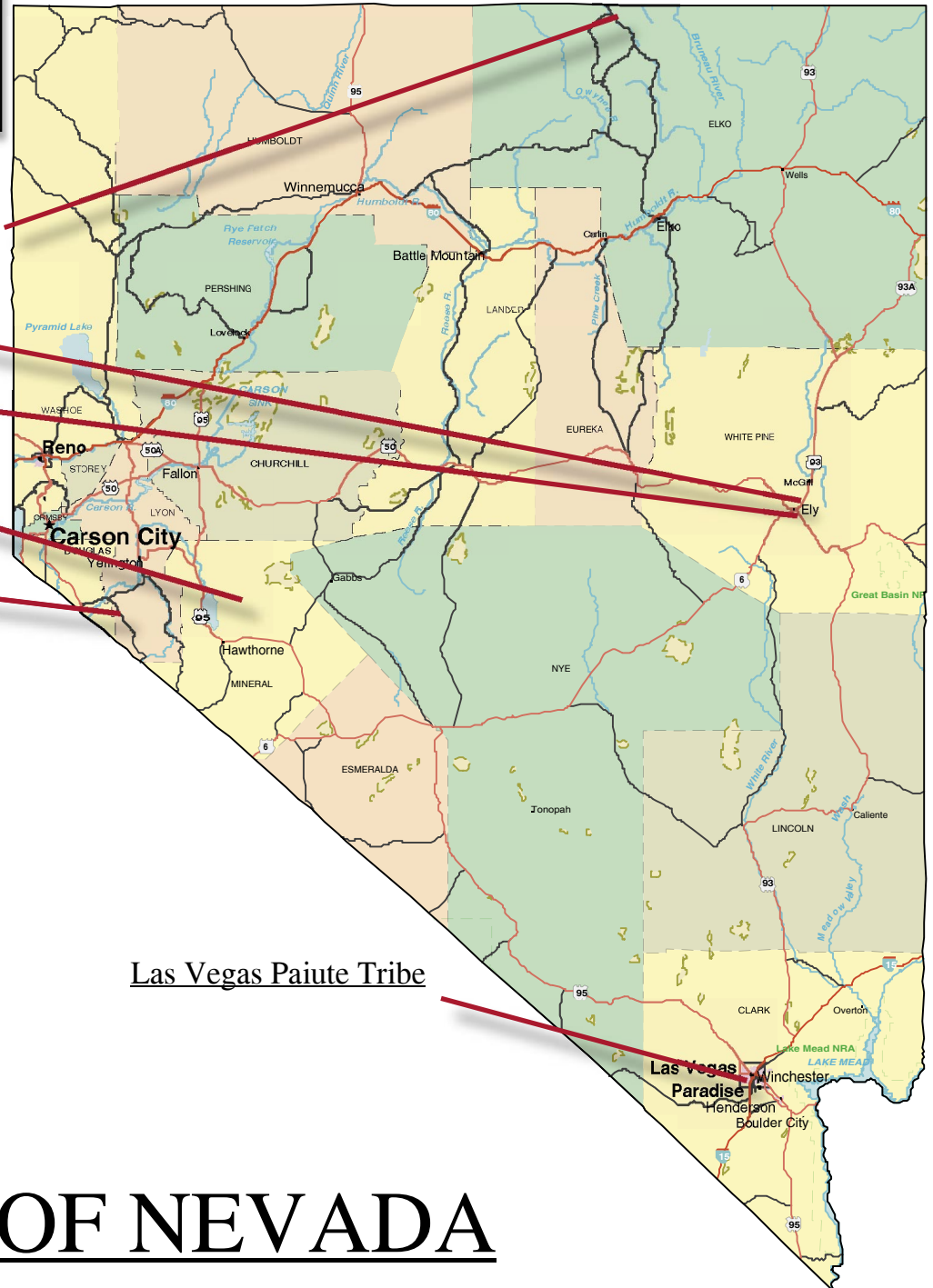
Duckwater Shoshone Tribe

Ely Shoshone Tribe

Yerington Paiute Tribe

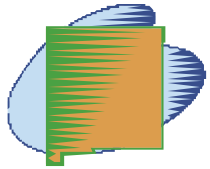
Washoe Tribe of Nevada  
and California

Las Vegas Paiute Tribe



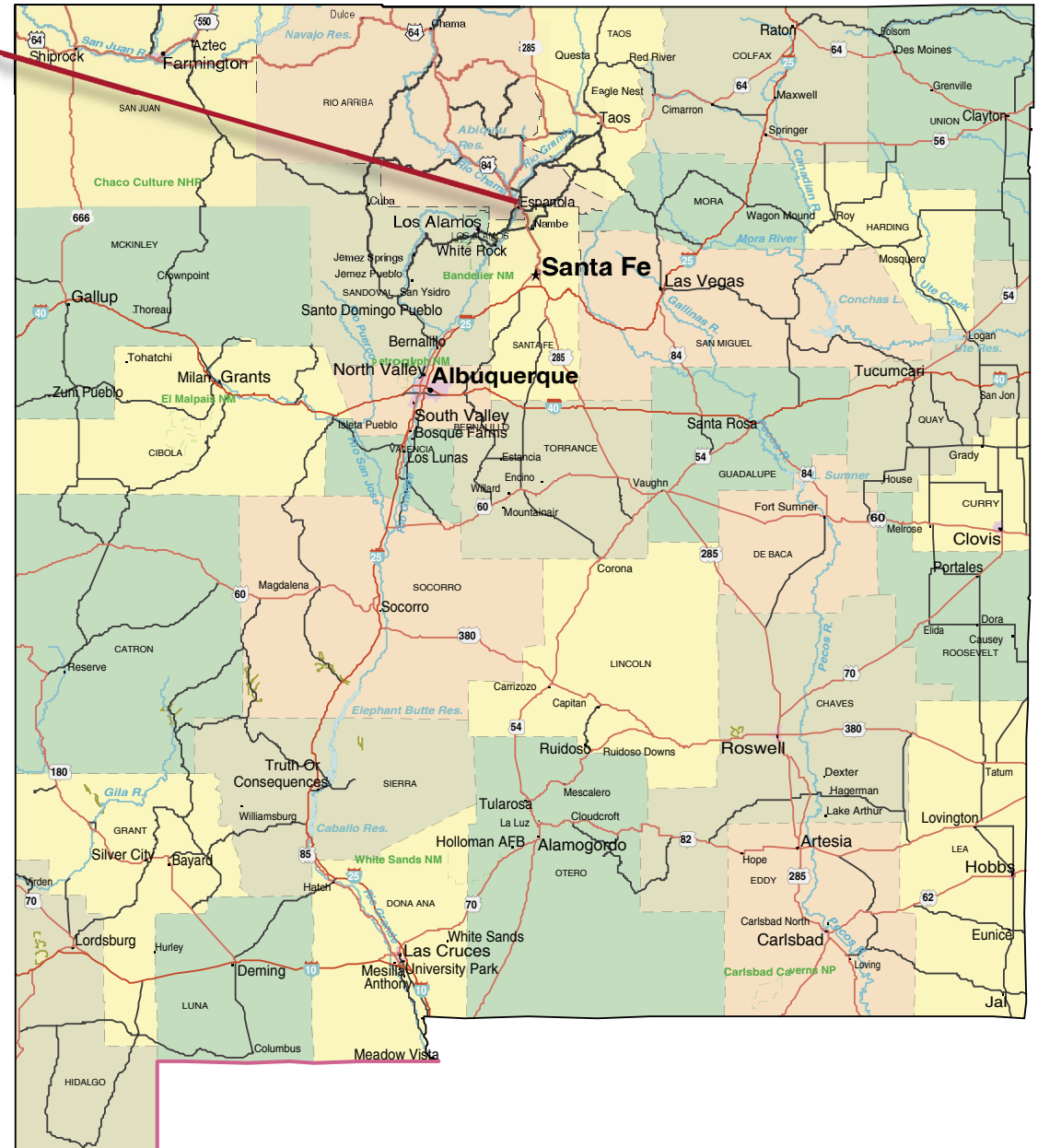
**STATE OF NEVADA**





# STATE OF NEW MEXICO

Santa Clara Pueblo



BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES



# STATE OF NORTH CAROLINA

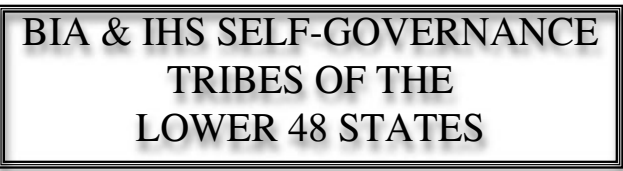
## Eastern Band of Cherokee Indians



BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES



Chippewa Cree Tribe of the  
Rocky Boy's Reservation



# STATE OF MISSISSIPPI



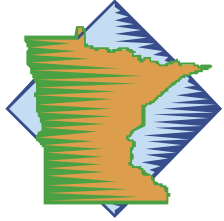
## Mississippi Band of Choctaw Indians



BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES



# STATE OF MINNESOTA



Red Lake Band of Chippewa Indians

Bois Forte Band of Chippewa Indians

Grand Portage Band of Chippewa  
Indians

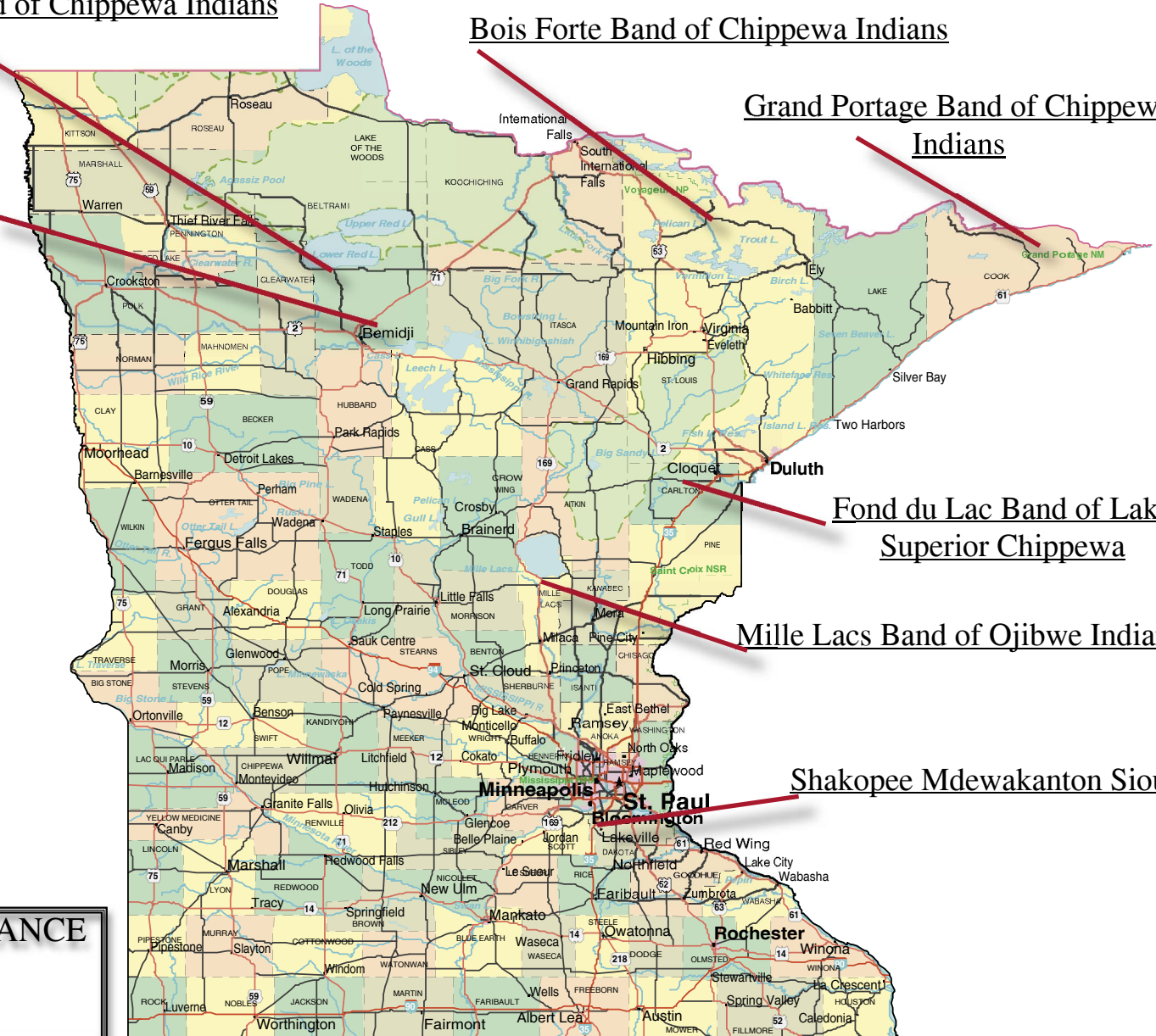
Leech Lake Band

Fond du Lac Band of Lake  
Superior Chippewa

Mille Lacs Band of Ojibwe Indians

Shakopee Mdewakanton Sioux

BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES



# STATE OF MICHIGAN

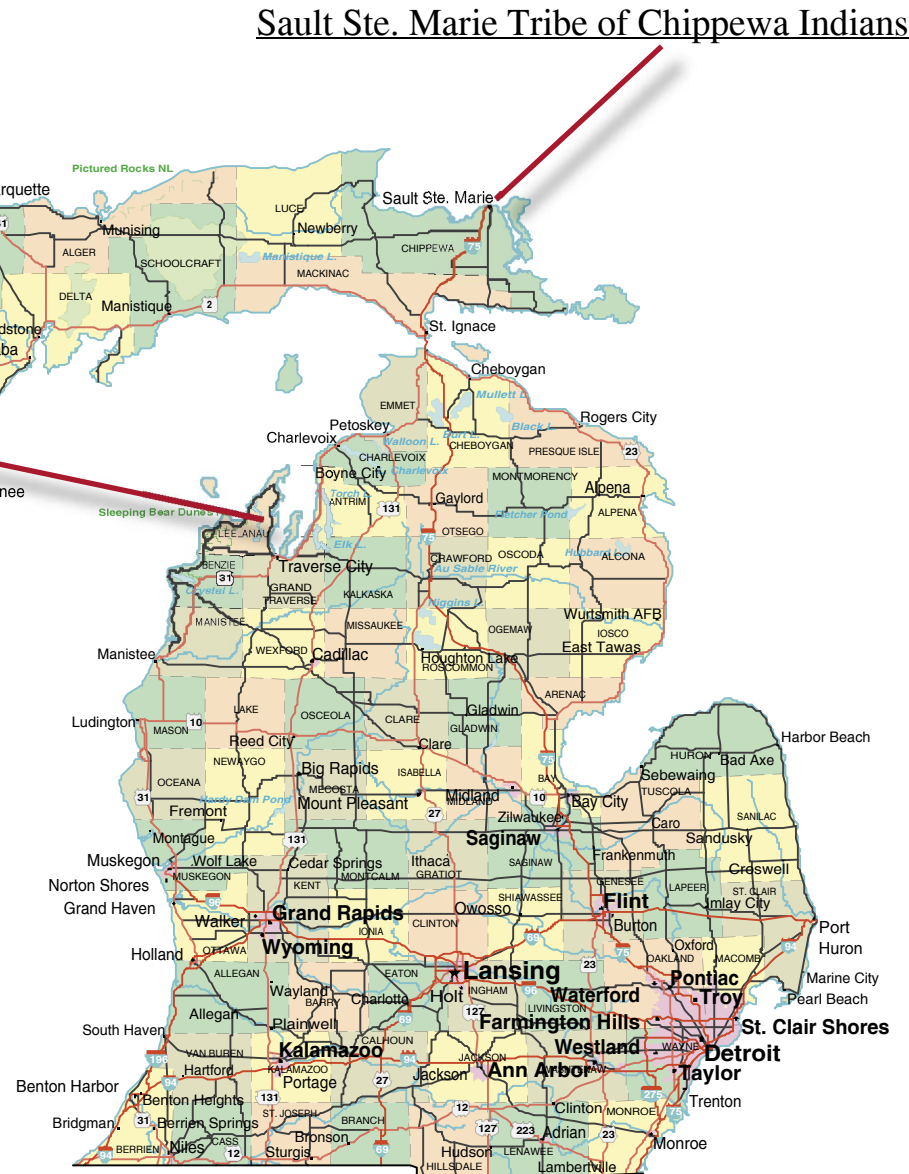


Keweenaw Bay Indian Community

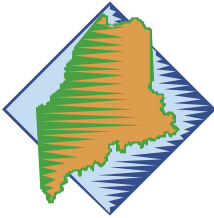
Sault Ste. Marie Tribe of Chippewa Indians

Grand Traverse Band of Ottawa &  
Chippewa Indians of Michigan

BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES



# STATE OF MAINE



Penobscot Indian Nation

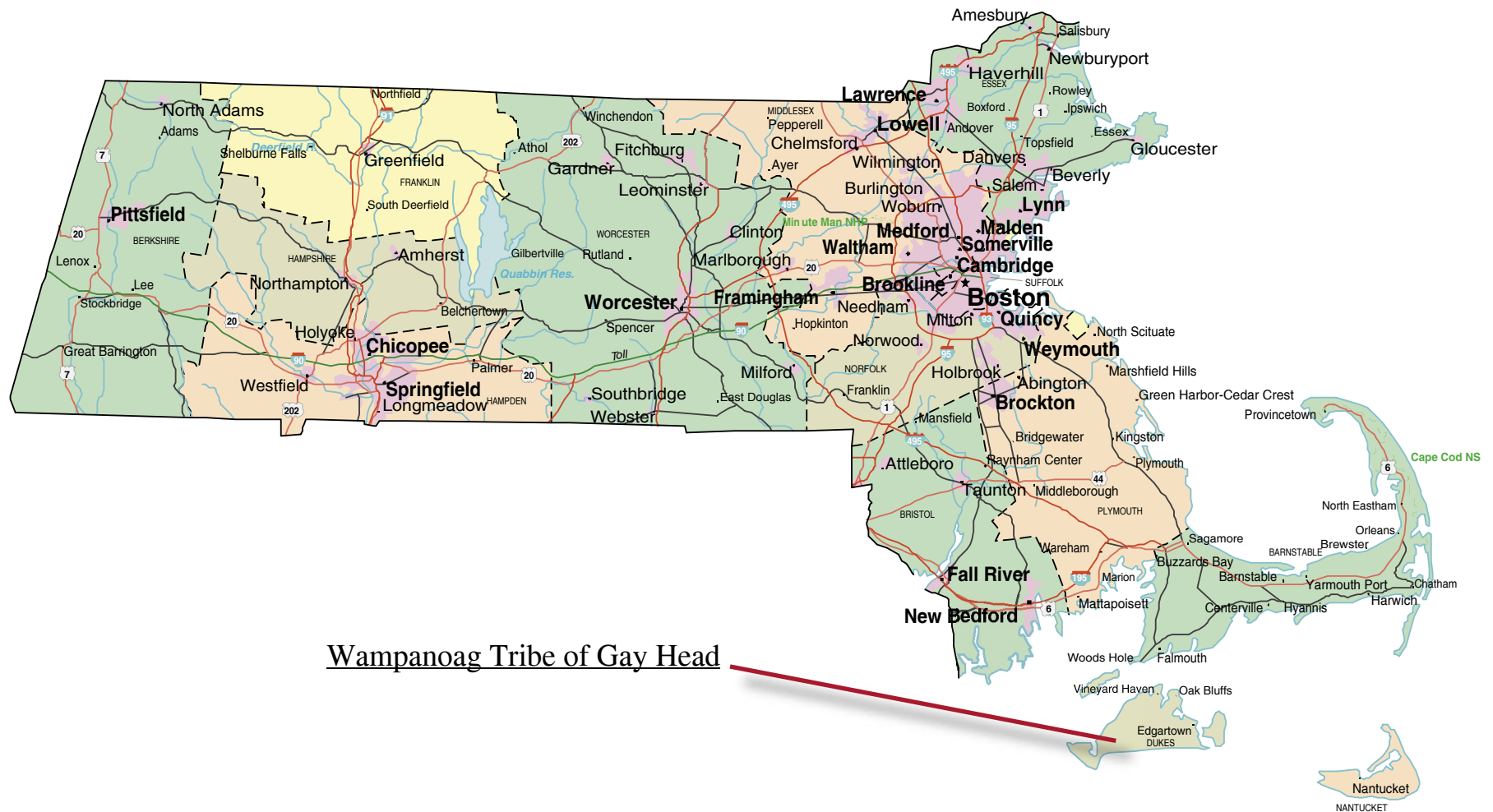


BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES

# STATE OF MASSACHUSETTES



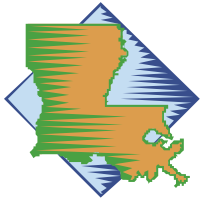
BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES



Wampanoag Tribe of Gay Head



# STATE OF LOUISIANA

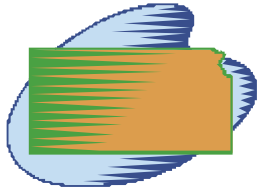


BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES



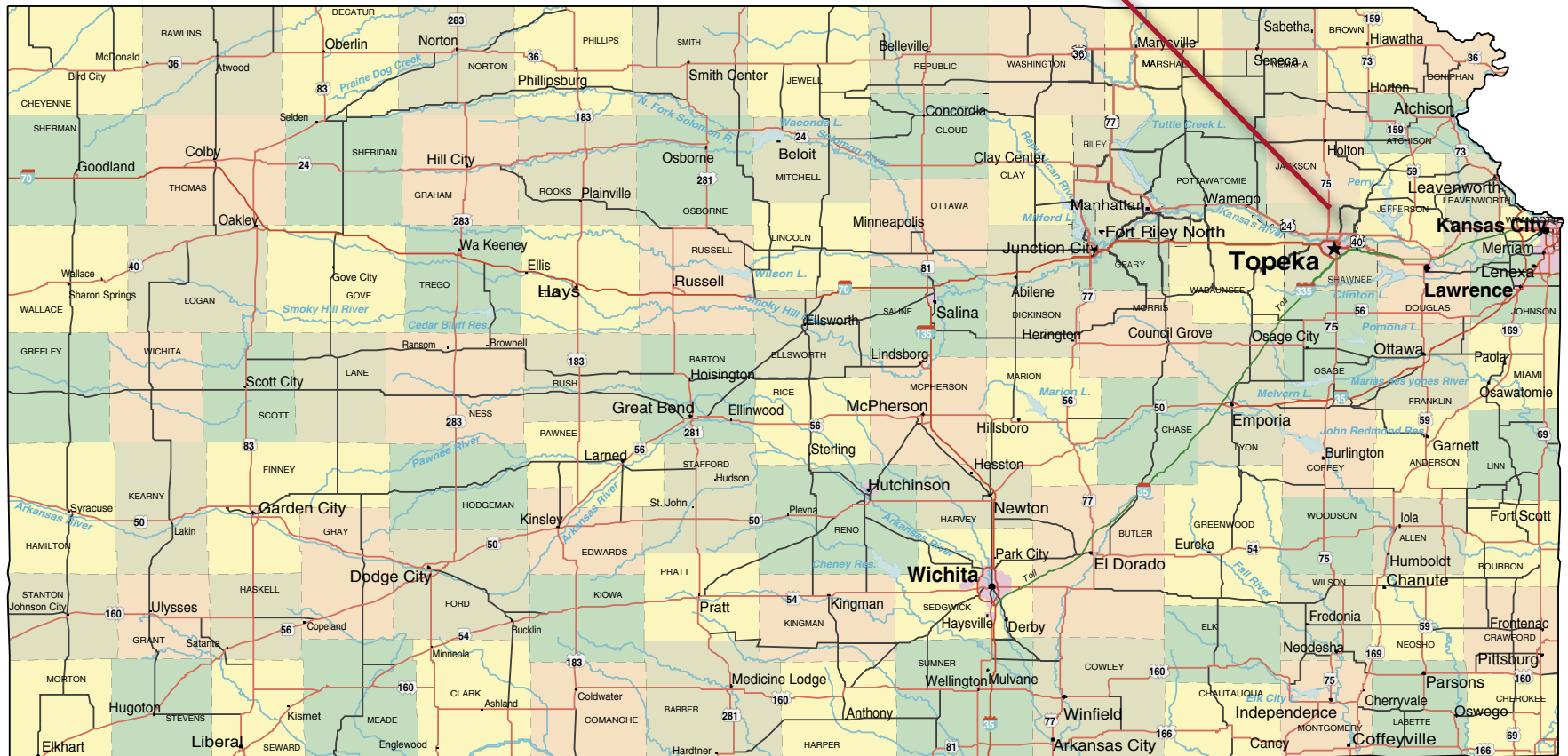
Chitimacha Tribe of Louisiana

# STATE OF KANSAS



BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES

Prairie Band of Potawatomi Nation



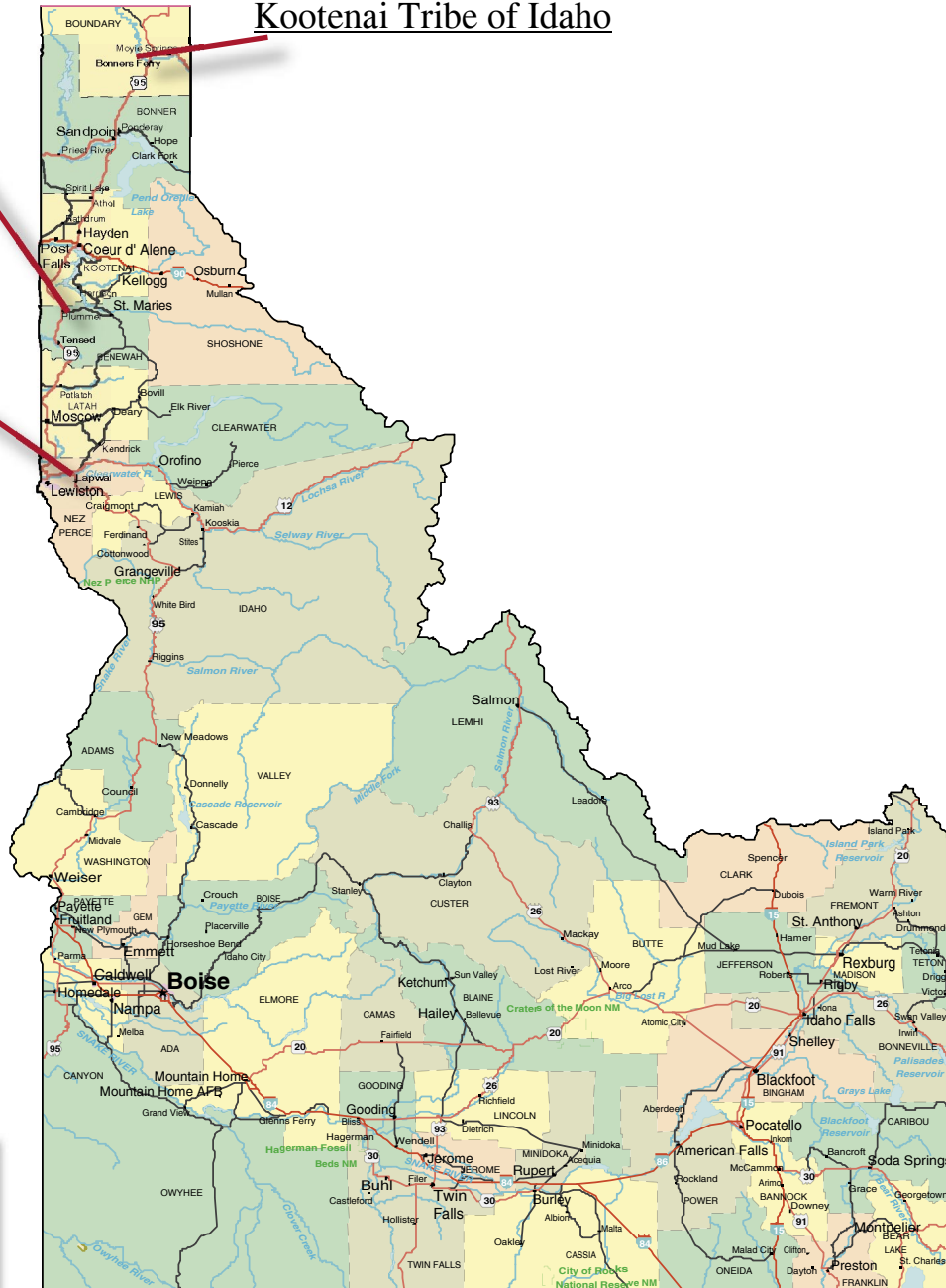
# STATE OF IDAHO



Coeur D' Alene Tribe

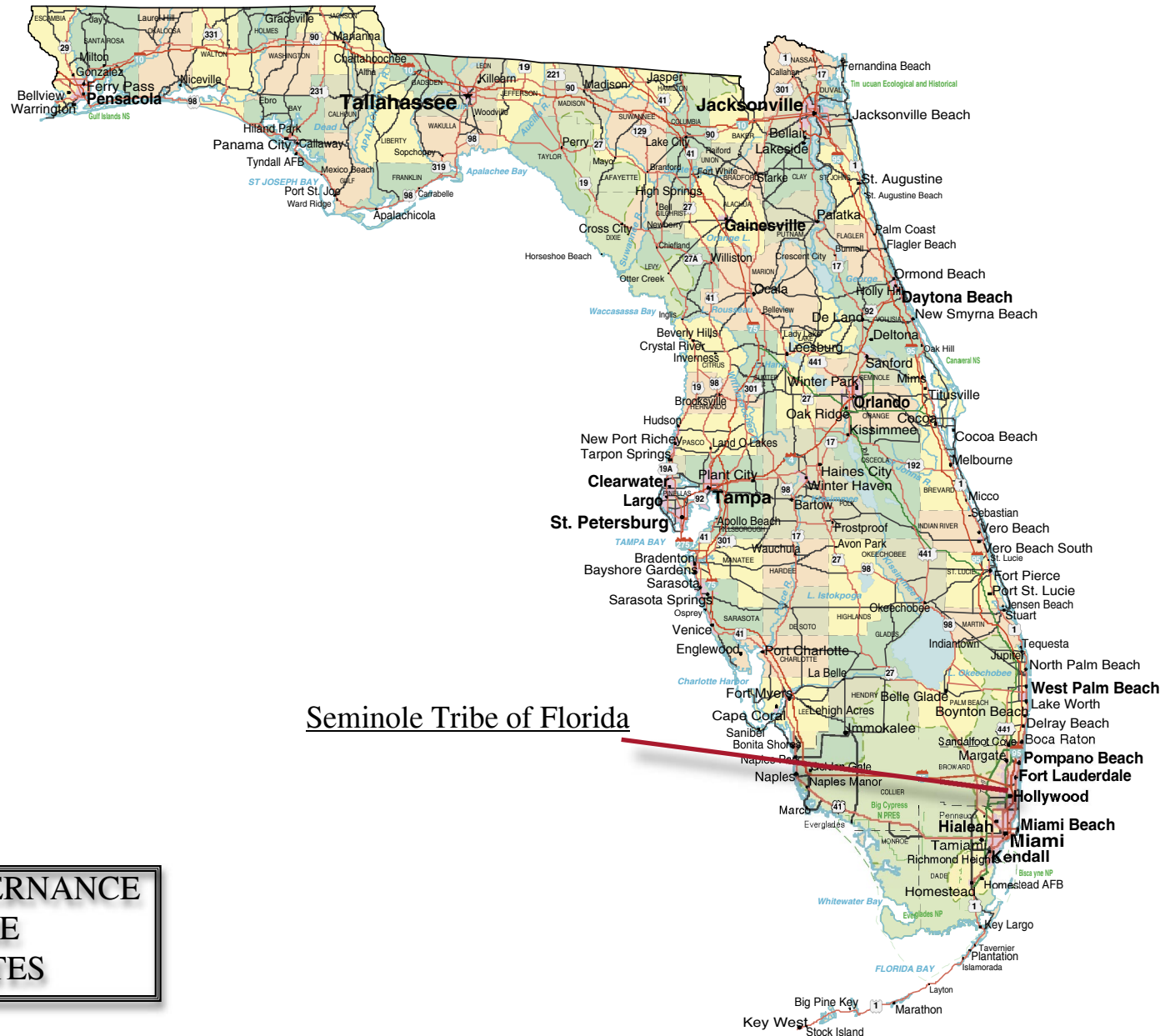
Kootenai Tribe of Idaho

Nez Perce Tribe



BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES

# STATE OF FLORIDA



BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES



# STATE OF CONNECTICUT



BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES



Mohegan Tribe of Indians of Connecticut

# STATE OF CALIFORNIA

Karuk Tribe of California

Manzanita Band of Mission Indians

Hoop Valley Tribe

Yurok Tribe

Redding Rancheria Tribe

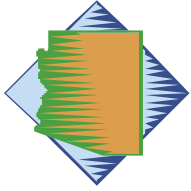
BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES

Cabazon Band of Mission Indians

Cuyapaipe Band of Mission Indians



# STATE OF ARIZONA



BIA & IHS SELF-GOVERNANCE  
TRIBES OF THE  
LOWER 48 STATES

Salt River Pima-Maricopa  
Indian Community

Ak-Chin Indian Community

Gila River Indian Community



Tribe	Tribal Leader	Self-Governance Contact	Address	Telephone	Fax	E-Mail	DOI	IHS
Absentee Shawnee	Scott Miller	Lesa Byford	2025 S. Gordon Cooper Dr. Shawnee, OK 74801	405-275-4030	405-275-1922	<a href="mailto:lbyford@astribc.com">lbyford@astribc.com</a>	1991	1994
Ak-Chin Indian Community	Delia M. Carlyle	Anita Avila	42507 W. Peters Nail Road, Maricopa, AZ 85239	(520) 568-1000	(520) 568-4566	<a href="mailto:aavila@ak-chin.nsn.us">aavila@ak-chin.nsn.us</a>	2004	
Alaska Native Tribal Health Consortium	Don Kashevaroff	Wendie Langton	4201 Tudor Centre, Suite 105 Anchorage, AK 99508	907-562-6006	907-563-2001	<a href="mailto:wlangton@anmc.org">wlangton@anmc.org</a>		1999
<b>Aleutian/Pribilof Islands Association, Inc.</b>  <i>Includes the Native Villages of: Aksutan, Aika, Belkopski, Fake Pass, Nelson Lagoon, Nikolski, Pauloff Harbor and Unga, the Pribilof Aleut Communities of St. George and St. Paul, and the Qagay Teyagaygin Tribe and the Qavulargin Tribe of Unalaska</i>	Dimitri Philemonof	Margaret Galovin	201 E. Third Avenue, Anchorage, AK 99501	907-276-2700	907-276-4351	<a href="mailto:103536.430@CompuServ.com">103536.430@CompuServ.com</a>	1996	1995
<b>Arctic Slope Native Association</b>  <i>Includes the Native Villages of: Anaktuvuk Pass, Atkasuk, Barrow, Katorik, Nauyasut, Pt. Hope, Pt. Lay, and Wainwright</i>	Marie Carroll	Eben Hopson	P.O. Box 1232, Barrow AK 99723	(907) 852-2762	907-852-4421	<a href="mailto:ebenh@barrow.com">ebenh@barrow.com</a>		1998
<b>Asa'Carsamiut Tribal Council</b>	James Landlord	Tammy Aguchak	P.O. Box 32249, Mountain Village, AK 99632	(907) 591-2814	(907) 591-2811	<a href="mailto:ttaguchak@yahoo.com">ttaguchak@yahoo.com</a>	2004	



<b>Tribe</b>	<b>Tribal Leader</b>	<b>Self-Governance Contact</b>	<b>Address</b>	<b>Telephone</b>	<b>Fax</b>	<b>E-Mail</b>	<b>DOI</b>	<b>IHS</b>
<b>Association of Village Council Presidents</b>  <i>Includes the Native Villages of:</i>  <i>Akiak, Alaknuk, Bill Moore's Slough, Chigomak, Eak, Goodnews Bay, Hamilton, Hooper Bay, Kipnuk, Kongiganuk, Kotlik, Kungillingok, Lower Kalskag, Napaimute, Napakiuk, Napaskiak, Nunapiukuk, Oluksaminut, Pitka's Point, Red Devil, Sammon Bay, Sheldon's Point, Sketmute, St. Mary's, Stony River, Tutututuk, Tummak, Upper Kalskag, Andreafsky Tribal Council, and the Oscarville Traditional Council</i>	Myron Naneng	Zack Brink	101 "A" Main Street, Pouch 219, Bethel, AK, 99559	(907) 543-3521	(907) 543-3596	<a href="mailto:zbrink@avcp.org">zbrink@avcp.org</a>	1996	
<b>Bois Forte Band of Chippewa Indians</b>	Kevin Leecy	Kim Greiner	P.O. Box 16, Nett Lake, MN, 55772	(218) 757-3261	(218) 757-3312	<a href="mailto:kgreiner@boisforte-nsn.gov">kgreiner@boisforte-nsn.gov</a>	1996	1999

<b>Tribe</b>	<b>Tribal Leader</b>	<b>Contact Person</b>	<b>Address</b>	<b>Telephone</b>	<b>Fax</b>	<b>E-Mail</b>	<b>DOI</b>	<b>IHS</b>
<b>Tulalip Tribes of Washington</b>	Stanley G. Jones, Sr.	Lilian Henry	6700 Totem Beach Road, Marysville, WA, 98271	(360) 651-4000	(360) 651-4032	<a href="mailto:lehenry@tulaliptribes-nsn.gov">lehenry@tulaliptribes-nsn.gov</a>	2000	2002
<b>Wampanoag Tribe of Gay Head</b>	Cheryl Andrews-Maltais	Laurie Perry	20 Black Brook Rd., Aquinnah, MA, 02535	(508) 645-9265	(508) 645-3790	<a href="mailto:Laurie@wtgh.vineyard.net">Laurie@wtgh.vineyard.net</a>	2000	2001
<b>Washoe Tribe of Nevada and California</b>	Waldo Walker	Fredrick Rundlet	919 Highway 396 S, Garnerville, NV, 89410	(775) 883-1446	(775) 265-6240	<a href="mailto:Freddy.rundlet@ihs.gov">Freddy.rundlet@ihs.gov</a>		2003
<b>Wyandotte Nation</b>	Leaford Bearskin	Ron Kaiser	P.O. Box 250, Wyandotte, OK, 74370	(918) 678-2297	(918) 678-2944	<a href="mailto:rkaiser@wyandotte-nation.org">rkaiser@wyandotte-nation.org</a>	1996	1995
<b>Yakutat Tlingit Tribe</b>	Victoria L. Demmert	Bertrand Adams, Jr.	P.O. Box 418, Yakutat, AK 99689	(907) 784-3238	(907) 784-3595	<a href="mailto:badamsjr@ytttribe.org">badamsjr@ytttribe.org</a>	1996	2003
<b>Yerington Paiute Tribe</b>	Vince Conway	Darrell Holloway	171 Campbell Lane, Yerrington, NV, 89447	(775) 463-3301	(775) 463-2416	<a href="mailto:chairman@ypt-nsn.gov">chairman@ypt-nsn.gov</a>		2001
<b>Yukon-Kuskokwim Health Corporation</b> <i>Includes the Native Villages of: Akiachak, Akiak, Alakanuk, Andrajski, Aniak, Anvik, Atmauthluak, Bethel, Bill Moore's Slough, Cheforak, Chevak, Chuloonawick, Crooked Creek, Eek, Emmonak, Georgetown, Grayling, Hamilton, Holy Cross, Hooper Bay, Kasigluk, Kipnuk, Kongiganak, Kotlik, Kvethluk, Kwigillingok, Lime Village, Lower Kalskag, Marshall, Mekoryuk, Mountain Village, Napaimute, Napakiak, Napaskiak, Newtok, Nightmute, Nunam Iqua, Nunapitchuk, Obogomiut, Oscarville, Paimuit, Pilot Station, Pitka's Point, Quinhagak, Red Devil, Russian Mission, Scammon Bay, Shageluk, Sleetmute, St. Mary's, Stony River, Toksook Bay, Tuluksak, Tuntuliak, Tununak, Umkumit, and Upper Kalskag</i>	Ray Alstrom	Gloria Simeon	P.O. Box 528, Bethel, AK, 99559	(907) 543-6020		<a href="mailto:gsimeon@nativecouncil.org">gsimeon@nativecouncil.org</a>		1995
<b>Yurok Tribe</b>	Maria Tripp	Thomas Gates	190 Klamath Blvd Klamath, CA 95548	(707)482-1350	(707)482-1377	<a href="mailto:ythpo@yahoo.com">ythpo@yahoo.com</a>	1996	

Title	Tribal Leader	Self-Governance Contact	Address	Telephone	Fax	E-Mail	DOI	IHS
<b>Sault Ste. Marie Tribe of Chippewa Indians</b>	Aaron Payment	Toni Osterhout	523 Ashmun Street, Sault Ste. Marie, MI 49783	(906) 635-6050	(906) 635-4969	<a href="mailto:tosterhout@saulttribe.net">tosterhout@saulttribe.net</a>	1997	1995
<b>Seldovia Village Tribe</b>	Don Kashevaroff	Crystal Collier	P.O. Box Drawer L, Seldovia, AK, 99663	(907) 234-7898	(907) 234-7865	<a href="mailto:ccollier@svt.org">ccollier@svt.org</a>	2002	1995
<b>Seminole Tribe of Florida</b>	Mitchell Cypress	Terry Sweat	6300 Stirling Road, Hollywood, FL, 33024	(954) 966-6300	(954) 967-3463	<a href="mailto:tsweat@semtribe.com">tsweat@semtribe.com</a>		2001
<b>Seneca-Cayuga Tribe</b>	Paul Spicer	Duane Terry	P.O. Box 1283, Miami, OK, 74355	(918) 542-6609	(918) 542-3684	<a href="mailto:tsixkiller@sctribe.com">tsixkiller@sctribe.com</a>	2001	
<b>Shakopee Mdewakanton Sioux</b>	Stanley R. Crooks	Melanie Dunlap	2330 Sioux Trail NW, Prior Lake, MN 55372	(952) 445-8900	(952) 445-8906	<a href="mailto:health@shakopeedakota.org">health@shakopeedakota.org</a>		2004
<b>Shoalwater Bay Indian Tribe</b>	Charlene Nelson	Pam Norris	P.O. Box 130, Tokeland, WA, 98590	(360) 267-6766	(360) 267-6778	<a href="mailto:pnorris@shoalwaterbay-nsn.gov">pnorris@shoalwaterbay-nsn.gov</a>	1997	1999
<b>Sitka Tribe</b>	Lawrence Widmark	Alicia Gassman	456 Katlian Street, Sitka, AK, 99835	(907) 747-3207	(907) 747-4915	<a href="mailto:aliciag@ptialaska.net">aliciag@ptialaska.net</a>	1996	
<b>Skokomish Indian Tribe</b>	Denese LaClair	Brent Simcosky	N. 80 Tribal Center Rd., Shelton, WA, 98584	(360) 426-4232	(360) 877-5943	<a href="mailto:bsimcosky@skokomish.org">bsimcosky@skokomish.org</a>	1996	2002
<b>Southcentral Foundation</b>	Sophia Chase	Ileen Sylvester	4501 Diplomacy Drive, Ste. 200, Anchorage, AK, 99508	(907) 265-4900	(907) 729-5000	<a href="mailto:isylvester@scf.cc">isylvester@scf.cc</a>		1995
<b>Southeast Alaska Regional Health Consortium</b>	Janice Hill	Janice Hill	3245 Hospital Drive, Juneau, AK, 99801	(907) 463-4060	(907) 463-4000	<a href="mailto:janhill@aptalaska.net">janhill@aptalaska.net</a>		1995
<b>Squaxin Island Indian Tribe</b>	James L. Peters	Deborah Stoehr	SE 70 Squaxin Lane, Shelton, WA, 98584	(360) 426-9781	(360) 426-6577	<a href="mailto:dstoehr@squaxin.nsn.us">dstoehr@squaxin.nsn.us</a>	1994	1995
<b>St. Regis Band of Mohawk Indians</b>	James W. Ransom	Jamie Bay	412 State Route 37, Hoganburg, NY, 13655	(518) 358-2272	(518) 358-4519	<a href="mailto:Jamie.bay@srmt-nsn.gov">Jamie.bay@srmt-nsn.gov</a>		2003
<b>Suquamish Tribe</b>	Leonard Forsman	Gilda Corpuz	P.O. Box 498, Suquamish, WA, 98392	(360) 598-3311	(360) 598-6295	<a href="mailto:gcorpuz@suquamish.nsn.us">gcorpuz@suquamish.nsn.us</a>	1996	1995
<b>Swinomish Indian Tribal Community</b>	Brian Cladoosby	John Stephens	P.O. Box 388, Laconner, WA, 98257	(360) 466-3163	(360) 466-5309	<a href="mailto:jstephens@swinomish.nsn.us">jstephens@swinomish.nsn.us</a>	1994	1997
<b>Tanana Chiefs Conference</b> <i>Includes the Native Villages of:</i>  <i>Alatna, Allakaket, Anvik, Artic, Beaver, Birch Creek, Chalkyitlik, Circle, Dot Lake, Eagle, Evansville, Fort Yukon, Galena, Grayling, Healy Lake, Holy Cross, Hughes, Huslia, Kaltag, Koyukuk, Manley Hot Springs, McGrath, Minto, Nenana, Nikolai Edzeno, Rampart, Ruby, Shageluk, Stevens, Takotna, Tanacross, Telida, Tetlin, and Venetie</i>	Stephanie Swenson-Nicholia	Celeste Engles	122 First Avenue, Ste. 600, Fairbanks, AK, 99701	(907) 452-8251	(907) 459-3850	<a href="mailto:Celest.engles@tananachiefs.org">Celest.engles@tananachiefs.org</a>	1994	1995

<b>Tribe</b>	<b>Tribal Leader</b>	<b>Self-Governance Contact</b>	<b>Address</b>	<b>Telephone</b>	<b>Fax</b>	<b>E-Mail</b>	<b>DOI</b>	<b>IHS</b>
<b>Orutsarmiut Native Council</b>	Henry J. Hunter	Gregory Hoffman	P.O. Box 927, Bethel, AK, 99559	907-543-2608	(907) 543-2639	<a href="mailto:ghoffman@nativcouncil.org">ghoffman@nativcouncil.org</a>	2005	
<b>Penobscot Indian Nation</b>	Kirk E. Francis, Sr.	Patricia Knox-Nicola	6 River road, Indian Island, Old Town, ME, 04468	(207) 827-7776	(207) 827-6042	<a href="mailto:pknox@pnhd.nashville.ih.gov">pknox@pnhd.nashville.ih.gov</a>		1995
<b>Pinoleville Band of Pomo Indians</b>	Leona Williams	Lenora Steele	367 No. State Street, Suite 204 Ukiah, CA 95482	(707) 463-1454	(707) 463-6601	<a href="mailto:lenoras@pinoleville-nsn.us">lenoras@pinoleville-nsn.us</a>	2006	
<b>Poarch Band of Creek Indians</b>	Buford Rolin	Arelene Mack	5811 jack Springs Road, Atmore, AL, 36502	(251) 368-9138	(251) 368-1026	<a href="mailto:amack@poarchcreekindians-nsn.gov">amack@poarchcreekindians-nsn.gov</a>		1999
<b>Ponca Tribe of Oklahoma</b>	Earl Trey Howe III	Chris Little Cook	200 White Eagle Dr., Ponca City, OK, 74601	(580) 762-8104	(580) 762-2743	<a href="mailto:chrislittlecook@hotmail.com">chrislittlecook@hotmail.com</a>	1999	2000
<b>Port Gamble S'Klallam Tribe</b>	Ronald G. Charles	Greg Anderson	31912 Little Boston Road, NE, Kingston, WA, 98346	(360) 297-2646	(360) 297-7097	<a href="mailto:gregoryaa@pgst-nsn.us">gregoryaa@pgst-nsn.us</a>	1992	1994
<b>Prairie Band Potawatomi Nation</b>	Tracy Stanhoff	Tracy Stanhoff	1628 Q Road, Mayetta, KS, 66509	(785) 966-3060	(785) 966-4002	<a href="mailto:tracys@pbpnation.org">tracys@pbpnation.org</a>		2004
<b>Quapaw Tribe of Oklahoma</b>	John Berrey	Donna Mercer	P.O. Box 765, Quapaw, OK, 74363	(918) 542-1853	(918) 542-4694	<a href="mailto:dmercerc@quapawtribe.com">dmercerc@quapawtribe.com</a>	2005	
<b>Quinault Indian Nation</b>	Fawn Sharp	Mickey Hobucket	P.O. Box 189, Taholah, WA, 98587	(360) 276-8211	(360) 276-4191	<a href="mailto:ehobucket@quinault.com">ehobucket@quinault.com</a>		
<b>Red Lake Band of Chippewa Indians</b>	Floyd Jourdain	Lisa Spears	P.O. Box 550, Red Lake, MN, 56671	(218) 679-3341	(218) 679-3378	<a href="mailto:spearslm@paulbunyan.net">spearslm@paulbunyan.net</a>	1997	
<b>Redding Rancheria Tribe</b>	Barbara Murphy	Ena Meyers	2000 Rancheria Road, Redding, CA, 96001	(530) 225-8979	(530) 241-1879	<a href="mailto:enam@redding-rancheria.com">enam@redding-rancheria.com</a>	1996	1997
<b>Sac &amp; Fox Nation</b>	George Thurman	Angela Knifechief	Route 2, Box 246, Stroud, OK, 74079	(918) 968-3526	(918) 968-1142	<a href="mailto:athompson@sacandfoxnation-nsn.gov">athompson@sacandfoxnation-nsn.gov</a>	1992	1993
<b>Salt River Pima Maricopa Indian Community</b>	Diane Enos	Robert Scabby	10005 E. Osborn Road, Scottsdale, AZ, 85256	(480) 850-4158	(480) 850-8014	<a href="mailto:robert.scabby@srpmic-nsn.gov">robert.scabby@srpmic-nsn.gov</a>	1994	
<b>Santa Clara Pueblo</b>	J. Michael Chavarria	Edwin Tafoya	P.O. Box 580, Espanola, NM, 87532	(505) 753-7326	(505) 753-8988	<a href="mailto:etafoya@santaclarapueblo.org">etafoya@santaclarapueblo.org</a>	1995	

<b>Tribe</b>	<b>Tribal Leader</b>	<b>Self-Governance Contact</b>	<b>Address</b>	<b>Telephone</b>	<b>Fax</b>	<b>E-Mail</b>	<b>DOI</b>	<b>IHS</b>
<b>Native Village of Eyak</b>	Robert J. Henrichs	Altana Olson	509 1 <sup>st</sup> Street, Cordova, AK, 99574	(907) 414-7738	(907) 424-7739	<a href="mailto:altana@nveyak.org">altana@nveyak.org</a>	2003	
<b>Native Village of Gambell</b>	Edmond Apassingok	June Walunga	P.O. Box 90 Gambell, AK 99742	907-985-5346	907-985-5014	<a href="mailto:bsobocienski@nshcorp.org">bsobocienski@nshcorp.org</a>	1996	
<b>Native Village of Kotzebue</b>	Guy Adams	Gia Hanna	P.O. Box 296, Kotzebue, AK, 99753	(907) 442-3467	(907) 442-2162	<a href="mailto:gia.hanna@qira.org">gia.hanna@qira.org</a>	2000	
<b>Native Village of Kwinhagak</b>	Wassilie Bavilla	Annie Roach	P.O. Box 149, Quinhagak, AK, 99655	(907) 556-8165	(907) 556-8166	<a href="mailto:aroach.nvk@gmail.com">aroach.nvk@gmail.com</a>	2000	
<b>Native Village of Nulato</b>	Michael Stickman	Peter Demoski	P.O. Box 65049, Nulato, AK, 99765	(907) 898-2339		<a href="mailto:nulatotribe@aol.com">nulatotribe@aol.com</a>	2002	
<b>Native Village of Tanana</b>	Curtis Summer	Stephanie Swenson-Nicholia	P.O. Box 130, Tanana, AK, 99777	(907) 366-7160	(907) 366-7195	<a href="mailto:slnicholia@aol.com">slnicholia@aol.com</a>	2002	
<b>Nez Perce Tribe</b>	Samuel Penney	Rachel Edwards	100 Main Street, Lapwai, ID, 83540	(208) 843-2253	(208) 843-7354	<a href="mailto:rachele@nezperce.org">rachele@nezperce.org</a>		2001
<b>Nisqually Indian Tribe</b>	Cynthia Iyall	Annette Bullchild	4820 She-Nah-Num Drive SE, Olympia, WA, 98513		(360) 438-8889	<a href="mailto:Bullchild.annette@nisqually-nsn.gov">Bullchild.annette@nisqually-nsn.gov</a>	1996	1997
<b>Nome Eskimo Community</b>	Alfred Sahlin	Denise Barengo	P.O. Box 1090, Nome, AK, 99762	(907) 443-3311	(907) 443-3539	<a href="mailto:dbarengo@gci.net">dbarengo@gci.net</a>	2005	
<b>Northeastern Tribal Health System</b>		George Valliere	P.O. Box 1498, Miami, OK, 74355	(918) 542-1655	918.540.1685	<a href="mailto:George.valliere@mail.ihs.gov">George.valliere@mail.ihs.gov</a>		2002
<b>Northern Valley Indian Health, Inc.</b>	Ines Crosby		207 N. Butte Street Willows CA 95988 - 2803	(530) 934-4641	(530) 934-2204			
<b>Norton Sound Health Corporation</b>  <i>Includes the Native Villages of:</i>  <i>Brevig Mission, Council, Diomedes, Elim, Gambell, Golovin, King Island, Koyuk, Mary's Igloo, Savoonga, Shaktoolik, Shishmarof, Solomon, Stebbins, St. Michael, Teller, Unalakleet, Wales, and White Mountain, and the city of Nome</i>	Emily Hughes	June Walunga	P.O. Box 966, Nome, AK, 99762	(907) 443-3311		<a href="mailto:bsobocienski@nhscorp.org">bsobocienski@nhscorp.org</a>		1995
<b>Oneida Tribe of Indians of Wisconsin</b>	Gerald Danforth	Chris Johns	P.O. Box 365, Oneida, WI, 54155	(920) 869-4364	(315) 361-7619	<a href="mailto:cjohns@oneidanation.org">cjohns@oneidanation.org</a>	1994	1997
<b>Osage Nation</b>	James Gray		627 Grandview, Pawhuska, OK 74056	(918) 287-1128	(918) 287-1259		2006	
<b>Organized Village of Kake</b>	Casimero A. Aceveda	Gary E. Williams	P.O. Box 316, Kake, AK, 99830	(907) 785-6471	(907) 785-4902	<a href="mailto:kcexkwaan@starband.net">kcexkwaan@starband.net</a>	1996	

<b>Tribe</b>	<b>Tribal Leader</b>	<b>Self-Governance</b>	<b>Address</b>	<b>Telephone</b>	<b>Fax</b>	<b>E-mail</b>	<b>DOI</b>	<b>IHS</b>
<b>Maniilaq Association</b>	Jackie Hill	Helen Bolen	P.O. Box 256, Kotzebue, AK, 99752	(907) 442-3311	(907)-442-7830	<a href="mailto:amoore@maniilaq.org">amoore@maniilaq.org</a>	1997	1995
<b>Manzanita Band of Mission Indians</b>	Leroy Elliott	Angela Santos	P.O. Box 1302, Boulevard, CA, 91905	(619) 766-4930	(619) 766-4957	<a href="mailto:numberz4me@aol.com">numberz4me@aol.com</a>	1998	
<b>Metlakatla Indian Community</b>	Victor Wellington, Sr.	Paul Brendible, Jr.	P.O. box 439, Metlakatla, AK, 99926	(907) 886-6976	(907) 886-4471	<a href="mailto:paul.brendible@metlakatla.net">paul.brendible@metlakatla.net</a>	1998	1997
<b>Miami Tribe of Oklahoma</b>	Floyd Leonard	Barbara Mullin	P.O. Box 1326, Miami, OK, 74335	(918) 542-1853	(918) 542-7260	<a href="mailto:bmullin@miamination.com">bmullin@miamination.com</a>	2000	
<b>Mille Lacs Band of Ojibwe Indians</b>	Melanie Benjamin	John Mojica	HCR 67, Box 194, Onamia, MN, 56359	(320) 532-4181	(320) 532-5800	<a href="mailto:jmojica@millelacsobjibwe.nsn.us">jmojica@millelacsobjibwe.nsn.us</a>	1991	1993
<b>Mississippi Band of Choctaw Indians</b>	Miko Beasley Denson	Donita Stephens	P.O. Box 6010, Philadelphia, MS, 39350	(601) 656-5251	(601) 656-1992	<a href="mailto:donitastephens@hotmail.com">donitastephens@hotmail.com</a>		1995
<b>Modoc Tribe of Oklahoma</b>	Bill Gene Follis	Carol Follis	515B Southeast, Miami, OK, 74354	(918) 542-1190	(918) 542-5415	<a href="mailto:susanegabbard@hotmail.com">susanegabbard@hotmail.com</a>	1998	2000
<b>Mohegan Tribe of Indians of Connecticut</b>	Bruce Bozsum	Connie Dinerman	P.O. Box 488, Uncasville, CT, 06382	(860) 862-6100	(860) 862-6153			2001
<b>Mount Sanford Tribal Consortium</b>	Evelyn Beeter	George Drinkwater	P.O. Box 357, Gakona, AK, 99586	(907) 822-5399	907.822.5810	<a href="mailto:gtd@mstc.org">gtd@mstc.org</a>		2000
<b>Muckleshoot Tribe</b>	John Daniels, Jr.	Steve Maurer	39015 172 <sup>nd</sup> Avenue SE, Auburn, WA, 98092	(253) 939-3311	(253) 939-5311	<a href="mailto:steve.maurer@muckleshoot.nsn.us">steve.maurer@muckleshoot.nsn.us</a>	1996	2003
<b>Muscogee (Creek) Nation</b>	A.D. Ellis	Judy Haumpy	P.O. Box 580, Okmulgee, OK, 74447	(918) 756-8700	(918) 756-2911	<a href="mailto:jhaumpy@muscogeenation-nsn.gov">jhaumpy@muscogeenation-nsn.gov</a>	1994	2002
<b>Native Village of Barrow</b>	Eben Hobson	Florence Brower	P.O. Box 1130, Barrow, AK, 99723	(907) 852-4411	(907) 852-8844	<a href="mailto:milang@nvbarrow.net">milang@nvbarrow.net</a>	2000	
<b>Native Village of Eklutna</b>	Dorothy Cook	Daniel Alex	26339 Eklutna Village Road, Chugiak, AK, 99576	(907) 688-6020	(907) 688-6021	<a href="mailto:nve@eklutna-nsn.gov">nve@eklutna-nsn.gov</a>		1995

<b>Tribe</b>	<b>Tribal Leader</b>	<b>Self-Governance Contact</b>	<b>Address</b>	<b>Telephone</b>	<b>Fax</b>	<b>E -Mail</b>	<b>DOI</b>	<b>IHS</b>
<b>Kawerak, Inc.</b>  <i>Includes the Native Villages of:</i>  <i>Brevig Mission, Council,</i> <i>Diomedes, Elim, King Island,</i> <i>Koyuk, Mary's Igloo, Sarvoonga,</i> <i>Shaktoolik, Shishmarof,</i> <i>Solomon, St. Michael, Teller,</i> <i>Unalakleet, Wales, White</i> <i>Mountain, the Eskimo</i> <i>Community of Chinik, and</i> <i>Stebbins Community Association</i>	Robert Keith	Bruce Baltar	P.O. Box 948, Nome, AK, 99762	(907) 443-4340	(907)-443-4452	<a href="mailto:bbaltar@kawerak.org">bbaltar@kawerak.org</a>	1992	
<b>Ketchikan Indian Corporation</b>	Richard Jackson	Debbie Patton	2960 Tongass Avenue, Ketchikan, AK, 99901	(907) 225-5158	(907) 228-4217	<a href="mailto:dpatton@kictribe.org">dpatton@kictribe.org</a>	1996	1998
<b>Keweenaw Bay Indian Community</b>	Susan LaFerner	Ruth Bussey	107 Beartown Rd., Baraga, MI, 49908	(906) 353-6623	(906) 353-7540	<a href="mailto:rbussy@kbic-nsn.gov">rbussy@kbic-nsn.gov</a>		2002
<b>Kickapoo Tribe of Oklahoma</b>	Marlon Frye	Kent Collier	P.O. box 70, McLoud, OK, 74851	(405) 964-2075	(830) 752-1123	<a href="mailto:kentcollier2000@yahoo.com">kentcollier2000@yahoo.com</a>	1996	1997
<b>Kodiak Area Native Association</b>  <i>Includes the City of Kodiak and</i> <i>the Native Villages of Akbiok,</i> <i>Karluk, Old Harbor, Ouzinkie,</i> <i>Port Lions, and Larsen Bay</i>	Speridon M. Simeonoff, Sr.	Margie Benoza	3449 East Rezanof Drive, Kodiak, AK, 99615	(907) 486-9898	907.486.9898	<a href="mailto:margie.bezona@kanaweb.org">margie.bezona@kanaweb.org</a>		1995
<b>Kootenai Tribe of Idaho</b>	Jennifer Porter	Patty Perry	P.O. Box 1269, Bonner's Ferry, ID, 83805	(208) 267-3519	(208) 267-2960	<a href="mailto:patty@kootenai.org">patty@kootenai.org</a>	1996	2001
<b>Las Vegas Paiute Tribe</b>	Alfreda Mitre	Tim Strong	#1 Paiute Drive, Las Vegas, NV, 89106	(702) 386-3926	(702) 383-4019	<a href="mailto:tstrong@lvpaiute.com">tstrong@lvpaiute.com</a>		2001
<b>Leech Lake Band</b>	George Goggleye, Jr.	Val Pacheco	Rte. 3, Box 100, Cass Lake, MN, 55720	(218) 335-8221	(218) 335-8309	<a href="mailto:Vpacheco_1lha@yahoo.com">Vpacheco_1lha@yahoo.com</a>	1994	
<b>Lower Elwha Klallam Tribe</b>	Frances G. Charles	John Miller	2852 Lower Elwha Road, Port Angeles, WA, 98363	(360) 452-8471	(360) 452-3428	<a href="mailto:jmiller@elwha-nsn.us">jmiller@elwha-nsn.us</a>	1993	2002
<b>Lummi Indian Nation</b>	Henry Cagey	Jerry Folsom	2616 Kwina Road, Bellingham, WA, 98226	(360) 384-1489	(360) 380-1850	<a href="mailto:jerryf@lummi-nsn.gov">jerryf@lummi-nsn.gov</a>	1991	1994
<b>Makah Indian Tribe</b>	Micah McCarty	Julie Johnson	P.O. Box 115, Neah Bay, WA, 98357	(360) 645-2201	(360) 645-2788	<a href="mailto:juliejohnson@centurytel.net">juliejohnson@centurytel.net</a>	1992	1994

<b>Tribe</b>	<b>Tribal Leader</b>	<b>Self-Governance Contact</b>	<b>Address</b>	<b>Telephone</b>	<b>Fax</b>	<b>E-mail</b>	<b>DOI</b>	<b>IHS</b>
<b>Eastern Aleutian Tribes</b>	Chris Devlin	Betty Calugan	3380 "C" Street, Ste. 100, Anchorage, AK, 99503	(907) 277-1440	n/a	<a href="mailto:bettyc@eatribes.net">bettyc@eatribes.net</a>		1997
<b>Eastern Band of Cherokee Indians</b>	Michell Hicks		P.O. Box 455, Cherokee, NC, 28719	(828) 497-2771	(828) 497-7007			2002
<b>Eastern Shawnee Tribe of Oklahoma</b>	Glenna Wallace	Chris Samples	P.O. Box 350, Seneca, MO, 64865	(918) 666-2435	(918) 666-3325	<a href="mailto:chris_s_samples@hotmail.com">chris_s_samples@hotmail.com</a>	1997	
<b>Ely Shoshone Tribe</b>	Diane Buckner	Alfreda Walker	16 Shoshone Circle, Ely, NV 89301	(775) 289-3013	(775) 289-3156	<a href="mailto:alfredamwalker@yahoo.com">alfredamwalker@yahoo.com</a>	1992	1994
<b>Fond Du Lac Band of Lake Superior Chippewa</b>	Karen Diver	Dell Johanson	1720 Big Lake Road, Cloquet, MN, 55720	(218) 878-4593	(218) 879-4146	<a href="mailto:delljohanson@fdlrez.com">delljohanson@fdlrez.com</a>	1998	1995
<b>Forest County Potawatomi Community of Wisconsin</b>	Harold G. Frank	Linda Helmick	P.O. Box 340, Crandon, WI 54520	(715) 478-2903	(715) 478-5280	<a href="mailto:lindah@fcpotawatomi.com">lindah@fcpotawatomi.com</a>		
<b>Fort Sill Apache Tribe of Oklahoma</b>	Jeff Houser	Troy Johanntoberns	Route 2, Box 121, Apache, OK, 73006	(508) 588-2298	(580) 588-3133	<a href="mailto:kiogerm@yahoo.com">kiogerm@yahoo.com</a>	2005	
<b>Gila River Indian Community</b>	William Roy Rhodes	Hilda Manuel	P.O. Box 97, Sacaton, AZ, 85247	(520) 562-6000	(520) 562-6010	<a href="mailto:hildam@gric.org">hildam@gric.org</a>	1993	2003
<b>Grand Portage Band of Chippewa Indians</b>	Norman DesChampe	Hattie Pepion	P.O. Box 428, Grand Portage, MN 55605	(218) 475-2277	(218) 475-2284	<a href="mailto:hattiep@grandportage.com">hattiep@grandportage.com</a>	1997	
<b>Grand Traverse Band of Ottawa &amp; Chippewa Indians</b>	Robert Kewaygoshkum	Donna Swallows	Route 1, Box 135, Suttons Bay, MI, 49682	(231) 271-3538	(231) 534-7010	<a href="mailto:dswallows@gtbindians.com">dswallows@gtbindians.com</a>	1993	1993
<b>Hoopa Valley Tribe</b>	Clifford Lyle Marshall	Danny Jordan	P.O. box 1348, HOopa, CA, 95546	(530) 625-4211	(530) 625-4594	<a href="mailto:de_jordan@earthlink.net">de_jordan@earthlink.net</a>	1991	1993
<b>Indian Health Council, Inc.</b>	Edward Arviso	Orvin Hanson	50100 Golsh Road Valley Center, CA 92082 P.O. Box 406 Pauma Valley, CA 92061	(760) 749-1410	(760) 749-1564	<a href="mailto:ohanson@indianhealth.com">ohanson@indianhealth.com</a>		2006
<b>Jamestown S'Klallam Indian Tribe</b>	W. Ron Allen	Cyndi Ferguson	1033 Old Blyn Highway, Sequim, WA, 98382	(360) 683-1109	(360) 681-4643	<a href="mailto:cferguson@jamestowntribe.org">cferguson@jamestowntribe.org</a>	1991	1994
<b>Karuk Tribe of California</b>	Arch Super	Hector Garcia	P.O. Box 1016, Happy Camp, CA, 96039	(530) 493-5305	(530) 493-5322	<a href="mailto:hgarcia@karuk.nsn.us">hgarcia@karuk.nsn.us</a>	1996	1998
<b>Kaw Nation</b>	Guy Munroe	Terri Humble	Drawer 50, Kaw City, OK, 74641	(580) 269-2552	(580) 269-2301	<a href="mailto:thumble@kawnation.com">thumble@kawnation.com</a>	1996	1995



<b>Tribe</b>	<b>Tribal Leader</b>	<b>Contact Person</b>	<b>Address</b>	<b>Telephone</b>	<b>Fax</b>	<b>E -Mail</b>	<b>DOI</b>	<b>IHS</b>
<b>Confederated Tribes of the Grand Ronde Community of Oregon</b>	Chris Mercier	Janell Haller	9615 Grand Ronde Road, Grand Ronde, OR, 97347	(503) 879-5211	(503) 879-5964	<a href="mailto:janell.haller@grandronde.org">janell.haller@grandronde.org</a>	1996	1995
<b>Confederated Salish &amp; Kootenai Tribes of the Flathead Nation</b>	James Steele, Jr.	Ruth Swaney	P.O. Box 279, Pablo, MT 59855	(406) 675-2700	(406) 675-2806	<a href="mailto:ruths@cskt.org">ruths@cskt.org</a>	1994	1993
<b>Confederated Tribe of Siletz Indians of Oregon</b>	Delores Pigsley	Sharon Edenfield	P.O. Box 549, Siletz, OR, 97380	(541) 444-1030	(541) 444-2307	<a href="mailto:sharone@ctsi.nsn.us">sharone@ctsi.nsn.us</a>	1992	1994
<b>Confederated Tribes of the Umatilla Indian Reservation</b>	Antone Minthorn	Rick Gay	P.O. Box 638, Pendleton, OR 97801	(541) 276-3165	(541) 276-3095	<a href="mailto:info@ctuir.com">info@ctuir.com</a>	2006	
<b>Consolidated Tribal Health Project, Inc.</b>	Atta P. Stevenson	Andrea Ruiz	P.O. Box 387, Calpella, CA 95418	(707) 485-5115	(707) 485-5199	<a href="mailto:aruiz@cthp.org">aruiz@cthp.org</a>		
<b>Copper River Native Association</b>  <i>Includes the Native Villages of:</i>  <i>Cantwell, Copper Center, Gakona, Gulkana, and Tazlina</i>	Eleanor Dementi	Rose Jerue	Drawer H, Copper Center, AK, 99573	(907) 822-5241	(907) 822-8801	<a href="mailto:rjerue@copperriverna.org">rjerue@copperriverna.org</a>	1996	1995
<b>Coquille Indian Tribe</b>	Edward L. Metcalf	Tara Bowen	P.O. Box 783, North Bend, OR, 97459	(541) 756-0904	(541) 756-0847	<a href="mailto:cit@coquilletribe.org">cit@coquilletribe.org</a>		1998
<b>Council of Athabascan Tribal Governments</b>	Board of Directors	Ben Stevens	P.O. Box 33, Ft. Yukon, AK, 99740	(907) 662-2587	907.662.3333	<a href="mailto:bstevens@catg.org">bstevens@catg.org</a>	2000	2000
<b>Cuyapaipe Band of Mission Indians</b>	Harlan Pinto	Linda Fong	4054 Willows Road, Alpine, CA, 91901	(619) 445-9124	6019.445.9126	<a href="mailto:lindaf@leaningrock.net">lindaf@leaningrock.net</a>	2001	
<b>Delaware Nation</b>	Kerry Holton	Evelyn Kionute	P.O. Box 825, Anadarko, OK, 73005	(405) 247-2448	(405) 247-6329	<a href="mailto:egkionute@yahoo.com">egkionute@yahoo.com</a>	2000	
<b>Duck Valley Shoshone-Paiute Tribe</b>	Kyle Prior	Herman Atkins	P.O. Box 219, Owyhee, NV, 89832	(208) 759-3100	(208) 759-3103	<a href="mailto:dvir4@aol.com">dvir4@aol.com</a>	1992	1995
Duckwater Shoshone Tribe	Jerry Millett	Lisa Millett	P.O. Box 140068, Duckwater, NV, 89314	(775) 863-0227	(775) 863-0301	<a href="mailto:lisaann_george@hotmail.com">lisaann_george@hotmail.com</a>	1992	1994

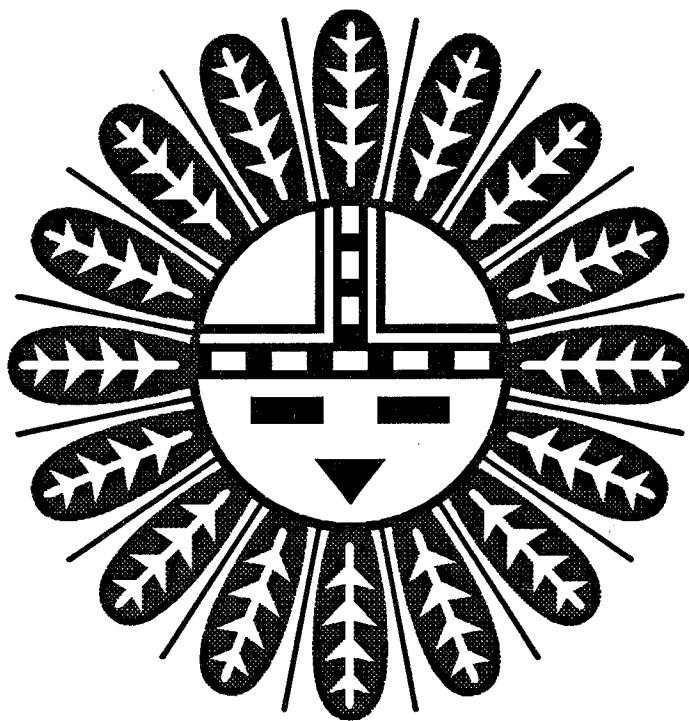
Tribe	Tribal Leader	Self-Governance Contact	Address	Telephone	Fax	E-Mail	DOI	IHS
<b>Cheesh-na Tribe</b>	Larry Sinyon	Elaine Sinyon	P.O. Box 241, Gakona, AK, 99586	(907) 822-3503	(907) 822-5179	<a href="mailto:esinyon@cheeshna.com">esinyon@cheeshna.com</a>	2005	
<b>Cherokee Nation</b>	Chadwick Smith	Vickie Hanvey	P.O. Box 948, Tahlequah, OK, 74465	(918) 456-0671	(918) 458-5580	<a href="mailto:vhanvey@cherokee.org">vhanvey@cherokee.org</a>	1991	1993
<b>Chickasaw Nation</b>	Bill Anoatubby	Tom John	P.O. Box 74820, Ada, OK, 74820	(580) 436-2603	(580) 436-4287	<a href="mailto:tom.john@chickasaw.net">tom.john@chickasaw.net</a>	1994	1995
<b>Chippewa Cree Tribe of the Rocky Boy's Reservation</b>	John C. Houle	John Houle	Rural Route 1, Box 544, Box Elder, MT, 59521	(406) 395-4210	(406) 395-4497	<a href="mailto:john@cct.rockyboy.org">john@cct.rockyboy.org</a>	1994	1995
<b>Chitimacha Tribe of Louisiana</b>	Alton D. Leblanc, Jr.	Tricia Mora	P.O. Box 661, Charenton, LA, 70523	(337) 923-4973	(337) 923-6848	<a href="mailto:trishmora@chitimacha.gov">trishmora@chitimacha.gov</a>		1998
<b>Choctaw Nation</b>	Gregory E. Pyle	Mickey Peercy	Drawer 1210, Durant, OK, 74702	(580) 924-8280	(580) 924-1150	<a href="mailto:mpeercy@choctawnation.com">mpeercy@choctawnation.com</a>	1996	1995
<b>Chugachmiut, Inc.</b> <i>Includes the Native Villages of: Chenega, Nannvalek, Port Graham, Tatitlok, and the Chugach Regional Resource Commission</i>	Francis Norman	Angela "Jan" Larson	42201 Tudor Centre Drive, Suite 210 Anchorage, AK 99503	(907) 562-4155	(907) 563-2891	<a href="mailto:Georgina@chugachmiut.org">Georgina@chugachmiut.org</a>	1996	1995
<b>Citizen Potawatomi Nation</b>	John A. Barrett	Rhonda Butcher	1601 South Gordon Cooper Drive, Shawnee, OK, 74801	(405) 275-3121	(405) 275-0198	<a href="mailto:rbutcher@potawatomi.org">rbutcher@potawatomi.org</a>	1999	1998
<b>Coeur d'Alene Tribe</b>	Chief J. Allen	Debra Hanks	P.O. Box 408, Plummer, ID, 83851	(208) 686-1800	(208) 686-1182	<a href="mailto:dhanks@bms.portland.ihs.gov">dhanks@bms.portland.ihs.gov</a>		1995

<b>Tribe</b>	<b>Tribal Leader</b>	<b>Self-Governance Contact</b>	<b>Address</b>	<b>Telephone</b>	<b>Fax</b>	<b>E-Mail</b>	<b>DOI</b>	<b>IHS</b>
<b>Bristol Bay Area Health Corporation</b>  <i>Includes the Native Villages of: Aleknagik, Chignik Bay, Chignik Lake, Chignik Lagoon, Curyung, Clark's Point, Dillingham, Eggvik, Ekuke, Ekwok, Kanatak, King Salmon, Kokhanok, Koliganek, Igigig, Iliamna, Ivanof Bay, Levelock, Manokotak, Naknek, Nenhalen, New Stuyabok, Nondalton, Pedro Bay, Perryville, Pilot Point, Portage Creek, Port Heiden, South Naknek, Togiak, Twin Hills, and Ugashik</i>	H. Sally Smith	Nelda Dodge	P.O. Box 130 Dillingham, AK 99576	(907)-842-5201	(907)-842-9409	<a href="mailto:ndodge@tribalnet.org">ndodge@tribalnet.org</a>		1995
<b>Bristol Bay Native Association</b>  <i>Includes the Native Villages of: Aleknagik, Chignik, Chignik Lagoon, Chignik Lake, Clark's Point, Dillingham, Eggvik, Ekuke, Ekwok, Kanatak, King Salmon, Kokhanok, Koliganek, Igigig, Iliamna, Ivanof Bay, Levelock, Manokotak, Naknek, Nenhalen, New Stuyabok, Nondalton, Pedro Bay, Perryville, Pilot Point, Portage Creek, Port Heiden, South Naknek, Togiak, Twin Hills, and Ugashik</i>	Ralph Anderson	March Runner	P.O. Box 310, Dillingham, AK 99576	(907) 842-5257	(907) 842-5932	<a href="mailto:bsbjm@aurora.alaska.edu">bsbjm@aurora.alaska.edu</a>	1996	
<b>Cabazon Band of Mission Indians</b>	John A. James	Brenda Soulliere	84-425 Indian Springs Drive, Indio, CA 92203	(760) 342-2593	(760) 347-7880	<a href="mailto:bsoulliere@cabazonindians-nsn.gov">bsoulliere@cabazonindians-nsn.gov</a>	1997	
<b>Central Council of Tlingit and Haida Indian Tribes of Alaska</b>  <i>Includes the Native Villages of Kasaan and Saxman, the Community Associations of Angoon and Craig, the Central Council of Tlingit and Haida, Chilkoot Indian Association, Klamock Cooperative Association, Petersburg Indian Association, Skagway Traditional Council, and Wrangell Cooperative Association</i>	Edward K. Thomas	Georgia Finau	320 Willoughby Avenue, Juneau, AK 99801	(907) 586-1432	(907) 586-8970	<a href="mailto:gfinau@ccthita.org">gfinau@ccthita.org</a>	1992	

Tribe	Tribal Leader	Self-Governance Contact	Address	Telephone	Fax	E-Mail	DOI	IHS
Yurok Tribe	Howard McConnell	Thomas Gates	1034 Sixth Street, Eureka, CA, 95501	(707) 482-1350			1996	

# Appendix B

## *The Laws*





Public Law 93-638  
93rd Congress, S. 1017  
January 4, 1975

Appendix B-1

## An Act

To provide maximum Indian participation in the Government and education of the Indian people; to provide for the full participation of Indian tribes in programs and services conducted by the Federal Government for Indians and to encourage the development of human resources of the Indian people; to establish a program of assistance to upgrade Indian education; to support the right of Indian citizens to control their own educational activities; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Indian Self-Determination and Education Assistance Act".

### CONGRESSIONAL FINDINGS

SEC. 2. (a) The Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, American Indian people, finds that—

(1) the prolonged Federal domination of Indian service programs has served to retard rather than enhance the progress of Indian people and their communities by depriving Indians of the full opportunity to develop leadership skills crucial to the realization of self-government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities; and

(2) the Indian people will never surrender their desire to control their relationships both among themselves and with non-Indian governments, organizations, and persons.

(b) The Congress further finds that—

(1) true self-determination in any society of people is dependent upon an educational process which will insure the development of qualified people to fulfill meaningful leadership roles;

(2) the Federal responsibility for and assistance to education of Indian children has not effected the desired level of educational achievement or created the diverse opportunities and personal satisfaction which education can and should provide; and

(3) parental and community control of the educational process is of crucial importance to the Indian people.

### DECLARATION OF POLICY

SEC. 3. (a) The Congress hereby recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities.

(b) The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services.

(c) The Congress declares that a major national goal of the United States is to provide the quantity and quality of educational services and opportunities which will permit Indian children to compete and

Indian Self-  
Determination  
and Education  
Assistance Act.  
25 USC 450  
note.  
25 USC 450.

25 USC 450a.  
88 STAT. 2203  
88 STAT. 2204

January 4, 1975

- 3 -

Pub. Law 93-638

(d) Any funds paid to a financial assistance recipient referred to in subsection (a) of this section and not expended or used for the purposes for which paid shall be repaid to the Treasury of the United States.

## PENALTIES

SEC. 6. Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of a contract, subcontract, grant, or subgrant pursuant to this Act or the Act of April 16, 1934 (48 Stat. 596), as amended, embezzles, willfully misapplies, steals, or obtains by fraud any of the money, funds, assets, or property which are the subject of such a grant, subcontract, contract, or subcontract, shall be fined not more than \$10,000 or imprisoned for not more than two years, or both, but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

25 USC 450d.

25 USC 452.

## WAGE AND LABOR STANDARDS

SEC. 7. (a) All laborers and mechanics employed by contractors of subcontractors in the construction, alteration, or repair, including painting or decorating of buildings or other facilities in connection with contracts or grants entered into pursuant to this Act, shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act of March 3, 1931 (46 Stat. 1494), as amended. With respect to construction, alteration, or repair work to which the Act of March 3, 1921 is applicable under the terms of this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (48 Stat. 948, 40 U.S.C. 276c).

25 USC 450e.

40 USC 276a  
note.

5 USC app. II.

(b) Any contract, subcontract, grant, or subgrant pursuant to this Act, the Act of April 16, 1934 (48 Stat. 596), as amended, or any other Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians, shall require that to the greatest extent feasible—

25 USC 452.

(1) preferences and opportunities for training and employment in connection with the administration of such contracts or grants shall be given to Indians; and

(2) preference in the award of subcontracts and subgrants in connection with the administration of such contracts or grants shall be given to Indian organizations and to Indian-owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (88 Stat. 77).

25 USC 1452.  
88 STAT. 2205  
88 STAT. 2206

## CARRYOVER OF FUNDS

SEC. 8. The provisions of any other laws to the contrary notwithstanding, any funds appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208), for any fiscal year which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure during such succeeding fiscal year.

25 USC 13a.

25 USC 13,  
52a.

January 4, 1975

- 5 -

Pub. Law 93-638

tained by the proposed contract: *Provided further*, That the Secretary of Health, Education, and Welfare, in arriving at his finding, shall consider whether the tribe or tribal organization would be deficient in performance under the contract with respect to (A) equipment, (B) bookkeeping and accounting procedures, (C) substantive knowledge of the program to be contracted for, (D) community support for the contract, (E) adequately trained personnel, or (F) other necessary components of contract performance.

(b) Whenever the Secretary of Health, Education, and Welfare declines to enter into a contract or contracts pursuant to subsection (a) of this section, he shall (1) state his objections in writing to the tribe within sixty days; (2) provide, to the extent practicable, assistance to the tribe or tribal organization to overcome his stated objections; and (3) provide the tribe with a hearing, under such rules and regulations as he shall promulgate, and the opportunity for appeal on the objections raised.

Hear ng.

(c) The Secretary of Health, Education, and Welfare is authorized to require any tribe requesting that he enter into a contract pursuant to the provisions of this title to obtain adequate liability insurance: *Provided, however*, That each such policy of insurance shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the tribe's sovereign immunity from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

Liability  
insurance.

## GRANTS TO INDIAN TRIBAL ORGANIZATIONS

Sec. 104. (a) The Secretary of the Interior is authorized, upon the request of any Indian tribe (from funds appropriated for the benefit of Indians pursuant to the Act of November 2, 1921 (42 Stat. 208), and any Act subsequent thereto) to contract with or make a grant or grants to any tribal organization for—

25 USC 450h.

25 USC 13,  
52a.

(1) the strengthening or improvement of tribal government (including, but not limited to, the development, improvement, and administration of planning, financial management, or merit personnel systems; the improvement of tribally funded programs or activities; or the development, construction, improvement, maintenance, preservation, or operation of tribal facilities or resources);

(2) the planning, training, evaluation of other activities designed to improve the capacity of a tribal organization to enter into a contract or contracts pursuant to section 102 of this Act and the additional costs associated with the initial years of operation under such a contract or contracts;

(3) the acquisition of land in connection with items (1) and (2) above: *Provided*, That in the case of land within reservation boundaries or which adjoins on at least two sides lands held in trust by the United States for the tribe or for individual Indians, the Secretary of Interior may (upon request of the tribe) acquire such land in trust for the tribe; or

88 STAT. 2207

(4) the planning, designing, monitoring, and evaluating of Federal programs serving the tribe.

88 STAT. 2208

(b) The Secretary of Health, Education, and Welfare may, in accordance with regulations adopted pursuant to section 107 of this Act, make grants to any Indian tribe or tribal organization for—



January 4, 1975

- 7 -

Pub. Law 93-638

(Governor of a State, do not apply to grant applications from the governing body of an Indian tribe, although nothing in this Act is intended to discourage or prohibit voluntary communication and cooperation between Indian tribes and State and local governments."

(e) Notwithstanding any other law, executive order, or administrative regulation, an employee serving under an appointment not limited to one year or less who leaves Federal employment to be employed by a tribal organization on or before December 31, 1985, in connection with governmental or other activities which are or have been performed by employees in or for Indian communities is entitled, if the employee and the tribal organization so elect, to the following:

Certain tribal organization employees, coverage, rights, and benefits.  
25 USC 450i.

(1) To retain coverage, rights, and benefits under subchapter I of chapter 81 ("Compensation for Work Injuries") of title 5, United States Code, and for this purpose his employment with the tribal organization shall be deemed employment by the United States. However, if an injured employee, or his dependents in case of his death, receives from the tribal organization any payment (including an allowance, gratuity, payment under an insurance policy for which the premium is wholly paid by the tribal organization, or other benefit of any kind) on account of the same injury or death, the amount of that payment shall be credited against any benefit payable under subchapter I of chapter 81 of title 5, United States Code, as follows:

Work injuries, compensation.  
5 USC 8101.

(A) payments on account of injury or disability shall be credited against disability compensation payable to the injured employee; and

(B) payments on account of death shall be credited against death compensation payable to dependents of the deceased employee.

(2) To retain coverage, rights, and benefits under chapter 83 ("Retirement") of title 5, United States Code, if necessary employee deductions and agency contributions in payment for coverage, rights, and benefits for the period of employment with the tribal organization are currently deposited in the Civil Service Retirement and Disability Fund (section 8348 of title 5, United States Code); and the period during which coverage, rights, and benefits are retained under this paragraph is deemed creditable service under section 8332 of title 5, United States Code. Days of unused sick leave to the credit of an employee under a formal leave system at the time the employee leaves Federal employment to be employed by a tribal organization remain to his credit for retirement purposes during covered service with the tribal organization.

Retirement.  
5 USC 8301.

(3) To retain coverage, rights, and benefits under chapter 89 ("Health Insurance") of title 5, United States Code, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the tribal organization are currently deposited in the Employee's Health Benefit Fund (section 8909 of title 5, United States Code); and the period during which coverage, rights, and benefits are retained under this paragraph is deemed service as an employee under chapter 89 of title 5, United States Code.

Health insurance.  
5 USC 8901.

(4) To retain coverage, rights, and benefits under chapter 87 ("Life Insurance") of title 5, United States Code, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the tribal organizations are currently deposited in the Employee's Life Insurance Fund (section 8714 of title 5, United

Life insurance.  
5 USC 8701.  
88 STAT. 2209  
88 STAT. 2210

January 4, 1975

- 11 -

Pub. Law 93-638

under regulations prescribed by him and after providing notice and hearing to such tribal organization, rescind such contract or grant agreement and assume or resume control or operation of the program, activity, or service involved if he determines that the tribal organization has not taken corrective action as prescribed by him: *Provided*, That the appropriate Secretary may, upon notice to a tribal organization, immediately rescind a contract or grant and resume control or operation of a program, activity, or service if he finds that there is an immediate threat to safety and, in such cases, he shall hold a hearing on such action within ten days thereof. Such Secretary may decline to enter into a new contract or grant agreement and retain control of such program, activity, or service until such time as he is satisfied that the violations of rights or endangerment of health, safety, or welfare which necessitated the rescission has been corrected. Nothing in this section shall be construed as contravening the Occupational Safety and Health Act of 1970 (84 Stat. 1590), as amended (29 U.S.C. 651).

Notice and hearing.

## EFFECT ON EXISTING RIGHTS

SEC. 110. Nothing in this Act shall be construed as—

25 USC 450n.

- (1) affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian tribe; or
- (2) authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people.

## TITLE II—THE INDIAN EDUCATION ASSISTANCE ACT

SEC. 201. This title may be cited as the "Indian Education Assistance Act".

Citation of title.

## PART A—EDUCATION OF INDIANS IN PUBLIC SCHOOLS

25 USC 455 note.

SEC. 202. The Act of April 16, 1934 (48 Stat. 596), as amended, is further amended by adding at the end thereof the following new sections:

25 USC 452.

"SEC. 4. The Secretary of the Interior shall not enter into any contract for the education of Indians unless the prospective contractor has submitted to, and has had approved by the Secretary of the Interior, an education plan, which plan, in the determination of the Secretary, contains educational objectives which adequately address the educational needs of the Indian students who are to be beneficiaries of the contract and assures that the contract is capable of meeting such objectives: *Provided*, That where students other than Indian students participate in such programs, money expended under such contract shall be prorated to cover the participation of only the Indian students.

25 USC 455.

"SEC. 5. (a) Whenever a school district affected by a contract or contracts for the education of Indians pursuant to this Act has a local school board not composed of a majority of Indians, the parents of the Indian children enrolled in the school or schools affected by such contract or contracts shall elect a local committee from among their number. Such committee shall fully participate in the development of, and shall have the authority to approve or disapprove programs to be conducted under such contract or contracts, and shall carry out such other duties, and be so structured, as the Secretary of the Interior shall by regulation provide: *Provided, however*, That, whenever a local Indian committee or committees established pursuant to section 305 (b) (2) (B) (ii) of the Act of June 23, 1972 (86 Stat. 235) or an Indian advisory school board or boards established pursuant to this Act prior to the date of enactment of this section exists in such school district,

25 USC 456.

88 STAT. 2213  
88 STAT. 2214

January 4, 1975

- 9 -

Pub. Law 93-638

minimize the time elapsing between the transfer of such funds from the United States Treasury and the disbursement thereof by the tribal organization, whether such disbursement occurs prior to or subsequent to such transfer of funds. Tribal organizations shall not be held accountable for interest earned on such funds, pending their disbursement by such organization.

(c) Any contract requested by a tribe pursuant to sections 102 and 103 of this Act shall be for a term not to exceed one year unless the appropriate Secretary determines that a longer term would be advisable: *Provided*, That such term may not exceed three years and shall be subject to the availability of appropriations: *Provided, further*, That the amounts of such contracts may be renegotiated annually to reflect factors, including but not limited to cost increases beyond the control of a tribal organization.

Contracts,  
term.

(d) Notwithstanding any provision of law to the contrary, the appropriate Secretary may, at the request or consent of a tribal organization, revise or amend any contract or grant made by him pursuant to section 102, 103, or 104 of this Act with such organization as necessary to carry out the purposes of this title: *Provided, however*, That whenever an Indian tribe requests retrocession of the appropriate Secretary for any contract entered into pursuant to this Act, such retrocession shall become effective upon a date specified by the appropriate Secretary not more than one hundred and twenty days from the date of the request by the tribe or at such later date as may be mutually agreed to by the appropriate Secretary and the tribe.

(e) In connection with any contract or grant made pursuant to section 102, 103, or 104 of this Act, the appropriate Secretary may permit a tribal organization to utilize, in carrying out such contract or grant, existing school buildings, hospitals, and other facilities and all equipment therein or appertaining thereto and other personal property owned by the Government within his jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

(f) The contracts authorized under sections 102 and 103 of this Act and grants pursuant to section 104 of this Act may include provisions for the performance of personal services which would otherwise be performed by Federal employees including, but in no way limited to, functions such as determination of eligibility of applicants for assistance, benefits, or services, and the extent or amount of such assistance, benefits, or services to be provided and the provisions of such assistance, benefits, or services, all in accordance with the terms of the contract or grant and applicable rules and regulations of the appropriate Secretary: *Provided*, That the Secretary shall not make any contract which would impair his ability to discharge his trust responsibilities to any Indian tribe or individuals.

(g) Contracts and grants with tribal organizations pursuant to sections 102, 103, and 104 of this Act and the rules and regulations adopted by the Secretaries of the Interior and Health, Education, and Welfare pursuant to section 107 of this Act shall include provisions to assure the fair and uniform provision by such tribal organizations of the services and assistance they provide to Indians under such contracts and grants.

(h) The amount of funds provided under the terms of contracts entered into pursuant to sections 102 and 103 shall not be less than the appropriate Secretary would have otherwise provided for his direct operation of the programs or portions thereof for the period covered by the contract: *Provided*, That any savings in operation under such contracts shall be utilized to provide additional services or benefits under the contract.

88 STAT. 2211  
88 STAT. 2212

January 4, 1975

- 13 -

Pub. Law 93-638

88 STAT. 2215

(b) The Secretary may expend not less than 75 per centum of such funds as are authorized and appropriated pursuant to this part B on those projects which meet the eligibility requirements under subsections (a) and (b) of section 14 of the Act of September 23, 1950 (72 Stat. 548), as amended. Such funds shall be allocated on the basis of existing funding priorities, if any, established by the United States Commissioner of Education under subsections (a) and (b) of section 14 of the Act of September 23, 1950, as amended. The United States Commissioner of Education is directed to submit to the Secretary, at the beginning of each fiscal year, commencing with the first full fiscal year after the date of enactment of this Act, a list of those projects eligible for funding under subsections (a) and (b) of section 14 of the Act of September 23, 1950, as amended.

20 U.S.C. 644.

(c) The Secretary may expend not more than 25 per centum of such funds as may be authorized and appropriated pursuant to this part B on any school eligible to receive funds under section 208 of this Act.

(d) Any contract entered into by the Secretary pursuant to this section shall contain provisions requiring the relevant State educational agency to—

(1) provide Indian students attending any such facilities constructed, acquired, or renovated, in whole or in part, from funds made available pursuant to this section with standards of education not less than those provided non-Indian students in the school district in which the facilities are situated; and

(2) meet, with respect to such facilities, the requirements of the State and local building codes, and other building standards set by the State educational agency or school district for other public school facilities under its jurisdiction or control or by the local government in the jurisdiction within which the facilities are situated.

(e) The Secretary shall consult with the entity designated pursuant to section 5 of the Act of April 16, 1934 (48 Stat. 596), as amended by this Act, and with the governing body of any Indian tribe or tribes the educational opportunity for the members of which will be significantly affected by any contract entered into pursuant to this section. Such consultation shall be advisory only, but shall occur prior to the entering into of any such contract. The foregoing provisions of this subsection shall not be applicable where the application for a contract pursuant to this section is submitted by an elected school board of which a majority of its members are Indians.

(f) Within ninety days following the expiration of the three year period following the date of the enactment of this Act, the Secretary shall evaluate the effectiveness of the program pursuant to this section and transmit a report of such evaluation to the Congress. Such report shall include—

Program  
evaluation,  
report to  
Congress.

(1) an analysis of construction costs and the impact on such costs of the provisions of subsection (f) of this section and the Act of March 3, 1921 (46 Stat. 1491), as amended;

(2) a description of the working relationship between the Department of the Interior and the Department of Health, Education, and Welfare including any memorandum of understanding in connection with the acquisition of data pursuant to subsection (b) of this section;

(3) projections of the Secretary of future construction needs of the public schools serving Indian children residing on or adjacent to Indian reservations;

January 4, 1975

- 15 -

Pub. Law 93-638

88 STAT. 2217

school. The Secretary shall transmit annually to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives a report on the educational assistance program conducted pursuant to this section. Report to congressional committees.

SEC. 209. The assistance provided in this Act for the education of Indians in the public schools of any State is in addition and supplemental to assistance provided under title IV of the Act of June 23, 1972 (86 Stat. 235). 25 USC 458e.

20 USC 1001  
note.

Approved January 4, 1975.

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LEGISLATIVE HISTORY:

HOUSE REPORT No. 93-1600 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: Nos. 93-682 and 93-762 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 120 (1974):

Feb. 8, considered and passed Senate.

Feb. 18, action of Feb. 8 vacated.

Apr. 1, reconsidered and passed Senate.

Dec. 19, considered and passed House, amended; Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 11, No. 2:

Jan. 4, Presidential statement.

"(4) shall specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretaryies pursuant to this agreement:

"(5) shall specify the authority of the tribe and the Secretaryies, and the procedures to be used, to reallocate funds or modify budget allocations within any project year:

✓ "(6) shall, except as provided in paragraphs (1) and (2), provide for payment by the Secretaryies to the tribe of funds <sup>from</sup> ~~fro~~ one or more programs, services, functions, or activities in an amount equal to that which the tribe would have been eligible to receive under contracts and grants under this Act, including direct program costs and indirect costs, and for any funds which are specifically related to the provision by the Secretaryies of services and benefits to the tribe and its members: Provided, however, that funds for trust services to individual Indians are available under this written agreement only to the ~~extend~~ <sup>that</sup> the same services which would have been provided by the Secretaryies are provided to individual Indians by the tribe:

"(7) shall not allow the Secretaryies to waive, modify or diminish in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians which exists under treaties, Executive orders, and Acts of Congress:

"(8) shall allow for retrocession of programs or portions thereof pursuant to section 105(e) of this Act [25 USCS @ 450j(e)]; and

"(9) shall be submitted by the Secretaryies ninety days in advance of the proposed effective date of the agreement to each tribe which is served by the agency which is serving the tribe which is a party to the funding agreement and to the Congress for review by the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

✓ "(B) For the year for which, and to the extent to which, funding is provided to a tribe pursuant to this title, such tribe --

"(1) shall not be entitled to contract with the Secretaryies for such funds under section 102 [ 25 USCS @ 450f], except that such tribe shall be eligible for new programs on the same basis as other tribes; and

"(20) shall be responsible for the administration of programs, services and activities pursuant to agreements under this title

"(c) At the request of the governing body of the tribe and under the terms of an agreement pursuant to subsection (a), the Secretaryies shall provide funding to such tribe to implement the agreement.

sm "(D) For the purpose of section 110 of this Act [25 USCS @ 450m-1] the term 'contract' shall also include agreements authorized by this title; except that for the term of the authorized agreements under this title

the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81), and section 16 of the Act of June 18, 1934, (25 U.S.C. 476), shall not apply to attorney and other professional contracts by participating Indian tribal governments operating under the provisions of this title

"(e) To the extent feasible, the Secretaryies shall interpret Federal laws and regulations in a manner that will facilitate the agreements authorized by this title

"(f) To the extent feasible, the Secretaryies shall interpret Federal laws and regulations in a manner that will facilitate the inclusion of activities, programs, services, and functions in the agreements authorized by this title.

"Sec. 304. The Secretary~~ies~~ shall identify, in the President's annual budget request to the Congress, any funds proposed to be included in the Tribal Self-Governance Project. The use of funds pursuant to this title shall be subject to specific directives or limitations as may be included in applicable appropriations Acts.

"Sec. 305. The Secretary~~ies~~ shall submit to the Congress a written report on July 1 and January 1 of each of the five years following the date of enactment of this title on the relative costs and benefits of the Tribal Self-Governance Project. Such report shall be based on mutually determined baseline measurements jointly developed by the Secretary~~ies~~ and participating tribes, and shall separately include the views of the tribes.

"Sec. 306". Nothing in this title shall be construed to limit or reduce in any way the services, contracts or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 [ 25 USCS @ 450f] or any other applicable Federal law and the provisions of section 110 of this Act [25 USCS @ 450m-1] shall be available to any tribe or Indian organization which alleges that a funding agreement is in violation of this section.

"Sec. 307. For the purpose of providing planning and negotiation grants to the ten tribes added by section 3 of the Tribal Self-Governance Demonstration Project Act [Act Dec. 4, 1994, P.L. 102-184, @ 3; 105 Stat. 1278] to the number of tribes set forth by section 302 of this Act (as in effect before the date of enactment of this section), there is authorized to be appropriated \$ 700,000.

"Sec. 308. (a) The Secretary of Health and Human Services, in consultation with the Secretary of the Interior and Indian tribal governments participating in the demonstration project under this title, shall conduct a study for the purpose of determining the feasibility of extending the demonstration project under this title to the activities, programs, functions, and services of the Indian Health Service. The Secretary shall report the results of such study, together with his recommendations, to the Congress within the 12-month period following the date of the enactment of the Tribal Self-Governance Demonstration Project Act [enacted Dec. 4, 1991].

"(b) The Secretary of Health and Human Services may establish within the Indian Health Service an office of self-governance to be responsible for coordinating the activities necessary to carry out the study required under subsection (a).

"Sec. 309. The Secretary of the Interior shall conduct a study for the purpose of determining the feasibility of including in the demonstration project under this title those programs and activities excluded under section 303(a)(3). The Secretary of the Interior shall report the results of such study, together with his recommendations, to the Congress within the 12-month period following the date of the enactment of the Tribal Self-Governance Demonstration Project Act. [Enacted Dec. 4, 1991]".

Sec. 310. For the purposes of providing one year planning and negotiations grants to the Indian tribes identified by section 302, with respect to the programs, activities, functions, or services of the Indian Health Service, there are authorized to be appropriated such sums as may be necessary to carry out such purposes. Upon completion of an authorized planning activity or a comparable planning activity by a tribe, the Secretary is authorized to negotiate and implement a Compact of Self-Governance and Annual Funding Agreement with such tribe."

Public Law 100-472 -- October 5, 1988

An ACT Entitled the "Indian Self-Determination Amendments of  
1987"

TITLE III-TRIBAL SELF-GOVERNANCE DEMONSTRATION  
PROJECT

"*Sec. 301.* The Secretary of the Interior shall, for a period not to exceed [five] *eight* years following enactment of this title, conduct a research and demonstration project to be known as the Tribal Self-Governance Project according to the provisions of this title.

"*Sec 302.* (A) The Secretary shall select [twenty] *thirty* tribes to participate in the demonstration project, as follows:

"(1) a tribe that successfully completes a Self-Governance Planning Grant, authorized by Conference Report 100-498 to accompany H.J. 395, One Hundredth Congress, first session shall be selected to participate in the demonstration project; and

"(2) the Secretary shall select, in such a manner as to achieve geographic representation, the remaining tribal participants from the pool of qualified applicants. In order to be in the pool of qualified applicants—

"(A) the governing body of the tribe shall request participation in the demonstration project;

"(B) such tribe shall have operated two or more mature contracts; and

"(C) such tribe shall have demonstrated, for the previous three fiscal years, financial stability and financial management capability as



evidenced by such tribe having no significant and material audit exceptions in the required annual audit of such tribe's self-determination contracts.

*"Sec. 303. (A) The Secretary is directed to negotiate, and to enter into, an annual written funding agreement with the governing body of a participating tribal government [which—] that successfully completes its Self-Governance Planning Grant; such annual written funding agreement—*

*"(1) shall authorize the tribe to plan, conduct, consolidate, and administer programs, services and functions [authorized under] of the Department of the Interior that are otherwise available to Indian Tribes or Indians included but not limited to the Act of April 16, 1934 (48 Stat. 596), as amended and the Act of November 2, 1921 (42 Stat. 208);*

*"(2) subject to the terms of the written agreement authorized by this title, shall authorize the tribe to designate programs, activities, functions or services and to reallocate funds for such programs, activities, functions or services;*

*"(2) subject to the terms of the written agreement authorized by this title, shall authorize the tribe to designate programs, activities, functions or services and to reallocate funds for such programs, activities, functions or services and to reallocate funds for such programs, activities, functions or services;*

*"(3) shall not include funds provided pursuant to the Tribally Controlled Community College Assistance Act (Public law 95-471) for elementary and secondary schools under the Indian School Equalization Formula pursuant to title XI of the Education Amendments of 1978 (Public Law 95-561, as amended,) or for either the Flathead Agency Irrigation Division or the Flathead Agency Power Division; *Provided*, That nothing in this section shall affect the contractability of such divisions under section 102 of this Act;*

"(4) shall specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretary pursuant to this agreement;

"(5) shall specify the authority of the tribe and the Secretary, and the procedures to be used, to reallocate funds or modify budget allocations within any project year;

"(6) shall, except as provided in paragraphs (1) and (2), provide for payment by the Secretary to the tribe of funds from one or more programs, services, functions, or activities in amount equal to that which the tribe would have been eligible to receive under contracts and grants under the Act, including direct program costs and indirect costs, and for any funds which are specifically related to the provision by the Secretary of services and benefits to the tribe and its members: *Provided, however,* That funds for trust services to individual Indians are available under this written agreement only to the extent that the same services which would have been provided by the Secretary are provided to individual Indians by the tribes;

"(7) shall not allow the Secretary to waive, modify or diminish in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians which exists under treaties, Executive orders, and Acts of Congress:

"(8) shall allow for retrocession of programs or portions thereof pursuant, to section 105 (e) of this Act; and

"(9) shall be submitted by the Secretary ninety days in advance of the proposed effective date of the agreement to each tribe which is served by the agency which is serving the tribe which is a party to the funding agreement and

to the Congress for review by the Select Committee on Indian Affairs of the Senate Committee on Interior and Insular Affairs of the House of Representative.

"(B) For the year for which, and to the extent to which, funding is provided to a tribe pursuant to this title, such tribe—

"(1) shall not be entitle to contract with the Secretary for such funds under section 102, except that such tribe shall be eligible for new programs on the same basis as other tribes; and

"(2) shall be responsible for the administration of programs, services and activities pursuant to agreement under this title.

"(C) At the request of the governing body of the tribe and under the terms of an agreement pursuant to subsection (a), the Secretary shall provide funding to such tribe to implement the agreement.

"(D) For the purpose of section 110 of this Act the term 'contract' shall also include agreements authorized by this title; *except that for the term of the authorized agreements under this title, the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 476), shall not apply to attorney and other professional contracts of participating Indian tribal governments operating under the provision of this title.*

"(E) To the extent feasible, the Secretary shall interpret Federal laws and regulations in a manner that will facilitate the agreements authorized by this title.

*"(f) To the extent feasible, the Secretary shall interpret Federal laws and regulations in a manner that will facilitate the inclusion of activities, programs, services, and functions in the agreement authorized by this title.*

"Sec. 304. The Secretary shall identify, the President's annual budget request to the Congress, any funds proposed to be included in the tribal Self-

Governance Project. The use of funds pursuant to this title shall be subject to specific directives or limitations as may be included in applicable appropriations Acts.

**"Sec. 305.** The Secretary shall submit to the congress a written report on July 1 and January 1 of each of the five years following the date of enactment of this title on the relative costs and benefits of the Tribal "Self-Governance Project. Such report shall be based on mutually determined baseline measurements jointly developed by the Secretary and participating tribes, and shall separately include the views of the tribes.

**"Sec. 306.** Nothing in this title shall be construed to limit or reduce in any way the services, contracts or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 of this Act shall be available to any tribe or Indian organization which alleges that a funding agreement is in violation of this section.

**"Sec. 307.** *For the purp;ose of providing planing and negotiation grants to the ten tribes added by section 3 of the Tribal Self-Governance Demonstration Project Act to the number of tribes set forth by section 1302 of this Act, there is authorized to be appropriated \$700,000.*

**"Sec. 308.** *The Secretary of Health and Human Services in consultation with the Secretary of the Interior and Indian tribal governments participating in the demonstration project under this title, shall conduct a study for the purpose of determining the feasibility of extending the demonstration project under this title to the activities, programs, functions, and services of the Indian Health Service: The Secretary shall report the results of such study, together with his*

*recommendations, to the congress within the 12-month period following the date of the enactment of the Tribal Self-Governance Demonstration Project Act."*

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NEW LAW

*The Secretary of the Interior shall conduct a study for the purpose of determining the feasibility of including in the demonstration project those programs and activities excluded under section 303(a)(3) of the Indian Self-Determination and Education Assistance Act. The Secretary of the Interior shall report the results of such study, together with his recommendations, to the congress within the 12-month period following the date of the enactment of this Act.*

H.R. 2006

Pub. L. 101-544  
104 Stat. 4652  
Act. of 11/29/90.

# One Hundred First Congress of the United States of America

## AT THE SECOND SESSION

*Began and held at the City of Washington on Tuesday, the twenty-third day of January,  
one thousand nine hundred and ninety*

### An Act

To expand the powers of the Indian Arts and Crafts Board, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled.*

#### TITLE I—INDIAN ARTS AND CRAFTS:

##### SEC. 101. SHORT TITLE.

This title may be cited as the "Indian Arts and Crafts Act of 1990".

##### SEC. 102. POWERS OF INDIAN ARTS AND CRAFTS BOARD.

Section 2 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305a) is amended—

(1) in the first sentence—

(A) by striking "the Board" and inserting "the Secretary of the Interior through the Board"; and

(B) by striking "the Indian wards of the Government" and inserting "Indian individuals";

(2) by amending clause (g) to read as follows: "(g) (1) to create for the Board, or for an individual Indian or Indian tribe or Indian arts and crafts organization, trademarks of genuineness and quality for Indian products and the products of an individual Indian or particular Indian tribe or Indian arts and crafts organization; (2) to establish standards and regulations for the use of Government-owned trademarks by corporations, associations, or individuals, and to charge for such use under such licenses; (3) to register any such trademark owned by the Government in the United States Patent and Trademark Office without charge and assign it and the goodwill associated with it to an individual Indian or Indian tribe without charge; and (4) to pursue or defend in the courts any appeal or proceeding with respect to any final determination of that office"; and

(3) by adding at the end the following new sentence: "For the purposes of this section, the term 'Indian arts and crafts organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes."

##### SEC. 103. REFERRAL FOR CRIMINAL AND CIVIL VIOLATIONS.

The Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) is amended by adding at the end of the following:

"SEC. 5. (a) The Board may receive complaints of violations of section 1159 of title 18, United States Code, and refer complaints of such violations to the Federal Bureau of Investigation for appropriate investigation. After reviewing the investigation report, the

H. R. 2006—2

Board may recommend to the Attorney General of the United States that criminal proceedings be instituted under that section.

"(b) The Board may recommend that the Secretary of the Interior refer the matter to the Attorney General for civil action under section 6."

SEC. 104. CRIMINAL PENALTY FOR MISREPRESENTATION OF INDIAN PRODUCED GOODS AND PRODUCTS.

(a) IN GENERAL.—Section 1159 of title 18, United States Code, is amended to read as follows:

"§ 1159. Misrepresentation of Indian produced goods and products

"(a) It is unlawful to offer or display for sale or sell any good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States.

"(b) Whoever knowingly violates subsection (a) shall—

"(1) in the case of a first violation, if an individual, be fined not more than \$250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than \$1,000,000; and

"(2) in the case of subsequent violations, if an individual, be fined not more than \$1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than \$5,000,000.

"(c) As used in this section—

"(1) the term 'Indian' means any individual who is a member of an Indian tribe, or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

"(2) the terms 'Indian product' and 'product of a particular Indian tribe or Indian arts and crafts organization' has the meaning given such term in regulations which may be promulgated by the Secretary of the Interior;

"(3) the term 'Indian tribe' means—

"(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and

"(4) the term 'Indian arts and crafts organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.

"(d) In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect."

(b) CONFORMING AMENDMENT.—The item relating to section 1159 in the table of sections for chapter 53 of title 18, United States Code, is amended to read as follows:

"1159. Misrepresentation of Indian produced goods and products."

H. R. 2006—3

SEC. 101. CAUSE OF ACTION FOR MISREPRESENTATION OF INDIAN PRODUCED GOODS AND PRODUCTS.

The Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) (as amended by section 3) is further amended by adding at the end of the following:

"SEC. 6. (a) A person specified in subsection (c) may, in a civil action in a court of competent jurisdiction, bring an action against a person who offers or displays for sale or sells a good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States, to—

"(1) obtain injunctive or other equitable relief; and

"(2) recover the greater of—

"(A) treble damages; or

"(B) in the case of each aggrieved individual Indian, Indian tribe, or Indian arts and crafts organization, not less than \$1,000 for each day on which the offer or display for sale or sale continues.

"(b) In addition to the relief specified in subsection (a), the court may award punitive damages and the costs of suit and a reasonable attorney's fee.

"(c)(1) A civil action under subsection (a) may be commenced—

"(A) by the Attorney General of the United States upon request of the Secretary of the Interior on behalf of an Indian who is a member of an Indian tribe or on behalf of an Indian tribe or Indian arts and crafts organization; or

"(B) by an Indian tribe on behalf of itself, an Indian who is a member of the tribe, or on behalf of an Indian arts and crafts organization.

"(2) Any amount recovered pursuant to this section shall be paid to the individual Indian, Indian tribe, or Indian arts and crafts organization, except that—

"(A) in the case of paragraph (1)(A), the Attorney General may deduct from the amount recovered the amount for the costs of suit and reasonable attorney's fees awarded pursuant to subsection (b) and deposit the amount of such costs and fees as a reimbursement credited to appropriations currently available to the Attorney General at the time of receipt of the amount recovered; and

"(B) in the case of paragraph (1)(B), the amount recovered for the costs of suit and reasonable attorney's fees pursuant to subsection (b) may be deducted from the total amount awarded under subsection (a)(2).

"(d) As used in this section—

"(1) the term 'Indian' means any individual who is a member of an Indian tribe; or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

"(2) the terms 'Indian product' and 'product of a particular Indian tribe or Indian arts and crafts organization' has the meaning given such term in regulations which may be promulgated by the Secretary of the Interior;

"(3) the term 'Indian tribe' means—

"(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is



H. R. 2006—4

recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and

"(4) the term 'Indian arts and crafts organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.

"(e) In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect."

**SEC. 104. PENALTY FOR COUNTERFEITING INDIAN ARTS AND CRAFTS BOARD TRADEMARK.**

Section 1158 of title 18, United States Code, is amended by striking "be fined not more than \$500 or imprisoned not more than six months, or both; and" and inserting "(1) in the case of a first violation, if an individual, be fined not more than \$250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than \$1,000,000; and (2) in the case of subsequent violations, if an individual, be fined not more than \$1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than \$3,000,000; and (3)".

**SEC. 107. CERTIFICATION OF INDIAN ARTISANS.**

For the purposes of section 1159 of title 18, United States Code, and section 6 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) an Indian tribe may not impose a fee in certifying an individual as an Indian artisan. For the purposes of this section, the term "Indian tribe" has the same meaning given such term in section 1159(c)(3) of title 18, United States Code.

**TITLE II—TECHNICAL AND CLARIFYING AMENDMENTS**

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Indian Self-Determination and Education Assistance Act Amendments of 1990".

**SEC. 202. AMENDMENTS TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.**

The Indian Self-Determination and Education Assistance Act is amended as follows:

(1) In section 4(h) of such Act (25 U.S.C. 450b(h)), delete "in existence on the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988".

(2) In section 4(j) of such Act (25 U.S.C. 450b(j)), delete "contract entered" each place it appears and insert in lieu thereof "contract for grant or cooperative agreement utilized under section 9 of this Act) entered".

(3) In section 5(d) of such Act (25 U.S.C. 450c(d)), delete the word "Any" and insert in lieu thereof "Except as provided in

H. R. 2006—5

section 8 or 106(a)(3) of this Act." and before the period insert the words "through the respective Secretary".

SEC. 121. AMENDMENTS TO THE INDIAN SELF-DETERMINATION ACT.

(a) Section 106 of the Indian Self-Determination Act (25 U.S.C. 450j-1(e)) is amended by deleting "1988" and inserting in lieu thereof "1992".

(b) In section 102(d) of such Act (25 U.S.C. 450f(d)), immediately after "investigations.", insert "or for purposes of section 2579, title 28, United States Code, with respect to claims by any such person, on or after the date of the enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1990, for personal injury, including death, resulting from the operation of an emergency motor vehicle,".

(c) Section 105(c)(1)(B) of such Act (25 U.S.C. 450j(c)(1)(B)) is amended to read as follows:

"(B) for a definite or an indefinite term, as requested by the tribe (or, to the extent not limited by tribal resolution, by the tribal organization), in the case of a mature contract,".

(d) Section 105(d) of such Act (25 U.S.C. 450j(d)) is amended to read as follows:

"(d)(1) Beginning in fiscal year 1990, upon the election of a tribal organization, the Secretary shall use the calendar year as the basis for any contracts or agreements under this Act, unless the Secretary and the Indian tribe or tribal organization agree on a different period.

"(2) The Secretary shall, on or before April 1 of each year beginning in 1992, submit a report to the Congress on the amounts of any additional obligation authority needed to implement this subsection in the next following fiscal year."

(e) In paragraphs (2) and (3) of section 105(f) of such Act (25 U.S.C. 450j(f)(2) and (3)), insert "or real" immediately after "personal" each place it appears in such paragraphs.

(f) In section 107(c) of such Act (25 U.S.C. 450k(c)), immediately after "authorized", insert the following: ", with the participation of Indian tribes and tribal organizations,".

(g)(1) In section 301(a)(3) of the Indian Self-Determination Act (25 U.S.C. 450h(a)(3)), delete "reservation boundaries" and insert in lieu thereof "Indian country (as defined in chapter 53 of title 18, United States Code)".

(2) The amendment made by paragraph (1) shall not alter or otherwise modify or affect existing prohibitions or limitations on the Secretary's authority to acquire lands in trust.

TITLE III—AMENDMENTS TO OTHER ACTS

SEC. 301. AMENDMENTS TO OTHER ACTS.

(a) AMENDMENT TO INDIAN LAND CONSOLIDATION ACT.—Section 207(a) of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by deleting "No undivided interest in any tract of trust or restricted land within a tribe's reservation or otherwise subject to a tribe's jurisdiction shall descend by intestacy or devise but shall escheat to that tribe" and inserting in lieu thereof the following: "No undivided interest held by a member or nonmember Indian in any tract of trust land or restricted land within a tribe's reservation or outside of a reservation and subject to such tribe's jurisdiction

## H. R. 2006—5

shall descend by intestacy or devise but shall escheat to the reservation's recognized tribal government, or if outside of a reservation, to the recognized tribal government possessing jurisdiction over the land".

(b) AMENDMENT TO ACT OF NOVEMBER 8, 1988.—In section 1 of the Act entitled "An Act to declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes", approved November 8, 1988 (102 Stat. 3327), insert "and attached narrative metes and bounds description" immediately after "map" each time it appears.

(c) AMENDMENT TO THE ACT OF MARCH 29, 1956.—The second sentence of subsection (a) of the Act entitled "An Act to authorize the execution of mortgages and deeds of trust on individual Indian trust or restricted land", approved March 29, 1956 (25 U.S.C. 483a), is amended by inserting immediately before "State" the following: "tribe which has jurisdiction over such land or, in the case where no tribal foreclosure law exists, in accordance with the laws of the".

## SEC. 302. AMENDMENT TO THE ACT OF JUNE 24, 1938.

Section 1 of the Act of June 24, 1938 (25 U.S.C. 162a) is amended by designating the existing text thereof as subsection (a), and by adding at the end thereof the following new subsection:

"(b)(1) Notwithstanding subsection (a), the Secretary of the Interior, at the request of any Indian tribe, in the case of trust funds of such tribe, or any individual Indian, in the case of trust funds of such individual, is authorized to invest such funds, or any part thereof, in guaranteed or public debt obligations of the United States or in a mutual fund, otherwise known as an open-ended, diversified investment management company if—

"(A) the portfolio of such mutual fund consists entirely of public-debt obligations of the United States, or bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, or a combination thereof;

"(B) the trust funds to be invested exceed \$50,000;

"(C) the mutual fund is registered by the Securities and Exchange Commission; and

"(D) the Secretary is satisfied with respect to the security and protection provided by the mutual fund against loss of the principal of such trust funds.

"(2) The Secretary, as a condition to complying with a request pursuant to paragraph (1) of this subsection, is authorized to require such tribe or individual Indian, as the case may be, to enter into an agreement with the Secretary for the purpose of relieving the United States of any liability in connection with the interest, or amount thereof, payable in connection with such trust funds so invested during the period of that investment.

"(3) Investments pursuant to paragraph (1) of this subsection shall be deemed to be the same as cash or a bank deposit for purposes of section 5 of the Act of September 21, 1959 (25 U.S.C. 955)."

## SEC. 303. AMENDMENT TO INDIAN FINANCING ACT OF 1974.

(a) Section 101 of the Indian Financing Act of 1974 (25 U.S.C. 1461) is amended—

(1) by deleting "money markets," and inserting in lieu thereof the following: "money markets, or to supplement funds from

H.R. 2006—7

private lenders, including loans guaranteed by the Secretary pursuant to section 201 of this Act."; and

(2) by inserting immediately before the period at the end of the third sentence a comma and the following: "or, in the discretion of the Secretary of the Interior, as a contribution to the Indian Loan Guaranty and Insurance Fund authorized by section 217 of this Act, or for the payment of interest subsidies authorized by section 301 of this Act".

(b) Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended—

(1) by deleting in the first sentence the word "prior"; and

(2) by deleting in the second sentence "shall review" and inserting in lieu thereof "may review".

TITLE IV—PUBLIC HEALTH SERVICE ACT

SEC. 101. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Section 323J(a) of subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 254s) is amended to read as follows:

"(a) Subject to the availability of funds appropriated under the authority of subsection (d), the Secretary shall provide funds to Kamehameha Schools/Bishop Estate for the purpose of providing scholarship assistance to students who—

"(1) meet the requirements of section 323A(b), and

"(2) are Native Hawaiians."

TITLE V—BOARD OF INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

SEC. 301. GENERAL POWERS OF BOARD OF INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) INTEREST AND INVESTMENT INCOME.—Section 1507 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4414) is amended by adding at the end the following new subsection:

"(c) INTEREST AND INVESTMENTS.—Interest and earnings on amounts received by the Institute pursuant to section 1531 invested under subsection (a)(2) shall be the property of the Institute and may be expended to carry out this title. The Board shall be held to a reasonable and prudent standard of care, given such information and circumstances as existed when the decision is made, in decisions involving investment of funds under subsection (a)(2)."

(b) INSURANCE.—Section 1507(a)(1) of such Act (20 U.S.C. 4414(a)(1)) is amended to read as follows:

"(1) to the extent not already provided by law, to obtain insurance to cover all activities of the Institute, including coverage relating to property and liability, or make other provisions against losses."

SEC. 302. ESTABLISHMENTS WITHIN THE INSTITUTE.

Section 1510(b) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4417(b)) is amended—

H. R. 2006—3

- (1) in paragraph (2), by striking subparagraph (A) and redesignating subparagraphs (B) through (I) as subparagraphs (A) through (H), respectively;
- (2) by striking "and" at the end of paragraph (1);
- (3) by striking the period at the end of paragraph (2) and inserting "; and"; and
- (4) by inserting after paragraph (2) the following:  
 "(3) a Museum of American Indian and Alaska Native Arts, which shall be under the direction of the President of the Institute."

SEC. 501. TRANSFER OF FUNCTIONS.

Section 1514 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4421) is amended—

- (1) by striking subsections (d), (e), and (f); and
- (2) by adding at the end the following new subsection (d):  
 "(d) FORGIVENESS OF AMOUNTS OWED: HOLD HARMLESS.—(1) Subject to paragraph (2)—

"(A) the Institute shall be responsible for all obligations of the Institute incurred after June 2, 1988, and

"(B) the Secretary shall be responsible for all obligations of the Institute incurred on or before June 2, 1988, including those which accrued by reason of any statutory, contractual, or other reason prior to June 2, 1988, which became payable within two years of June 2, 1988.

"(2) With respect to all programs of the Federal Government, in whatever form or from whatever source derived, the Institute shall only be held responsible for actions and requirements, either administrative, regulatory, or statutory in nature, for events which occurred after July 1, 1988, including the submission of reports, audits, and other required information. The United States may not seek any monetary damage or repayment for the commission of events, or omission to comply with either administrative or regulatory requirements, for any action which occurred prior to June 2, 1988."

SEC. 504. COMPLIANCE WITH OTHER ACTS.

Section 1517 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4424) is amended by adding at the end the following:

"(c) OTHER FEDERAL ASSISTANCE.—Funds received by the Institute pursuant to this Act shall not be regarded as Federal money for purposes of meeting any matching requirements for any Federal grant, contract or cooperative agreement."

SEC. 501. ENDOWMENT PROGRAMS.

Section 1518 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4425) is amended to read as follows:

SEC. 1518. ENDOWMENT PROGRAMS.

"(a) PROGRAM ENHANCEMENT ENDOWMENT.—

"(1)(A) From the total amount appropriated for this subsection pursuant to section 1531(a), funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution.

H. R. 2006—9

"(B) The President of the Institute shall provide—

"(i) for the deposit into the trust fund referred to in subparagraph (A)—

"(I) of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution; and

"(II) any earnings on the funds deposited under this paragraph; or

"(ii) for the reservation for the sole use of the Institute of any noncash, in-kind contributions of real or personal property, which property may at any time be converted to cash, which shall be deposited as a capital contribution into the trust fund referred to in subparagraph (A).

"(C) If at any time the Institute withdraws any capital contribution (as described in subparagraph (B)(i)) made by the Institute to the trust fund referred to in subparagraph (A) or puts any property (as described in subparagraph (B)(ii)) to a use which is not for the sole benefit of the Institute, an amount equal to the value of the Federal contribution shall be withdrawn from such trust fund and returned to the Treasury as miscellaneous receipts.

"(2) Interest deposited into the trust fund pursuant to paragraph (1)(B)(ii) may be periodically withdrawn and used, at the direction of the Board or its designee, to defray any expense associated with the operation of the Institute, including the expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

"(3) For the purpose of complying with the contribution requirement of paragraph (1)(B), the Institute may use funds or in-kind contributions of real or personal property fairly valued which are made available from any private or tribal source, including interest earned by the funds invested under this subsection. In-kind contributions shall be other than fully depreciable property or property which is designated for addition to the permanent collection of the Museum and shall be valued according to the procedures established for such purpose by the Secretary of the Treasury. For purposes of this paragraph, all contributions, including in-kind and real estate, which are on-hand as of the date of enactment of this Act and which have been received after June 2, 1988, but which have not been included in computations under this provision shall be eligible for matching with Federal funds appropriated in any fiscal year.

"(4) Amounts appropriated under section 1531(a) for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount of funds or the value of the in-kind contributions which the Institute demonstrates have been placed within the control of, or irrevocably committed to the use of, the Institute as a capital contribution of the Institute in accordance with this subsection.

"(b) CAPITAL IMPROVEMENT ENDOWMENT.—

"(1) In addition to the trust fund established under subsection (a), funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution from the amount reserved for this subsection pursuant to sec-

H. R. 2006—10

tion 1531(a) for the purpose of establishing a separate special endowment for capital improvement (hereafter in this subsection referred to as the 'capital endowment fund') to pay expenses associated with site selection and preparation, site planning and architectural design and planning, new construction, materials and equipment procurement, renovation, alteration, repair, and other building and expansion costs of the Institute.

"(2) The President of the Institute shall provide for the deposit into the capital endowment fund of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution and any earnings on amounts in the capital endowment fund.

"(3) Funds deposited by the Institute as a match for Federal contributions under paragraph (5) shall remain in the capital endowment fund for a period of not less than two years. If at any time the Institute withdraws any capital contribution to the capital endowment fund before the funds have been deposited for this two-year period, an equal amount of the Federal contribution shall be withdrawn from the capital endowment fund and returned to the Treasury as miscellaneous receipts. At the end of the two-year period, the entire principal and interest of the funds deposited for this period, including the Federal matching portion, shall accrue, without reservation, to the Institute and may be withdrawn, in whole or in part, to defray expenses associated with capital acquisition and improvement of the Institute referred to in paragraph (1).

"(4) For the purpose of complying with the contribution requirement of paragraph (2), the Institute may use funds which are available from any private or tribal source.

"(5) Subject to paragraph (3), amounts appropriated under section 1531(a) for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount which the Institute demonstrates has been placed within the control of, or irrevocably committed to the use of, the Institute and is available for deposit as a capital contribution of the Institute in accordance with this subsection.

"(c) GENERAL ADMINISTRATIVE PROVISIONS.—(1) Funds in the trust funds described in subsections (a) and (b) shall be invested at a rate not less than that generally available for similar funds deposited at the same banking institution for the same period or periods of time.

"(2) No part of the net earnings of the trust funds established under this section shall inure to the benefit of any private person.

"(3) The President of the Institute shall provide for such other provisions governing the trust funds established under this section as may be necessary to protect the financial interest of the United States and to promote the purpose of this title as agreed to by the Secretary of the Treasury and the Board or its designee, including recordkeeping procedures for the investment of funds received under the trust fund established under subsection (b) and such other recordkeeping procedures for the expenditure of accumulated interest for the trust fund under subsection (a) as will allow the Secretary of the Treasury to audit and monitor activities under this section."

H. R. 2006—11

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Section 1531(a) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4451(a)) is amended by adding at the end the following new paragraphs:

"(4) Funds appropriated under this subsection for the fiscal year 1992 and for each succeeding fiscal year shall be transferred by the Secretary of the Treasury through the most expeditious method available with the Institute being designated as its own certifying agency.

"(5) Funds are authorized to be appropriated for programs for more than one fiscal year. For the purpose of affording adequate notice of funding available under this Act, amounts appropriated in an appropriations Act for any fiscal year to carry out this Act may, subject to the appropriation, become available for obligations on July 1 of that fiscal year."

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 501. COCHITI DAM LICENSE.

Notwithstanding the provisions of any other Federal law, no license shall be issued by the Federal Energy Regulatory Commission for the development of hydroelectric power at the Army Corps of Engineers' Cochiti Dam located on the Pueblo de Cochiti Indian Reservation in the State of New Mexico.

SEC. 502. DAKOTA WESLEYAN UNIVERSITY.

Notwithstanding the provisions of section 437(c)(2)(B) of the Higher Education Act of 1965, the Secretary of Education shall reassess the amount owed by the Dakota Wesleyan University, located in Mitchell, South Dakota, in the amount of \$159,260, plus any accrued interest thereon to \$16,113.

*Speaker of the House of Representatives*

*Vice President of the United States and  
President of the Senate.*



Public Law 102-184

(105 Stat. 1278)

Approved December 4, 1991

H.R. 3394

*One Hundred Second Congress of the United States of America*  
At the First Session

*Done and held at the City of Washington on Thursday, the third day of January,  
one thousand nine hundred and ninety-one*

AN ACT

To amend the Indian Self-Determination and Education Assistance Act.

*Be it enacted by the Senate and House of Representatives of the United States of America  
in Congress assembled.*

SECTION 1. SHORT TITLE

This Act may be cited as the "Tribal Self-Governance Demonstration Project Act".

SECTION 2. EXTENSION OF TIME FOR TRIBAL SELF-GOVERNANCE  
DEMONSTRATION PROJECT.

Section 301 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 4301 note) thereafter in this Act referred to as the "Act" is amended by striking out "five" and inserting in lieu thereof "eight".

SECTION 3. INCREASE IN NUMBER OF TRIBES PARTICIPATING IN PROJECT.

Section 303 (a) of the Act is amended by striking out "twenty" and inserting in lieu thereof "thirty".

SECTION 4. COMPLETION OF GRANTS AS A PRECONDITION TO NEGOTIATION OF  
WRITTEN ANNUAL FUNDING AGREEMENTS.

Section 303 (a) of the Act is amended by striking out "which-" and inserting in lieu thereof "that successfully completes its Self-Governance Planning Grant. Such annual written funding agreement-".

SECTION 5. ADDITIONAL FUNDING FOR SELF-GOVERNANCE PLANNING GRANTS.

Title III of the Act is amended by adding at the end thereof the following new section:

"Sec. 307. For the purpose of providing planning and negotiation grants to the ten tribes added by section 3 of the Tribal Self-Governance Demonstration Project Act to the number of tribes set forth by section 303 of this Act (as in effect before the date of enactment of this section, there is authorized to be appropriated \$700,000.".

## SECTION 6. EXTENSION OF PROJECT FEASIBILITY STUDIES.

(a) *Project Not Limited to Certain Programs* - Section 303 (s)(1) of the Act is amended by striking "authorized under" and inserting in lieu thereof the following: "of the Department of the Interior that are otherwise available to Indian tribes or Indians, Including but not limited to."

(b) *Authorized Agreements* - Section 303(d) of the Act is amended by inserting immediately before the period at the end thereof a semicolon and the following: "except that for the term of the authorized agreements under this title, the provisions of section 2108 of the Revised Statutes of the United States (25 U.S.C. 8) 1, and section 16 of the Act of June 18, 1984 (25 U.S.C. 476), shall not apply to attorney and other professional contracts by participating Indian tribal governments operating under the provision of this title".

(c) *Interpretation* - Section 303 of the Act is amended by adding at the end thereof the following:

"(f) To the extent feasible, the Secretary shall interpret Federal laws and regulations in a manner that will facilitate the inclusion of activities, programs, services, and functions in the agreements authorized by this title."

(d) *Studies* - Title III of the Act is amended by adding after section 3078 (as added by section 6 of this Act) the following new sections:

"Sec. 308. (a) The Secretary of Health and Human Services, in consultation with the Secretary of the Interior and Indian tribal governments participating in the demonstration project under this title, shall conduct a study for the purpose of determining the feasibility of extending the demonstration project under this title to the activities, programs, functions, and services of the Indian Health Service. The Secretary shall report the results of such study, together with his recommendations, to the Congress within the 12-month period following the date of the enactment of the Tribal Self-Governance Demonstration Project Act.

"(b) The Secretary of Health and Human Services may establish within the Indian health Service and office of self-governance to be responsible for coordinating the activities necessary to carry out the study required under subsection (a).

"Sec. 309. The Secretary of the Interior shall conduct a study for the purpose of determine the feasibility of including in the demonstration project under this title those programs and activities excluded under section 303(a)(3). The Secretary of the interior shall report the results of such study, together with his recommendations, to the congress within the 12-month period following the date of the enactment of the Tribal Self-Governance Demonstration Project Act."

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*

PUBLIC LAW 103-413—OCT. 25, 1994

INDIAN SELF-DETERMINATION ACT  
AMENDMENTS OF 1994

108 STAT. 4250

PUBLIC LAW 103-413—OCT. 25, 1994

Public Law 103-413  
103d Congress

An Act

Oct. 25, 1994  
[H.R. 4842]

To specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act and to provide for tribal Self-Governance, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Indian Self-Determination Act Amendments of 1994.  
25 USC 450 note.  
Indian Self-Determination Contract Reform Act of 1994.  
25 USC 450 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Self-Determination Act Amendments of 1994".

**TITLE I—INDIAN SELF-DETERMINATION ACT CONTRACTS**

SEC. 101. SHORT TITLE.

This title may be cited as the "Indian Self-Determination Contract Reform Act of 1994".

SEC. 102. GENERAL AMENDMENTS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended—

25 USC 450b.

(1) in section 4—

(A) in subsection (g), by striking "indirect costs rate" and inserting "indirect cost rate";

(B) by striking "and" at the end of subsection (k);

(C) by striking the period at the end of subsection (l) and inserting "; and"; and

(D) by adding at the end the following new subsection:

"(m) 'construction contract' means a fixed-price or cost-reimbursement self-determination contract for a construction project, except that such term does not include any contract—

"(1) that is limited to providing planning services and construction management services (or a combination of such services);

"(2) for the Housing Improvement Program or roads maintenance program of the Bureau of Indian Affairs administered by the Secretary of the Interior; or

"(3) for the health facility maintenance and improvement program administered by the Secretary of Health and Human Services.";

25 USC 450c.

(2) by striking subsection (f) of section 5 and inserting the following new subsection:

"(f)(1) For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract

PUBLIC LAW 103-413—OCT. 25, 1994

108 STAT. 4251

entered into, or grant made, under this Act. The tribal organization that requested such contract or grant shall submit to the appropriate Secretary a single-agency audit report required by chapter 75 of title 31, United States Code.

"(2) In addition to submitting a single-agency audit report pursuant to paragraph (1), a tribal organization referred to in such paragraph shall submit such additional information concerning the conduct of the program, function, service, or activity carried out pursuant to the contract or grant that is the subject of the report as the tribal organization may negotiate with the Secretary.

"(3) Any disagreement over reporting requirements shall be subject to the declination criteria and procedures set forth in section 102.";

(3) in section 7(a), by striking "of subcontractors" and inserting in lieu thereof "or subcontractors (excluding tribes and tribal organizations)";

25 USC 450e.

(4) at the end of section 7, add the following new subsection:  
 "(c) Notwithstanding subsections (a) and (b), with respect to any self-determination contract, or portion of a self-determination contract, that is intended to benefit one tribe, the tribal employment or contract preference laws adopted by such tribe shall govern with respect to the administration of the contract or portion of the contract.";

(5) at the end of section 102(a)(1), add the following new flush sentence:

25 USC 450f.

"The programs, functions, services, or activities that are contracted under this paragraph shall include administrative functions of the Department of the Interior and the Department of Health and Human Services (whichever is applicable) that support the delivery of services to Indians, including those administrative activities supportive of, but not included as part of, the service delivery programs described in this paragraph that are otherwise contractable. The administrative functions referred to in the preceding sentence shall be contractable without regard to the organizational level within the Department that carries out such functions.";

(6) in section 102(a)—

(A) in paragraph (2)—

(i) in the first sentence, by inserting ", or a proposal to amend or renew a self-determination contract," before "to the Secretary for review";

(ii) in the second sentence—

(I) by striking "The" and inserting "Subject to the provisions of paragraph (4), the";

(II) by inserting "and award the contract" after "approve the proposal";

(III) by striking ", within sixty days of receipt of the proposal,"; and

(IV) by striking "a specific finding is made that" and inserting "the Secretary provides written notification to the applicant that contains a specific finding that clearly demonstrates that, or that is supported by a controlling legal authority that";

(iii) in subparagraph (B), by striking "or" after the semicolon;

(iv) in subparagraph (C), by striking the period at the end and inserting a semicolon;

108 STAT. 4252

PUBLIC LAW 103-413—OCT. 25, 1994

(v) by adding at the end the following new subparagraphs:

“(D) the amount of funds proposed under the contract is in excess of the applicable funding level for the contract, as determined under section 106(a); or

“(E) the program, function, service, or activity (or portion thereof) that is the subject of the proposal is beyond the scope of programs, functions, services, or activities covered under paragraph (1) because the proposal includes activities that cannot lawfully be carried out by the contractor.”; and

(vi) by adding at the end of the paragraph the following new flush material:

“Notwithstanding any other provision of law, the Secretary may extend or otherwise alter the 90-day period specified in the second sentence of this subsection, if before the expiration of such period, the Secretary obtains the voluntary and express written consent of the tribe or tribal organization to extend or otherwise alter such period. The contractor shall include in the proposal of the contractor the standards under which the tribal organization will operate the contracted program, service, function, or activity, including in the area of construction, provisions regarding the use of licensed and qualified architects, applicable health and safety standards, adherence to applicable Federal, State, local, or tribal building codes and engineering standards. The standards referred to in the preceding sentence shall ensure structural integrity, accountability of funds, adequate competition for subcontracting under tribal or other applicable law, the commencement, performance, and completion of the contract, adherence to project plans and specifications (including any applicable Federal construction guidelines and manuals), the use of proper materials and workmanship, necessary inspection and testing, and changes, modifications, stop work, and termination of the work when warranted.”; and

(B) by adding at the end the following new paragraph:

“(4) The Secretary shall approve any severable portion of a contract proposal that does not support a declination finding described in paragraph (2). If the Secretary determines under such paragraph that a contract proposal—

“(A) proposes in part to plan, conduct, or administer a program, function, service, or activity that is beyond the scope of programs covered under paragraph (1), or

“(B) proposes a level of funding that is in excess of the applicable level determined under section 106(a),

subject to any alteration in the scope of the proposal that the Secretary and the tribal organization agree to, the Secretary shall, as appropriate, approve such portion of the program, function, service, or activity as is authorized under paragraph (1) or approve a level of funding authorized under section 106(a). If a tribal organization elects to carry out a severable portion of a contract proposal pursuant to this paragraph, subsection (b) shall only apply to the portion of the contract that is declined by the Secretary pursuant to this subsection.”;

(7) in section 102(b)(3)—

(A) by inserting after “record” the following: “with the right to engage in full discovery relevant to any issue raised in the matter”; and

PUBLIC LAW 103-413—OCT. 25, 1994

108 STAT. 4253

(B) by inserting before the period the following: “, except that the tribe or tribal organization may, in lieu of filing such appeal, exercise the option to initiate an action in a Federal district court and proceed directly to such court pursuant to section 110(a)”;

(8) in section 102(d), by striking “as provided in section 2671 of title 28)” and inserting “as provided in section 2671 of title 28, United States Code, and including an individual who provides health care services pursuant to a personal services contract with a tribal organization for the provision of services in any facility owned, operated, or constructed under the jurisdiction of the Indian Health Service)”;

25 USC 450f.

(9) by adding at the end of section 102 the following new subsection:

“(e)(1) With respect to any hearing or appeal conducted pursuant to subsection (b)(3), the Secretary shall have the burden of proof to establish by clearly demonstrating the validity of the grounds for declining the contract proposal (or portion thereof).

“(2) Notwithstanding any other provision of law, a decision by an official of the Department of the Interior or the Department of Health and Human Services, as appropriate (referred to in this paragraph as the ‘Department’) that constitutes final agency action and that relates to an appeal within the Department that is conducted under subsection (b)(3) shall be made either—

“(A) by an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency (such as the Indian Health Service or the Bureau of Indian Affairs) in which the decision that is the subject of the appeal was made; or

“(B) by an administrative judge.”;

(10) by striking subsection (a) of section 105 and inserting the following new subsection:

25 USC 450j.

“(a)(1) Notwithstanding any other provision of law, subject to paragraph (3), the contracts and cooperative agreements entered into with tribal organizations pursuant to section 102 shall not be subject to Federal contracting or cooperative agreement laws (including any regulations), except to the extent that such laws expressly apply to Indian tribes.

“(2) Program standards applicable to a nonconstruction self-determination contract shall be set forth in the contract proposal and the final contract of the tribe or tribal organization.

“(3)(A) With respect to a construction contract (or a subcontract of such a construction contract), the provisions of the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) and the regulations relating to acquisitions promulgated under such Act shall apply only to the extent that the application of such provision to the construction contract (or subcontract) is—

“(i) necessary to ensure that the contract may be carried out in a satisfactory manner;

“(ii) directly related to the construction activity; and

“(iii) not inconsistent with this Act.

“(B) A list of the Federal requirements that meet the requirements of clauses (i) through (iii) of subparagraph (A) shall be included in an attachment to the contract pursuant to negotiations between the Secretary and the tribal organization.

“(C)(i) Except as provided in subparagraph (B), no Federal law listed in clause (ii) or any other provision of Federal law

108 STAT. 4254

PUBLIC LAW 103-413—OCT. 25, 1994

(including an Executive order) relating to acquisition by the Federal Government shall apply to a construction contract that a tribe or tribal organization enters into under this Act, unless expressly provided in such law.

"(ii) The laws listed in this paragraph are as follows:

"(I) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(II) Section 3709 of the Revised Statutes.

"(III) Section 9(c) of the Act of Aug. 2, 1946 (60 Stat. 809, chapter 744).

"(IV) Title III of the Federal Property and Administrative Services Act of 1949 (63 Stat. 393 et seq., chapter 288).

"(V) Section 13 of the Act of Oct. 3, 1944 (58 Stat. 770; chapter 479).

"(VI) Chapters 21, 25, 27, 29, and 31 of title 44, United States Code.

"(VII) Section 2 of the Act of June 13, 1934 (48 Stat. 948, chapter 483).

"(VIII) Sections 1 through 12 of the Act of June 30, 1936 (49 Stat. 2036 et seq. chapter 881).

"(IX) The Service Control Act of 1965 (41 U.S.C. 351 et seq.).

"(X) The Small Business Act (15 U.S.C. 631 et seq.).

"(XI) Executive Order Nos. 12138, 11246, 11701 and 11758.";

25 USC 450j.

(11) by striking subsection (e) and inserting the following new subsection:

"(e) If an Indian tribe, or a tribal organization authorized by a tribe, requests retrocession of the appropriate Secretary for any contract or portion of a contract entered into pursuant to this Act, unless the tribe or tribal organization rescinds the request for retrocession, such retrocession shall become effective on—

"(1) the earlier of—

"(A) the date that is 1 year after the date the Indian tribe or tribal organization submits such request; or

"(B) the date on which the contract expires; or

"(2) such date as may be mutually agreed by the Secretary and the Indian tribe.";

25 USC 450j.

(12) by striking paragraph (2) of section 105(f) and inserting the following new paragraph:

"(2) donate to an Indian tribe or tribal organization title to any personal or real property found to be excess to the needs of the Bureau of Indian Affairs, the Indian Health Service, or the General Services Administration, except that—

"(A) subject to the provisions of subparagraph (B), title to property and equipment furnished by the Federal Government for use in the performance of the contract or purchased with funds under any self-determination contract or grant agreement shall, unless otherwise requested by the tribe or tribal organization, vest in the appropriate tribe or tribal organization;

"(B) if property described in subparagraph (A) has a value in excess of \$5,000 at the time of the retrocession, rescission, or termination of the self-determination contract or grant agreement, at the option of the Secretary, upon the retrocession, rescission, or termination, title to such property and equipment shall revert to the Department



PUBLIC LAW 103-413—OCT. 25, 1994

108 STAT. 4255

of the Interior or the Department of Health and Human Services, as appropriate; and

“(C) all property referred to in subparagraph (A) shall remain eligible for replacement on the same basis as if title to such property were vested in the United States; and”;

(13) by adding at the end of section 105 the following new subsections: 25 USC 450j.

“(1)(1) If a self-determination contract requires the Secretary to divide the administration of a program that has previously been administered for the benefit of a greater number of tribes than are represented by the tribal organization that is a party to the contract, the Secretary shall take such action as may be necessary to ensure that services are provided to the tribes not served by a self-determination contract, including program redesign in consultation with the tribal organization and all affected tribes.

“(2) Nothing in this title shall be construed to limit or reduce in any way the funding for any program, project, or activity serving a tribe under this or other applicable Federal law. Any tribe or tribal organization that alleges that a self-determination contract is in violation of this section may apply the provisions of section 110.

“(j) Upon providing notice to the Secretary, a tribal organization that carries out a nonconstruction self-determination contract may propose a redesign of a program, activity, function, or service carried out by the tribal organization under the contract, including any nonstatutory program standard, in such manner as to best meet the local geographic, demographic, economic, cultural, health, and institutional needs of the Indian people and tribes served under the contract. The Secretary shall evaluate any proposal to redesign any program, activity, function, or service provided under the contract. With respect to declining to approve a redesigned program, activity, function, or service under this subsection, the Secretary shall apply the criteria and procedures set forth in section 102.

“(k) For purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)) (relating to Federal sources of supply, including lodging providers, airlines and other transportation providers), a tribal organization carrying out a contract, grant, or cooperative agreement under this Act shall be deemed an executive agency when carrying out such contract, grant, or agreement and the employees of the tribal organization shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.

“(1)(1) Upon the request of an Indian tribe or tribal organization, the Secretary shall enter into a lease with the Indian tribe or tribal organization that holds title to, a leasehold interest in, or a trust interest in, a facility used by the Indian tribe or tribal organization for the administration and delivery of services under this Act.

“(2) The Secretary shall compensate each Indian tribe or tribal organization that enters into a lease under paragraph (1) for the use of the facility leased for the purposes specified in such paragraph. Such compensation may include rent, depreciation based on the useful life of the facility, principal and interest paid or accrued, operation and maintenance expenses, and such other

reasonable expenses that the Secretary determines, by regulation, to be allowable.

"(m)(1) Each construction contract requested, approved, or awarded under this Act shall be subject to—

"(A) except as otherwise provided in this Act, the provisions of this Act, other than sections 102(a)(2), 106(l), 108 and 109; and

"(B) section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991 (104 Stat. 1959).

"(2) In providing technical assistance to tribes and tribal organizations in the development of construction contract proposals, the Secretary shall provide, not later than 30 days after receiving a request from a tribe or tribal organization, all information available to the Secretary regarding the construction project, including construction drawings, maps, engineering reports, design reports, plans of requirements, cost estimates, environmental assessments or environmental impact reports, and archaeological reports.

"(3) Prior to finalizing a construction contract proposal pursuant to section 102(a), and upon request of the tribe or tribal organization that submits the proposal, the Secretary shall provide for a precontract negotiation phase in the development of a contract proposal. Such phase shall include, at a minimum, the following elements:

"(A) The provision of technical assistance pursuant to section 103 and paragraph (2).

"(B) A joint scoping session between the Secretary and the tribe or tribal organization to review all plans, specifications, engineering reports, cost estimates, and other information available to the parties, for the purpose of identifying all areas of agreement and disagreement.

"(C) An opportunity for the Secretary to revise the plans, designs, or cost estimates of the Secretary in response to concerns raised, or information provided by, the tribe or tribal organization.

"(D) A negotiation session during which the Secretary and the tribe or tribal organization shall seek to develop a mutually agreeable contract proposal.

"(E) Upon the request of the tribe or tribal organization, the use of an alternative dispute resolution mechanism to seek resolution of all remaining areas of disagreement pursuant to the dispute resolution provisions under subchapter IV of chapter 5 of title 5, United States Code.

"(F) The submission to the Secretary by the tribe or tribal organization of a final contract proposal pursuant to section 102(a).

"(4)(A) Subject to subparagraph (B), in funding a fixed-price construction contract pursuant to section 106(a), the Secretary shall provide for the following:

"(i) The reasonable costs to the tribe or tribal organization for general administration incurred in connection with the project that is the subject of the contract.

"(ii) The ability of the contractor that carries out the construction contract to make a reasonable profit, taking into consideration the risks associated with carrying out the contract and other relevant considerations.

PUBLIC LAW 103-413—OCT. 25, 1994

108 STAT. 4257

"(B) In establishing a contract budget for a construction project, the Secretary shall not be required to separately identify the components described in clauses (i) and (ii) of subparagraph (A).

"(C) The total amount awarded under a construction contract shall reflect an overall fair and reasonable price to the parties, including the following costs:

"(i) The reasonable costs to the tribal organization of performing the contract, taking into consideration the terms of the contract and the requirements of this Act and any other applicable law.

"(ii) The costs of preparing the contract proposal and supporting cost data.

"(iii) The costs associated with auditing the general and administrative costs of the tribal organization associated with the management of the construction contract.

"(iv) In the case of a fixed-price contract, a fair profit determined by taking into consideration the relevant risks and local market conditions.

"(v) If the Secretary and the tribe or tribal organization are unable to develop a mutually agreeable construction contract proposal pursuant to the procedures set forth in this subsection, the tribe or tribal organization may submit a final contract proposal to the Secretary. Not later than 30 days after receiving such final contract proposal, the Secretary shall approve the contract proposal and award the contract, unless, during such period the Secretary declines the proposal pursuant to sections 102(a)(2) and 102(b) of section 102 (including providing opportunity for an appeal pursuant to section 102(b)).

"(n) Notwithstanding any other provision of law, the rental rates for housing provided to an employee by the Federal Government in Alaska pursuant to a self-determination contract shall be determined on the basis of—

"(1) the reasonable value of the quarters and facilities (as such terms are defined under section 5911 of title 5, United States Code) to such employee, and

"(2) the circumstances under which such quarters and facilities are provided to such employee, as based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.";

(14) in section 106(a)—

(A) in paragraph (1), by inserting before the period at the end the following: ", without regard to any organizational level within the Department of the Interior or the Department of Health and Human Services, as appropriate, at which the program, function, service, or activity or portion thereof, including supportive administrative functions that are otherwise contractable, is operated";

(B) in paragraph (2), by inserting after "consist of" the following: "an amount for"; and

(C) by striking paragraph (3) and inserting the following new paragraphs:

"(3)(A) The contract support costs that are eligible costs for the purposes of receiving funding under this Act shall include the costs of reimbursing each tribal contractor for reasonable and allowable costs of—

25 USC 450j-1.

108 STAT. 4258

PUBLIC LAW 103-413—OCT. 25, 1994

"(i) direct program expenses for the operation of the Federal program that is the subject of the contract, and

"(ii) any additional administrative or other expense related to the overhead incurred by the tribal contractor in connection with the operation of the Federal program, function, service, or activity pursuant to the contract, except that such funding shall not duplicate any funding provided under section 106(a)(1).

"(B) On an annual basis, during such period as a tribe or tribal organization operates a Federal program, function, service, or activity pursuant to a contract entered into under this Act, the tribe or tribal organization shall have the option to negotiate with the Secretary the amount of funds that the tribe or tribal organization is entitled to receive under such contract pursuant to this paragraph.

"(4) For each fiscal year during which a self-determination contract is in effect, any savings attributable to the operation of a Federal program, function, service, or activity under a self-determination contract by a tribe or tribal organization (including a cost reimbursement construction contract) shall—

"(A) be used to provide additional services or benefits under the contract; or

"(B) be expended by the tribe or tribal organization in the succeeding fiscal year, as provided in section 8.

"(5) Subject to paragraph (6), during the initial year that a self-determination contract is in effect, the amount required to be paid under paragraph (2) shall include startup costs consisting of the reasonable costs that have been incurred or will be incurred on a one-time basis pursuant to the contract necessary—

"(A) to plan, prepare for, and assume operation of the program, function, service, or activity that is the subject of the contract; and

"(B) to ensure compliance with the terms of the contract and prudent management.

"(6) Costs incurred before the initial year that a self-determination contract is in effect may not be included in the amount required to be paid under paragraph (2) if the Secretary does not receive a written notification of the nature and extent of the costs prior to the date on which such costs are incurred.";

25 USC 450j-1.

(15) in section 106(c)—

(A) by striking "March 15" and inserting "May 15";

(B) in paragraphs (1) and (2), by striking "indirect costs" each place it appears and inserting "contract support costs";

(C) in paragraph (4), by striking "and" at the end;

(D) in paragraph (5), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following new paragraph:

"(6) an accounting of any deficiency of funds needed to maintain the preexisting level of services to any tribes affected by contracting activities under this Act, and a statement of the amount of funds needed for transitional purposes to enable contractors to convert from a Federal fiscal year accounting cycle to a different accounting cycle, as authorized by section 105(d).";

(16) in section 106(f), by inserting immediately after the second sentence the following new sentence: "For the purpose

PUBLIC LAW 103-413—OCT. 25, 1994

108 STAT. 4259

of determining the 365-day period specified in this paragraph, an audit report shall be deemed to have been received on the date of actual receipt by the Secretary, if, within 60 days after receiving the report, the Secretary does not give notice of a determination by the Secretary to reject the single-agency report as insufficient due to noncompliance with chapter 75 of title 31, United States Code, or noncompliance with any other applicable law.”;

(17) by striking subsection (g) of section 106 and inserting the following new subsection: 25 USC 450j-1.

“(g) Upon the approval of a self-determination contract, the Secretary shall add to the contract the full amount of funds to which the contractor is entitled under section 106(a), subject to adjustments for each subsequent year that such tribe or tribal organization administers a Federal program, function, service, or activity under such contract.”;

(18) by striking subsection (i) of section 106 and inserting the following new subsection:

“(i) On an annual basis, the Secretary shall consult with, and solicit the participation of, Indian tribes and tribal organizations in the development of the budget for the Indian Health Service and the Bureau of Indian Affairs (including participation of Indian tribes and tribal organizations in formulating annual budget requests that the Secretary submits to the President for submission to Congress pursuant to section 1105 of title 31, United States Code).”; and

(19) by adding at the end of section 106 the following new subsections:

“(j) Notwithstanding any other provision of law, a tribal organization may use funds provided under a self-determination contract to meet matching or cost participation requirements under other Federal and non-Federal programs.

“(k) Without intending any limitation, a tribal organization may, without the approval of the Secretary, expend funds provided under a self-determination contract for the following purposes, to the extent that the expenditure of the funds is supportive of a contracted program:

“(1) Depreciation and use allowances not otherwise specifically prohibited by law, including the depreciation of facilities owned by the tribe or tribal organization.

“(2) Publication and printing costs.

“(3) Building, realty, and facilities costs, including rental costs or mortgage expenses.

“(4) Automated data processing and similar equipment or services.

“(5) Costs for capital assets and repairs.

“(6) Management studies.

“(7) Professional services, other than services provided in connection with judicial proceedings by or against the United States.

“(8) Insurance and indemnification, including insurance covering the risk of loss of or damage to property used in connection with the contract without regard to the ownership of such property.

“(9) Costs incurred to raise funds or contributions from non-Federal sources for the purpose of furthering the goals and objectives of the self-determination contract.

108 STAT. 4260

PUBLIC LAW 103-413—OCT. 25, 1994

"(10) Interest expenses paid on capital expenditures such as buildings, building renovation, or acquisition or fabrication of capital equipment, and interest expenses on loans necessitated due to delays by the Secretary in providing funds under a contract.

"(11) Expenses of a governing body of a tribal organization that are attributable to the management or operation of programs under this Act.

"(12) Costs associated with the management of pension funds, self-insurance funds, and other funds of the tribal organization that provide for participation by the Federal Government.

"(1)(1) The Secretary may only suspend, withhold, or delay the payment of funds for a period of 30 days beginning on the date the Secretary makes a determination under this paragraph to a tribal organization under a self-determination contract, if the Secretary determines that the tribal organization has failed to substantially carry out the contract without good cause. In any such case, the Secretary shall provide the tribal organization with reasonable advance written notice, technical assistance (subject to available resources) to assist the tribal organization, a hearing on the record not later than 10 days after the date of such determination or such later date as the tribal organization shall approve, and promptly release any funds withheld upon subsequent compliance.

"(2) With respect to any hearing or appeal conducted pursuant to this subsection, the Secretary shall have the burden of proof to establish by clearly demonstrating the validity of the grounds for suspending, withholding, or delaying payment of funds.

"(m) The program income earned by a tribal organization in the course of carrying out a self-determination contract—

"(1) shall be used by the tribal organization to further the general purposes of the contract; and

"(2) shall not be a basis for reducing the amount of funds otherwise obligated to the contract.

"(n) To the extent that programs, functions, services, or activities carried out by tribal organizations pursuant to contracts entered into under this Act reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings that have not otherwise been included in the amount of contract funds determined under subsection (a), the Secretary shall make such savings available for the provision of additional services to program beneficiaries, either directly or through contractors, in a manner equitable to both direct and contracted programs.

"(o) Notwithstanding any other provision of law (including any regulation), a tribal organization that carries out a self-determination contract may, with respect to allocations within the approved budget of the contract, rebudget to meet contract requirements, if such rebudgeting would not have an adverse effect on the performance of the contract."

#### SEC. 103. CONTRACT SPECIFICATIONS.

The Indian Self-Determination Education Assistance Act (25 U.S.C. 450 et seq.) is amended by inserting after section 107 the following new section:

PUBLIC LAW 103-413—OCT. 25, 1994

108 STAT. 4261

## "SEC. 108. CONTRACT OR GRANT SPECIFICATIONS.

25 USC 450L

"(a) Each self-determination contract entered into under this Act shall—

"(1) contain, or incorporate by reference, the provisions of the model agreement described in subsection (c) (with modifications where indicated and the blanks appropriately filled in), and

"(2) contain such other provisions as are agreed to by the parties.

"(b) Notwithstanding any other provision of law, the Secretary may make payments pursuant to section 1(b)(6) of such model agreement. As provided in section 1(b)(7) of the model agreement, the records of the tribal government or tribal organization specified in such section shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

"(c) The model agreement referred to in subsection (a)(1) reads as follows:

"SECTION 1. AGREEMENT BETWEEN THE SECRETARY AND THE \_\_\_\_\_ TRIBAL GOVERNMENT.

"(a) AUTHORITY AND PURPOSE.—

"(1) AUTHORITY.—This agreement, denoted a Self-Determination Contract (referred to in this agreement as the "Contract"), is entered into by the Secretary of the Interior or the Secretary of Health and Human Services (referred to in this agreement as the "Secretary"), for and on behalf of the United States pursuant to title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and by the authority of the \_\_\_\_\_ tribal government or tribal organization (referred to in this agreement as the "Contractor"). The provisions of title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are incorporated in this agreement.

"(2) PURPOSE.—Each provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and each provision of this Contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the following related functions, services, activities, and programs (or portions thereof), that are otherwise contractable under section 102(a) of such Act, including all related administrative functions, from the Federal Government to the Contractor. (List functions, services, activities, and programs).

"(b) TERMS, PROVISIONS, AND CONDITIONS.—

"(1) TERM.—Pursuant to section 105(c)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(1)), the term of this contract shall be \_\_\_\_\_ years. Pursuant to section 105(d)(1) of such Act (25 U.S.C. 450j(d)), upon the election by the Contractor, the period of this Contract shall be determined on the basis of a calendar year, unless the Secretary and the Contractor agree on a different period in the annual funding agreement incorporated by reference in subsection (f)(2).

"(2) EFFECTIVE DATE.—This Contract shall become effective upon the date of the approval and execution by the Contractor and the Secretary, unless the Contractor and the Secretary agree on an effective date other than the date specified in this paragraph.

“(3) PROGRAM STANDARD.—The Contractor agrees to administer the program, services, functions and activities (or portions thereof) listed in subsection (a)(2) of the Contract in conformity with the following standards: (list standards).

“(4) FUNDING AMOUNT.—Subject to the availability of appropriations, the Secretary shall make available to the Contractor the total amount specified in the annual funding agreement incorporated by reference in subsection (f)(2). Such amount shall not be less than the applicable amount determined pursuant to section 106(a) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j-1).

“(5) LIMITATION OF COSTS.—The Contractor shall not be obligated to continue performance that requires an expenditure of funds in excess of the amount of funds awarded under this Contract. If, at any time, the Contractor has reason to believe that the total amount required for performance of this Contract or a specific activity conducted under this Contract would be greater than the amount of funds awarded under this Contract, the Contractor shall provide reasonable notice to the appropriate Secretary. If the appropriate Secretary does not take such action as may be necessary to increase the amount of funds awarded under this Contract, the Contractor may suspend performance of the Contract until such time as additional funds are awarded.

“(6) PAYMENT.—

“(A) IN GENERAL.—Payments to the Contractor under this Contract shall—

“(i) be made as expeditiously as practicable; and

“(ii) include financial arrangements to cover funding during periods covered by joint resolutions adopted by Congress making continuing appropriations, to the extent permitted by such resolutions.

“(B) QUARTERLY, SEMIANNUAL, LUMP-SUM, AND OTHER METHODS OF PAYMENT.—

“(i) IN GENERAL.—Pursuant to section 108(b) of the Indian Self-Determination and Education Assistance Act, and notwithstanding any other provision of law, for each fiscal year covered by this Contract, the Secretary shall make available to the Contractor the funds specified for the fiscal year under the annual funding agreement incorporated by reference pursuant to subsection (f)(2) by paying to the Contractor, on a quarterly basis, one-quarter of the total amount provided for in the annual funding agreement for that fiscal year, in a lump-sum payment or as semiannual payments, or any other method of payment authorized by law, in accordance with such method as may be requested by the Contractor and specified in the annual funding agreement.

“(ii) METHOD OF QUARTERLY PAYMENT.—If quarterly payments are specified in the annual funding agreement incorporated by reference pursuant to subsection (f)(2), each quarterly payment made pursuant to clause (i) shall be made on the first day of each quarter of the fiscal year, except that in any case in which the Contract year coincides with the Federal fiscal year, payment for the first quarter shall be made



PUBLIC LAW 103-413—OCT. 25, 1994

108 STAT. 4263

not later than the date that is 10 calendar days after the date on which the Office of Management and Budget apportions the appropriations for the fiscal year for the programs, services, functions, and activities subject to this Contract.

“(iii) APPLICABILITY.—Chapter 39 of title 31, United States Code, shall apply to the payment of funds due under this Contract and the annual funding agreement referred to in clause (i).

“(7) RECORDS AND MONITORING.—

“(A) IN GENERAL.—Except for previously provided copies of tribal records that the Secretary demonstrates are clearly required to be maintained as part of the record-keeping system of the Department of the Interior or the Department of Health and Human Services (or both), records of the Contractor shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

“(B) RECORDKEEPING SYSTEM.—The Contractor shall maintain a recordkeeping system and, upon reasonable advance request, provide reasonable access to such records to the Secretary.

“(C) RESPONSIBILITIES OF CONTRACTOR.—The Contractor shall be responsible for managing the day-to-day operations conducted under this Contract and for monitoring activities conducted under this Contract to ensure compliance with the Contract and applicable Federal requirements. With respect to the monitoring activities of the Secretary, the routine monitoring visits shall be limited to not more than one performance monitoring visit for this Contract by the head of each operating division, departmental bureau, or departmental agency, or duly authorized representative of such head unless—

“(i) the Contractor agrees to one or more additional visits; or

“(ii) the appropriate official determines that there is reasonable cause to believe that grounds for reassumption of the Contract, suspension of Contract payments, or other serious Contract performance deficiency may exist.

No additional visit referred to in clause (ii) shall be made until such time as reasonable advance notice that includes a description of the nature of the problem that requires the additional visit has been given to the Contractor.

“(8) PROPERTY.—

“(A) IN GENERAL.—As provided in section 105(f) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(f)), at the request of the Contractor, the Secretary may make available, or transfer to the Contractor, all reasonably divisible real property, facilities, equipment, and personal property that the Secretary has used to provide or administer the programs, services, functions, and activities covered by this Contract. A mutually agreed upon list specifying the property, facilities, and equipment so furnished shall also be prepared by the Secretary, with the concurrence of the Contractor, and periodi-

108 STAT. 4264

PUBLIC LAW 103-413—OCT. 25, 1994

cally revised by the Secretary, with the concurrence of the Contractor.

“(B) RECORDS.—The Contractor shall maintain a record of all property referred to in subparagraph (A) or other property acquired by the Contractor under section 105(f)(2)(A) of such Act for purposes of replacement.

“(C) JOINT USE AGREEMENTS.—Upon the request of the Contractor, the Secretary and the Contractor shall enter into a separate joint use agreement to address the shared use by the parties of real or personal property that is not reasonably divisible.

“(D) ACQUISITION OF PROPERTY.—The Contractor is granted the authority to acquire such excess property as the Contractor may determine to be appropriate in the judgment of the Contractor to support the programs, services, functions, and activities operated pursuant to this Contract.

“(E) CONFISCATED OR EXCESS PROPERTY.—The Secretary shall assist the Contractor in obtaining such confiscated or excess property as may become available to tribes, tribal organizations, or local governments.

“(F) SCREENER IDENTIFICATION CARD.—A screener identification card (General Services Administration form numbered 2946) shall be issued to the Contractor not later than the effective date of this Contract. The designated official shall, upon request, assist the Contractor in securing the use of the card.

“(G) CAPITAL EQUIPMENT.—The Contractor shall determine the capital equipment, leases, rentals, property, or services the Contractor requires to perform the obligations of the Contractor under this subsection, and shall acquire and maintain records of such capital equipment, property rentals, leases, property, or services through applicable procurement procedures of the Contractor.

“(9) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, any funds provided under this Contract—

“(A) shall remain available until expended; and

“(B) with respect to such funds, no further—

“(i) approval by the Secretary, or

“(ii) justifying documentation from the Contractor, shall be required prior to the expenditure of such funds.

“(10) TRANSPORTATION.—Beginning on the effective date of this Contract, the Secretary shall authorize the Contractor to obtain interagency motor pool vehicles and related services for performance of any activities carried out under this Contract.

“(11) FEDERAL PROGRAM GUIDELINES, MANUALS, OR POLICY DIRECTIVES.—Except as specifically provided in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) the Contractor is not required to abide by program guidelines, manuals, or policy directives of the Secretary, unless otherwise agreed to by the Contractor and the Secretary, or otherwise required by law.

“(12) DISPUTES.—

“(A) THIRD-PARTY MEDIATION DEFINED.—For the purposes of this Contract, the term “third-party mediation” means a form of mediation whereby the Secretary and

PUBLIC LAW 103-413—OCT. 25, 1994

108 STAT. 4265

the Contractor nominate a third party who is not employed by or significantly involved with the Secretary of the Interior, the Secretary of Health and Human Services, or the Contractor, to serve as a third-party mediator to mediate disputes under this Contract.

“(B) ALTERNATIVE PROCEDURES.—In addition to, or as an alternative to, remedies and procedures prescribed by section 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450m-1), the parties to this Contract may jointly—

“(i) submit disputes under this Contract to third-party mediation;

“(ii) submit the dispute to the adjudicatory body of the Contractor, including the tribal court of the Contractor;

“(iii) submit the dispute to mediation processes provided for under the laws, policies, or procedures of the Contractor; or

“(iv) use the administrative dispute resolution processes authorized in subchapter IV of chapter 5 of title 5, United States Code.

“(C) EFFECT OF DECISIONS.—The Secretary shall be bound by decisions made pursuant to the processes set forth in subparagraph (B), except that the Secretary shall not be bound by any decision that significantly conflicts with the interests of Indians or the United States.

“(13) ADMINISTRATIVE PROCEDURES OF CONTRACTOR.—Pursuant to the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.), the laws, policies, and procedures of the Contractor shall provide for administrative due process (or the equivalent of administrative due process) with respect to programs, services, functions, and activities that are provided by the Contractor pursuant to this Contract.

“(14) SUCCESSOR ANNUAL FUNDING AGREEMENT.—

“(A) IN GENERAL.—Negotiations for a successor annual funding agreement, provided for in subsection (f)(2), shall begin not later than 120 days prior to the conclusion of the preceding annual funding agreement. Except as provided in section 105(c)(2) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(2)) the funding for each such successor annual funding agreement shall only be reduced pursuant to section 106(b) of such Act (25 U.S.C. 450j-1(b)).

“(B) INFORMATION.—The Secretary shall prepare and supply relevant information, and promptly comply with any request by the Contractor for information that the Contractor reasonably needs to determine the amount of funds that may be available for a successor annual funding agreement, as provided for in subsection (f)(2) of this Contract.

“(15) CONTRACT REQUIREMENTS; APPROVAL BY SECRETARY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), for the term of the Contract, section 2103 of the Revised Statutes (25 U.S.C. 81) and section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C.

476), shall not apply to any contract entered into in connection with this Contract.

“(B) REQUIREMENTS.—Each Contract entered into by the Contractor with a third party in connection with performing the obligations of the Contractor under this Contract shall—

“(i) be in writing;

“(ii) identify the interested parties, the authorities of such parties, and purposes of the Contract;

“(iii) state the work to be performed under the Contract; and

“(iv) state the process for making any claim, the payments to be made, and the terms of the Contract, which shall be fixed.

“(c) OBLIGATION OF THE CONTRACTOR.—

“(1) CONTRACT PERFORMANCE.—Except as provided in subsection (d)(2), the Contractor shall perform the programs, services, functions, and activities as provided in the annual funding agreement under subsection (f)(2) of this Contract.

“(2) AMOUNT OF FUNDS.—The total amount of funds to be paid under this Contract pursuant to section 106(a) shall be determined in an annual funding agreement entered into between the Secretary and the Contractor, which shall be incorporated into this Contract.

“(3) CONTRACTED PROGRAMS.—Subject to the availability of appropriated funds, the Contractor shall administer the programs, services, functions, and activities identified in this Contract and funded through the annual funding agreement under subsection (f)(2).

“(4) TRUST SERVICES FOR INDIVIDUAL INDIANS.—

“(A) IN GENERAL.—To the extent that the annual funding agreement provides funding for the delivery of trust services to individual Indians that have been provided by the Secretary, the Contractor shall maintain at least the same level of service as the Secretary provided for such individual Indians, subject to the availability of appropriated funds for such services.

“(B) TRUST SERVICES TO INDIVIDUAL INDIANS.—For the purposes of this paragraph only, the term “trust services for individual Indians” means only those services that pertain to land or financial management connected to individually held allotments.

“(5) FAIR AND UNIFORM SERVICES.—The Contractor shall provide services under this Contract in a fair and uniform manner and shall provide access to an administrative or judicial body empowered to adjudicate or otherwise resolve complaints, claims, and grievances brought by program beneficiaries against the Contractor arising out of the performance of the Contract.

“(d) OBLIGATION OF THE UNITED STATES.—

“(1) TRUST RESPONSIBILITY.—

“(A) IN GENERAL.—The United States reaffirms the trust responsibility of the United States to the \_\_\_\_ Indian tribe(s) to protect and conserve the trust resources of the Indian tribe(s) and the trust resources of individual Indians.

“(B) CONSTRUCTION OF CONTRACT.—Nothing in this Contract may be construed to terminate, waive, modify,

PUBLIC LAW 103-413—OCT. 25, 1994

108 STAT. 4267

or reduce the trust responsibility of the United States to the tribe(s) or individual Indians. The Secretary shall act in good faith in upholding such trust responsibility.

"(2) GOOD FAITH.—To the extent that health programs are included in this Contract, and within available funds, the Secretary shall act in good faith in cooperating with the Contractor to achieve the goals set forth in the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(3) PROGRAMS RETAINED.—As specified in the annual funding agreement, the United States hereby retains the programs, services, functions, and activities with respect to the tribe(s) that are not specifically assumed by the Contractor in the annual funding agreement under subsection (f)(2).

"(e) OTHER PROVISIONS.—

"(1) DESIGNATED OFFICIALS.—Not later than the effective date of this Contract, the United States shall provide to the Contractor, and the Contractor shall provide to the United States, a written designation of a senior official to serve as a representative for notices, proposed amendments to the Contract, and other purposes for this Contract.

"(2) CONTRACT MODIFICATIONS OR AMENDMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no modification to this Contract shall take effect unless such modification is made in the form of a written amendment to the Contract, and the Contractor and the Secretary provide written consent for the modification.

"(B) EXCEPTION.—The addition of supplemental funds for programs, functions, and activities (or portions thereof) already included in the annual funding agreement under subsection (f)(2), and the reduction of funds pursuant to section 106(b)(2), shall not be subject to subparagraph (A).

"(3) OFFICIALS NOT TO BENEFIT.—No Member of Congress, or resident commissioner, shall be admitted to any share or part of any contract executed pursuant to this Contract, or to any benefit that may arise from such contract. This paragraph may not be construed to apply to any contract with a third party entered into under this Contract if such contract is made with a corporation for the general benefit of the corporation.

"(4) COVENANT AGAINST CONTINGENT FEES.—The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

"(f) ATTACHMENTS.—

"(1) APPROVAL OF CONTRACT.—Unless previously furnished to the Secretary, the resolution of the \_\_\_\_\_ Indian tribe(s) authorizing the contracting of the programs, services, functions, and activities identified in this Contract is attached to this Contract as attachment 1.

"(2) ANNUAL FUNDING AGREEMENT.—

"(A) IN GENERAL.—The annual funding agreement under this Contract shall only contain—

108 STAT. 4268

PUBLIC LAW 103-413—OCT. 25, 1994

“(i) terms that identify the programs, services, functions, and activities to be performed or administered, the general budget category assigned, the funds to be provided, and the time and method of payment; and

“(ii) such other provisions, including a brief description of the programs, services, functions, and activities to be performed (including those supported by financial resources other than those provided by the Secretary), to which the parties agree.

“(B) INCORPORATION BY REFERENCE.—The annual funding agreement is hereby incorporated in its entirety in this Contract and attached to this Contract as attachment 2.”.

SEC. 104. ADDITIONAL AMENDMENTS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), as amended by sections 102 and 103, is further amended—

25 USC 450m.

(1) in section 109—

(A) by inserting after “pursuant to such contract or grant agreement,” the following “or in the management of trust fund, trust lands or interests in such lands pursuant to such contract or grant agreement.”;

(B) by striking “action as prescribed by him” and all that follows through “in such cases, he” and inserting the following: “action as prescribed by the Secretary to remedy the contract deficiency, except that the appropriate Secretary may, upon written notice to a tribal organization, and the tribe served by the tribal organization, immediately rescind a contract or grant, in whole or in part, and resume control or operation of a program, activity, function, or service, if the Secretary finds that (i) there is an immediate threat of imminent harm to the safety of any person, or imminent substantial and irreparable harm to trust funds, trust lands, or interests in such lands, and (ii) such threat arises from the failure of the contractor to fulfill the requirements of the contract. In such cases, the Secretary”;

(C) by inserting after “rescind such contract or grant agreement” the following: “, in whole or in part.”;

(D) by striking the second period after “the tribal organization may approve”; and

(E) by inserting before the last sentence, the following new sentence: “In any hearing or appeal provided for under this section, the Secretary shall have the burden of proof to establish, by clearly demonstrating the validity of the grounds for rescinding, assuming, or reassuming the contract that is the subject of the hearing.”;

25 USC 450m-1.

(2) in section 110(a), by inserting immediately before the period at the end the following: “(including immediate injunctive relief to reverse a declination finding under section 102(a)(2) or to compel the Secretary to award and fund an approved self-determination contract)”;

(3) in section 110(d), by inserting immediately before the period at the end the following: “, except that all administrative appeals relating to such contracts shall be heard by the Interior

PUBLIC LAW 103-413—OCT. 25, 1994

108 STAT. 4269

Board of Contract Appeals established pursuant to section 8 of such Act (41 U.S.C. 607)".

## SEC. 105. REGULATIONS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), as amended by sections 2 through 4, is further amended—

(1) by striking subsections (a) and (b) of section 107 and inserting the following new subsections:

"(a)(1) Except as may be specifically authorized in this subsection, or in any other provision of this Act, the Secretary of the Interior and the Secretary of Health and Human Services may not promulgate any regulation, nor impose any nonregulatory requirement, relating to self-determination contracts or the approval, award, or declination of such contracts, except that the Secretary of the Interior and the Secretary of Health and Human Services may promulgate regulations under this Act relating to chapter 171 of title 28, United States Code, commonly known as the 'Federal Tort Claims Act', the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.), declination and waiver procedures, appeal procedures, reassumption procedures, discretionary grant procedures for grants awarded under section 103, property donation procedures arising under section 105(f), internal agency procedures relating to the implementation of this Act, retrocession and tribal organization relinquishment procedures, contract proposal contents, conflicts of interest, construction, programmatic reports and data requirements, procurement standards, property management standards, and financial management standards.

"(2)(A) The regulations promulgated under this Act, including the regulations referred to in this subsection, shall be promulgated—

"(i) in conformance with sections 552 and 553 of title 5, United States Code and subsections (c), (d), and (e) of this section; and

"(ii) as a single set of regulations in title 25 of the Code of Federal Regulations.

"(B) The authority to promulgate regulations set forth in this Act shall expire if final regulations are not promulgated within 18 months after the date of enactment of the Indian Self-Determination Contract Reform Act of 1994.

"(b) The provisions of this Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of the Indian Self-Determination Contract Reform Act of 1994, and the Secretary is authorized to repeal any regulation inconsistent with the provisions of this Act."; and

(2) by adding at the end of section 107, the following new subsections:

"(d)(1) In drafting and promulgating regulations as provided in subsection (a) (including drafting and promulgating any revised regulations), the Secretary of the Interior and the Secretary of Health and Human Services shall confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members.

"(2)(A) In carrying out rulemaking processes under this Act, the Secretary of the Interior and the Secretary of Health and Human Services shall follow the guidance of—

108 STAT. 4270

PUBLIC LAW 103-413—OCT. 25, 1994

"(i) subchapter III of chapter 5 of title 5, United States Code, commonly known as the 'Negotiated Rulemaking Act of 1990'; and

"(ii) the recommendations of the Administrative Conference of the United States numbered 82-4 and 85-5 entitled 'Procedures for Negotiating Proposed Regulations' under sections 305.82-4 and 305.85-5 of title 1, Code of Federal Regulations, and any successor recommendation or law (including any successor regulation).

"(B) The tribal participants in the negotiation process referred to in subparagraph (A) shall be nominated by and shall represent the groups described in this paragraph and shall include tribal representatives from all geographic regions.

"(C) The negotiations referred to in subparagraph (B) shall be conducted in a timely manner. Proposed regulations to implement the amendments made by the Indian Self-Determination Contract Reform Act of 1994 shall be published in the Federal Register by the Secretary of the Interior and the Secretary of Health and Human Services not later than 180 days after the date of enactment of such Act.

"(D) Notwithstanding any other provision of law (including any regulation), the Secretary of the Interior and the Secretary of Health and Human Services are authorized to jointly establish and fund such interagency committees or other interagency bodies, including advisory bodies comprised of tribal representatives, as may be necessary or appropriate to carry out the provisions of this Act.

"(E) If the Secretary determines that an extension of the deadlines under subsection (a)(2)(B) and subparagraph (C) of this paragraph is appropriate, the Secretary may submit proposed legislation to Congress for the extension of such deadlines.

"(e) The Secretary may, with respect to a contract entered into under this Act, make exceptions in the regulations promulgated to carry out this Act, or waive such regulations, if the Secretary finds that such exception or waiver is in the best interest of the Indians served by the contract or is consistent with the policies of this Act, and is not contrary to statutory law. In reviewing each request, the Secretary shall follow the timeline, findings, assistance, hearing, and appeal procedures set forth in section 102."

#### SEC. 108. CONFORMING AMENDMENTS.

Section 105(h) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(h)) is amended by striking "and the rules and regulations adopted by the Secretaries of the Interior and Health and Human Services pursuant to section 107 of this Act".

## TITLE II—SELF-GOVERNANCE

#### SEC. 201. SHORT TITLE.

This title may be cited as the "Tribal Self-Governance Act of 1994".

#### SEC. 202. FINDINGS.

Congress finds that—

Federal  
Register.  
publication.

Tribal Self-  
Governance Act  
of 1994.  
25 USC 450  
note.

25 USC 458aa  
note.



PUBLIC LAW 103-413—OCT. 25, 1994

108 STAT. 4271

(1) the tribal right of self-government flows from the inherent sovereignty of Indian tribes and nations;

(2) the United States recognizes a special government-to-government relationship with Indian tribes, including the right of the tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian tribes;

(3) although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance and dominates tribal affairs;

(4) the Tribal Self-Governance Demonstration Project was designed to improve and perpetuate the government-to-government relationship between Indian tribes and the United States and to strengthen tribal control over Federal funding and program management; and

(5) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that—

(A) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities, or portions thereof, is an effective way to implement the Federal policy of government-to-government relations with Indian tribes; and

(B) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities strengthens the Federal policy of Indian self-determination.

#### SEC. 203. DECLARATION OF POLICY.

It is the policy of this title to permanently establish and implement tribal self-governance—

(1) to enable the United States to maintain and improve its unique and continuing relationship with, and responsibility to, Indian tribes;

(2) to permit each Indian tribe to choose the extent of the participation of such tribe in self-governance;

(3) to coexist with the provisions of the Indian Self-Determination Act relating to the provision of Indian services by designated Federal agencies;

(4) to ensure the continuation of the trust responsibility of the United States to Indian tribes and Indian individuals;

(5) to permit an orderly transition from Federal domination of programs and services to provide Indian tribes with meaningful authority to plan, conduct, redesign, and administer programs, services, functions, and activities that meet the needs of the individual tribal communities; and

(6) to provide for an orderly transition through a planned and measurable parallel reduction in the Federal bureaucracy.

#### SEC. 204. TRIBAL SELF-GOVERNANCE.

The Indian Self-Determination and Education Assistance Act is amended by adding at the end the following new title:

25 USC 458aa  
note.

108 STAT. 4272

PUBLIC LAW 103-413—OCT. 25, 1994

**"TITLE IV—TRIBAL SELF-GOVERNANCE**

25 USC 458aa.

**"SEC. 401. ESTABLISHMENT.**

"The Secretary of the Interior (hereinafter in this title referred to as the 'Secretary') shall establish and carry out a program within the Department of the Interior to be known as Tribal Self-Governance (hereinafter in this title referred to as 'Self-Governance') in accordance with this title.

25 USC 458bb.

**"SEC. 402. SELECTION OF PARTICIPATING INDIAN TRIBES.**

"(a) CONTINUING PARTICIPATION.—Each Indian tribe that is participating in the Tribal Self-Governance Demonstration Project at the Department of the Interior under title III on the date of enactment of this title shall thereafter participate in Self-Governance under this title and cease participation in the Tribal Self-Governance Demonstration Project under title III with respect to the Department of the Interior.

"(b) ADDITIONAL PARTICIPANTS.—(1) In addition to those Indian tribes participating in Self-Governance under subsection (a), the Secretary, acting through the Director of the Office of Self-Governance, may select up to 20 new tribes per year from the applicant pool described in subsection (c) to participate in Self-Governance.

"(2) If each tribe requests, two or more otherwise eligible Indian tribes may be treated as a single Indian tribe for the purpose of participating in Self-Governance as a consortium.

"(c) APPLICANT POOL.—The qualified applicant pool for Self-Governance shall consist of each tribe that—

"(1) successfully completes the planning phase described in subsection (d);

"(2) has requested participation in Self-Governance by resolution or other official action by the tribal governing body; and

"(3) has demonstrated, for the previous three fiscal years, financial stability and financial management capability as evidenced by the tribe having no material audit exceptions in the required annual audit of the self-determination contracts of the tribe.

"(d) PLANNING PHASE.—Each Indian tribe seeking to begin participation in Self-Governance shall complete a planning phase in accordance with this subsection. The tribe shall be eligible for a grant to plan and negotiate participation in Self-Governance. The planning phase shall include—

"(1) legal and budgetary research; and

"(2) internal tribal government planning and organizational preparation.

25 USC 458cc.

**"SEC. 403. FUNDING AGREEMENTS.**

"(a) AUTHORIZATION.—The Secretary shall negotiate and enter into an annual written funding agreement with the governing body of each participating tribal government in a manner consistent with the Federal Government's laws and trust relationship to and responsibility for the Indian people.

"(b) CONTENTS.—Each funding agreement shall—

"(1) authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior through the Bureau of Indian Affairs, without regard to the

PUBLIC LAW 103-413—OCT. 25, 1994

108 STAT. 4273

agency or office of the Bureau of Indian Affairs within which the program, service, function, and activity, or portion thereof, is performed, including funding for agency, area, and central office functions in accordance with subsection (g)(3), and including any program, service, function, and activity, or portion thereof, administered under the authority of—

“(A) the Act of April 16, 1934 (25 U.S.C. 452 et seq.);

“(B) the Act of November 2, 1921 (25 U.S.C. 13); and

“(C) programs, services, functions, and activities or portions thereof administered by the Secretary of the Interior that are otherwise available to Indian tribes or Indians for which appropriations are made to agencies other than the Department of the Interior;

“(2) subject to such terms as may be negotiated, authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior, other than through the Bureau of Indian Affairs, that are otherwise available to Indian tribes or Indians, as identified in section 405(c), except that nothing in this subsection may be construed to provide any tribe with a preference with respect to the opportunity of the tribe to administer programs, services, functions, and activities, or portions thereof, unless such preference is otherwise provided for by law;

“(3) subject to the terms of the agreement, authorize the tribe to redesign or consolidate programs, services, functions, and activities, or portions thereof, and reallocate funds for such programs, services, functions, and activities, or portions thereof, except that, with respect to the reallocation, consolidation, and redesign of programs described in paragraph (2), a joint agreement between the Secretary and the tribe shall be required;

“(4) prohibit the inclusion of funds provided—

“(A) pursuant to the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.);

“(B) for elementary and secondary schools under the formula developed pursuant to section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008); and

“(C) the Flathead Agency Irrigation Division or the Flathead Agency Power Division, except that nothing in this section shall affect the contract authority of such divisions under section 102;

“(5) specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretary pursuant to the agreement;

“(6) authorize the tribe and the Secretary to reallocate funds or modify budget allocations within any year, and specify the procedures to be used;

“(7) allow for retrocession of programs or portions of programs pursuant to section 105(e);

“(8) provide that, for the year for which, and to the extent to which, funding is provided to a tribe under this section, the tribe—

“(A) shall not be entitled to contract with the Secretary for such funds under section 102, except that such tribe shall be eligible for new programs on the same basis as other tribes; and

"(B) shall be responsible for the administration of programs, services, functions, and activities pursuant to agreements entered into under this section; and

"(9) prohibit the Secretary from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, and other laws.

"(c) **ADDITIONAL ACTIVITIES.**—Each funding agreement negotiated pursuant to subsections (a) and (b) may, in accordance to such additional terms as the parties deem appropriate, also include other programs, services, functions, and activities, or portions thereof, administered by the Secretary of the Interior which are of special geographic, historical, or cultural significance to the participating Indian tribe requesting a compact.

"(d) **PROVISIONS RELATING TO THE SECRETARY.**—Funding agreements negotiated between the Secretary and an Indian tribe shall include provisions—

"(1) to monitor the performance of trust functions by the tribe through the annual trust evaluation, and

"(2) for the Secretary to reassume a program, service, function, or activity, or portions thereof, if there is a finding of imminent jeopardy to a physical trust asset, natural resources, or public health and safety.

"(e) **CONSTRUCTION PROJECTS.**—(1) Regarding construction programs or projects, the Secretary and Indian tribes may negotiate for the inclusion of specific provisions of the Office of Federal Procurement and Policy Act and Federal acquisition regulations in any funding agreement entered into under this Act. Absent a negotiated agreement, such provisions and regulatory requirements shall not apply.

"(2) In all construction projects performed pursuant to this title, the Secretary shall ensure that proper health and safety standards are provided for in the funding agreements.

"(f) **SUBMISSION FOR REVIEW.**—Not later than 90 days before the proposed effective date of an agreement entered into under this section, the Secretary shall submit a copy of such agreement to—

"(1) each Indian tribe that is served by the Agency that is serving the tribe that is a party to the funding agreement;

"(2) the Committee on Indian Affairs of the Senate; and

"(3) the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives.

"(g) **PAYMENT.**—(1) At the request of the governing body of the tribe and under the terms of an agreement entered into under this section, the Secretary shall provide funding to the tribe to carry out the agreement.

"(2) The funding agreements authorized by this title and title III of this Act shall provide for advance payments to the tribes in the form of annual or semi-annual installments at the discretion of the tribes.

"(3) Subject to paragraph (4) of this subsection and paragraphs (1) through (3) of subsection (b), the Secretary shall provide funds to the tribe under an agreement under this title for programs, services, functions, and activities, or portions thereof, in an amount equal to the amount that the tribe would have been eligible to receive under contracts and grants under this Act, including

amounts for direct program and contract support costs and, in addition, any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the tribe or its members, without regard to the organization level within the Department where such functions are carried out.

"(4) Funds for trust services to individual Indians shall be available under an agreement entered into under this section only to the extent that the same services that would have been provided by the Secretary are provided to individual Indians by the tribe.

"(h) CIVIL ACTIONS.—(1) Except as provided in paragraph (2), for the purposes of section 110, the term 'contract' shall include agreements entered into under this title.

"(2) For the period that an agreement entered into under this title is in effect, the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81), and section 16 of the Act of June 18, 1934 (25 U.S.C. 476), shall not apply to attorney and other professional contracts by Indian tribal governments participating in Self-Governance under this title.

"(i) FACILITATION.—(1) Except as otherwise provided by law, the Secretary shall interpret each Federal law and regulation in a manner that will facilitate—

"(A) the inclusion of programs, services, functions, and activities in the agreements entered into under this section; and

"(B) the implementation of agreements entered into under this section.

"(2)(A) A tribe may submit a written request for a waiver to the Secretary identifying the regulation sought to be waived and the basis for the request.

"(B) Not later than 60 days after receipt by the Secretary of a written request by a tribe to waive application of a Federal regulation for an agreement entered into under this section, the Secretary shall either approve or deny the requested waiver in writing to the tribe. A denial may be made only upon a specific finding by the Secretary that identified language in the regulation may not be waived because such waiver is prohibited by Federal law. The Secretary's decision shall be final for the Department.

"(j) FUNDS.—All funds provided under funding agreements entered into pursuant to this Act, and all funds provided under contracts or grants made pursuant to this Act, shall be treated as non-Federal funds for purposes of meeting matching requirements under any other Federal law.

"(k) DISCLAIMER.—Nothing in this section is intended or shall be construed to expand or alter existing statutory authorities in the Secretary so as to authorize the Secretary to enter into any agreement under sections 403(b)(2) and 405(c)(1) with respect to functions that are inherently Federal or where the statute establishing the existing program does not authorize the type of participation sought by the tribe: *Provided*, however an Indian tribe or tribes need not be identified in the authorizing statute in order for a program or element of a program to be included in a compact under section 403(b)(2).

#### "SEC. 404. BUDGET REQUEST.

"The Secretary shall identify, in the annual budget request of the President to the Congress under section 1105 of title 31,

108 STAT. 4276

PUBLIC LAW 103-413—OCT. 25, 1994

United States Code, any funds proposed to be included in agreements authorized under this title.

25 USC 458ee.

“SEC. 405. REPORTS.

“(a) REQUIREMENT.—The Secretary shall submit to Congress a written report on January 1 of each year following the date of enactment of this title regarding the administration of this title.

“(b) CONTENTS.—The report shall—

“(1) identify the relative costs and benefits of Self-Governance;

“(2) identify, with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to Self-Governance tribes and their members;

“(3) identify the funds transferred to each Self-Governance tribe and the corresponding reduction in the Federal bureaucracy;

“(4) include the separate views of the tribes; and

“(5) include the funding formula for individual tribal shares of Central Office funds, together with the comments of affected Indian tribes, developed under subsection (d).

“(c) REPORT ON NON-BIA PROGRAMS.—(1) In order to optimize opportunities for including non-Bureau of Indian Affairs programs, services, functions, and activities, or portions thereof, in agreements with tribes participating in Self-Governance under this title, the Secretary shall—

“(A) review all programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior, other than through the Bureau of Indian Affairs, without regard to the agency or office concerned; and

“(B) not later than 90 days after the date of enactment of this title, provide to the appropriate committees of Congress a listing of all such programs, services, functions, and activities, or portions thereof, that the Secretary determines, with the concurrence of tribes participating in Self-Governance under this title, are eligible for inclusion in such agreements at the request of a participating Indian tribe.

“(2) The Secretary shall establish programmatic targets, after consultation with tribes participating in Self-Governance under this title, to encourage bureaus of the Department to assure that a significant portion of such programs, services, functions, and activities are actually included in the agreements negotiated under section 403.

“(3) The listing and targets under paragraphs (1) and (2) shall be published in the Federal Register and be made available to any Indian tribe participating in Self-Governance under this title. The list shall be published before January 1, 1995, and annually thereafter by January 1 preceding the fiscal year in which the targets are to be met.

“(4) Thereafter, the Secretary shall annually review and publish in the Federal Register, after consultation with tribes participating in Self-Governance under this title, a revised listing and programmatic targets.

“(d) REPORT ON CENTRAL OFFICE FUNDS.—Within 90 days after the date of the enactment of this title, the Secretary shall, in consultation with Indian tribes, develop a funding formula to determine the individual tribal share of funds controlled by the Central

Federal  
Register.  
publication.

Federal  
Register.  
publication.

PUBLIC LAW 103-413—OCT. 25, 1994

108 STAT. 4277

Office of the Bureau of Indian Affairs for inclusion in the Self-Governance compacts. The Secretary shall include such formula in the annual report submitted to the Congress under subsection (b), together with the views of the affected Indian tribes.

**"SEC. 406. DISCLAIMERS.**

25 USC 458ff.

"(a) OTHER SERVICES, CONTRACTS, AND FUNDS.—Nothing in this title shall be construed to limit or reduce in any way the services, contracts, or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 or any other applicable Federal law.

"(b) FEDERAL TRUST RESPONSIBILITIES.—Nothing in this Act shall be construed to diminish the Federal trust responsibility to Indian tribes, individual Indians, or Indians with trust allotments.

"(c) APPLICATION OF OTHER SECTIONS OF ACT.—All provisions of sections 6, 102(c), 104, 105(f), 110, and 111 of this Act shall apply to agreements provided under this title.

**"SEC. 407. REGULATIONS.**

25 USC 458gg.

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this title, at the request of a majority of the Indian tribes with agreements under this title, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations as are necessary to carry out this title.

"(b) COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out this section shall have as its members only Federal and tribal government representatives, a majority of whom shall be representatives of Indian tribes with agreements under this title.

"(c) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of Self-Governance and the government-to-government relationship between the United States and the Indian tribes.

"(d) EFFECT.—The lack of promulgated regulations shall not limit the effect of this title.

108 STAT. 4278

PUBLIC LAW 103-413—OCT. 25, 1994

25 USC 458hh. "SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this title."

Approved October 25, 1994.

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LEGISLATIVE HISTORY—H.R. 4842:

CONGRESSIONAL RECORD, Vol. 140 (1994):

Oct. 6, considered and passed House.

Oct. 7, considered and passed Senate.







ANNOTATED CODIFICATION OF THE

INDIAN HEALTH CARE IMPROVEMENT  
ACT,  
PUBLIC LAW 94-437

As Amended Through October 29, 1992

Division of Legislation and Regulations  
Office of Planning, Evaluations, and Legislation  
January 1993

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## TABLE OF CONTENTS

### Indian Health Care Improvement Act, P.L. 94-437, As Amended (annotated)

<u>SEC.</u>	<u>SUBJECT</u>	<u>PAGE</u>
1	Short Title .....	1
2	Findings .....	1
3	Declaration of Health Objectives .....	2
4	Definitions .....	7
TITLE I - INDIAN HEALTH MANPOWER .....		10
101	Purpose .....	10
102	Health Professions Recruitment Program for Indians .....	10
103	Health Professions Preparatory Scholarship Program for Indians .....	11
104	Indian Health Professions Scholarships .....	13
105	Indian Health Service Extern Programs .....	16
106	Continuing Education Allowances .....	17
107	Community Health Representative Program .....	18
108	Indian Health Service Loan Repayment Program .....	18
108A	Scholarship and Loan Repayment Recovery Fund .....	28
109	Recruitment Activities .....	29
110	Tribal Recruitment and Retention Program .....	29
111	Advanced Training and Research .....	30
112	Nursing Program .....	30
112A	Nursing School Clinics .....	32
113	Tribal Culture and History .....	33
114	INMED Program .....	33
115	Health Training Programs of Community Colleges .....	34
116	Additional Incentives for Health Professionals .....	36
117	Retention Bonus .....	37
118	Nursing Residency Program .....	38
119	Community Health Aide Program for Alaska .....	38
120	Matching Grants to Tribes for Scholarship Programs .....	39
121	Tribal Health Program Administration .....	42
122	University of South Dakota Pilot Program .....	42
123	Authorization of Appropriations .....	43
TITLE II - HEALTH SERVICES .....		44
201	Indian Health Care Improvement Fund .....	47
202	Catastrophic Health Emergency Fund .....	50
203	Health Promotion and Disease Prevention Services .....	52
204	Diabetes Prevention, Treatment, and Control .....	54
205	Hospice Care Feasibility Study .....	60

## TABLE OF CONTENTS Continued

### Indian Health Care Improvement Act, P.L. 94-437, As Amended (annotated)

<u>SEC.</u>	<u>SUBJECT</u>	<u>PAGE</u>
206	Reimbursement From Certain Third Parties of Costs of Health Services .....	62
207	Crediting of Reimbursements .....	63
208	Health Services Research .....	63
209	Mental Health Prevention and Treatment Services .....	64
210	Managed Care Feasibility Study .....	71
211	California Contract Health Services Demonstration Program .....	71
212	Coverage of Screening Mammography .....	73
213	Patient Travel Costs .....	73
214	Epidemiology Centers .....	75
215	Comprehensive School Health Education Programs .....	77
216	Indian Youth Grant Program .....	78
217	American Indians Into Psychology Program .....	78
218	Prevention, Control, and Elimination of Tuberculosis .....	79
219	Contract Health Services Payment Study .....	80
220	Prompt Action on Payment of Claims .....	81
221	Demonstration of Electronic Claims Processing .....	81
222	Liability for Payment .....	82
223	Office of Indian Women's Health Care .....	82
224	Authorization of Appropriations .....	82
	 TITLE III - HEALTH FACILITIES .....	 83
301	Consultation; Closure of Facilities; Reports .....	83
302	Safe Water and Sanitary Waste Disposal Facilities .....	86
303	Preference to Indians and Indian Firms .....	89
304	Soboba Sanitation Facilities .....	90
305	Expenditure of Non-Service Funds for Renovation .....	90
306	Grant Program for the Construction, Expansion, and Modernization of Small Ambulatory Care Facilities .....	92
307	Indian Health Care Delivery Demonstration Project .....	94
308	Land Transfer .....	96
309	Authorization of Appropriations .....	96
310	Applicability of Buy American Requirement .....	96
	 TITLE IV - ACCESS TO HEALTH SERVICES .....	 98
401	Treatment of Payments Under Medicare Program .....	98
402	Treatment of Payments Under Medicaid Program .....	99
403	Report .....	101
404	Grants to and Contracts with Tribal Organizations .....	101

# TABLE OF CONTENTS Continued

## Indian Health Care Improvement Act, P.L. 94-437, As Amended (annotated)

<u>SEC.</u>	<u>SUBJECT</u>	<u>PAGE</u>
405	Demonstration Program for Direct Billing of Medicare, Medicaid, and Other Third Party Payors	103
406	Authorization for Emergency Contract Health Services	105
407	Authorization of Appropriations	105
	TITLE V - HEALTH SERVICES FOR URBAN INDIANS	106
501	Purpose	112
502	Contracts With, and Grants to, Urban Indian Organizations	112
503	Contracts and Grants for the Provision of Health Care and Referral Services	112
504	Contracts and Grants for the Determination of Unmet Health Care Needs	116
505	Evaluations; Renewals	117
506	Other Contract and Grant Requirements	117
507	Reports and Records	118
508	Limitation on Contract Authority	119
509	Facilities Renovation	119
510	Urban Health Programs Branch	120
511	Grants for Alcohol and Substance Abuse Related Services	120
512	Treatment of Certain Demonstration Projects	121
513	Urban NIAAA Transferred Programs	121
514	Authorization of Appropriations	121A
	TITLE VI - ORGANIZATIONAL IMPROVEMENTS	122
601	Establishment of the Indian Health Service as an Agency of the Public Health Service	122
602	Automated Management Information System	124
603	Authorization of Appropriations	125
	TITLE VII - SUBSTANCE ABUSE PROGRAMS	126
701	Indian Health Service Responsibilities	126
702	Indian Health Service Program	126
703	Indian Women Treatment Programs	127
704	Indian Health Service Youth Program	128
705	Training and Community Education	130
706	Gallup Alcohol and Substance Abuse Treatment Center	130
707	Reports	132
708	Fetal Alcohol Syndrome and Fetal Alcohol Effect Grants	132

# TABLE OF CONTENTS Continued

Indian Health Care Improvement Act, P.L. 94-437, As Amended  
(annotated)

<u>SEC.</u>	<u>SUBJECT</u>	<u>PAGE</u>
709	Pueblo Substance Abuse Treatment Project for San Juan Pueblo, New Mexico .....	134
710	Thunder Child Treatment Center .....	135
711	Substance Abuse Counselor Education Demonstration Project .....	135
712	Gila River Alcohol and Substance Abuse Treatment Facility .....	136
713	Alaska Native Drug and Alcohol Abuse Demonstration Project .....	137
714	Authorization of Appropriations .....	137
	TITLE VIII - MISCELLANEOUS .....	140
801	Reports .....	140
802	Regulations .....	141
803	Plan of Implementation .....	142
804	Leases with Indian Tribes .....	142
805	Availability of Funds .....	142
806	Limitation of Use of Funds Appropriated to the Indian Health Service .....	142
807	Nuclear Resource Development Health Hazards .....	143
808	Arizona as a Contract Health Service Delivery Area .....	144
809	Eligibility of California Indians .....	145
810	California as a Contract Health Service Delivery Area .....	146
811	Contract Health Facilities .....	147
812	National Health Service Corps .....	147
813	Health Services for Ineligible Persons .....	147
814	Infant and Maternal Mortality, Fetal Alcohol Syndrome .....	150
815	Contract Health Services for the Trenton Service Area .....	150
816	Indian Health Service and Department of Veteran's Affairs Health Facilities and Services Sharing .....	150
817	Reallocation of Base Resources .....	151
818	Demonstration Projects for Tribal Management of Health Care Services .....	152
819	Child Sexual Abuse Treatment Programs .....	153
820	Tribal Leasing .....	154
821	Home- and Community-Based Care Demonstration Project .....	154
822	Shared Services Demonstration Project .....	156
823	Results of Demonstration Projects .....	157



TABLE OF CONTENTS Continued

Indian Health Care Improvement Act, P.L. 94-437, As Amended  
(annotated)

<u>SEC.</u>	<u>SUBJECT</u>	<u>PAGE</u>
824	Priority for Indian Reservations .....	157
825	Authorization of Appropriations .....	157
	FREE-STANDING PROVISIONS .....	158
	P.L. 100-713 - Indian Health Care Amendments of 1988 .....	158
3	References .....	158
4	Appropriations; Availability .....	158
712	Provision of Services in Montana .....	158
719	[Eligibility Moratorium and Study] .....	158
801	Severability Provisions .....	159
	P.L. 102-573 - Indian Health Amendments of 1992 ....	160
2	Amendments to Indian Health Care Improvement Act ...	160
701	Redesignation of Existing Title VII .....	160
814	Indian Self-Determination and Education Assistance Act, P.L. 93-638, title III, Tribal Self Governance Demonstration Project .....	160

### EXPLANATION

his Codification of the Indian Health Care Improvement Act,  
P.L. 94-437 Follows the Following Scheme.

- o Repealed language is crossed out.
- o Language added by the Indian Health Amendments of 1992, P.L. 102-573, is in bold and underlined.
- o The source of changes to the original Act are identified in the margin.
- o Various explanatory notes are contained in the text or in the margin sometimes followed by explanatory freestanding provisions that may be relevant to nearby sections of P.L. 94-437.

*Public Law 94-437  
94th Congress, S. 522  
September 30, 1976*

As Amended by:

P.L. 96-537 - December 17, 1980  
P.L. 100-579 - October 31, 1988  
P.L. 100-690 - November 18, 1988  
P.L. 100-713 - November 23, 1988  
P.L. 101-630 - November 28, 1990  
P.L. 102-573 - October 29, 1992

*An Act*

To implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Health Care Improvement Act."*

FINDINGS

SEC. 2. The Congress finds that the following:

P.L. 102-573

(a) Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people.

(b) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.

(c) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of preventable illnesses among, and unnecessary and premature deaths of, Indians.

(d) Despite such services, the unmet health needs of the American Indian people are severe and the health status of Indians is far below that of the general population of the United States. ~~For example, for Indians compared to all Americans in 1971, the tuberculosis death rate was over four and one half times greater, the influenza and pneumonia death rate over one and one half times greater, and the infant death rate approximately 20 per centum greater.~~

P.L. 102-573

~~(c) All other Federal services and programs in fulfillment of Federal responsibility to Indians are jeopardized by the low health status of the American Indian people.~~

~~(f) Further improvement in Indian health is imperilled by~~

~~(1) inadequate, outdated, inefficient, and undermanned facilities. For example, only twenty four of fifty one Indian Health Service hospitals are accredited by the Joint Commission on Accreditation of Hospitals, and only one meets national fire and safety codes; and fifty two locations with Indian populations have been identified as requiring either new or replacement health centers and stations, or clinics remodeled for improved or additional services.~~

~~(2) shortage of personnel. For example, about one half of the Service hospitals, four fifths of the Service hospital outpatient clinics, and one half of the Service health clinics meet only 80 per centum of staffing standards for their respective services.~~

~~(3) insufficient services in such areas as laboratory, hospital inpatient and outpatient, eye care and mental health services, and services available through contracts with private physicians, clinics, and agencies. For example, about 90 per centum of the surgical operations needed for otitis media have not been performed, over 57 per centum of required dental services remain to be provided, and about 98 per centum of hearing aid requirements are unmet.~~

~~(4) related support factors. For example, over seven hundred housing units are needed for staff at remote Service facilities.~~

~~(5) lack of access of Indians to health services due to remote residences, undeveloped or underdeveloped communication and transportation systems, and difficult, sometimes severe, climate conditions; and~~

~~(6) lack of safe water and sanitary waste disposal services. For example, over thirty seven thousand four hundred existing and forty eight thousand nine hundred and sixty planned replacement and renovated Indian housing units need new or upgraded water and sanitation facilities.~~

~~(g) The Indian people's growth of confidence in Federal Indian health services is revealed by their increasingly heavy use of such services. Progress toward the goal of better Indian health dependent on this continued growth of confidence. Both such progress and such confidence are dependent on improved Federal Indian health services.~~

#### DECLARATION OF POLICY HEALTH OBJECTIVES

P.L. 102-573

SEC. 3 (a). The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligations to the American Indian people, ~~to meet the national goal of providing the highest possible health status to Indians and to provide existing Indian health services with all resources necessary to effect that policy, to~~ ensure the highest possible health status for Indians and urban

P.L. 102-573

Indians and to provide all resources necessary to affect that policy.

(b) It is the intent of the Congress that the Nation meet the following health status objectives with respect to Indians and urban Indians by the year 2000:

P.L. 102-57

- (1) Reduce coronary heart disease deaths to a level of no more than 100 per 100,000.
- (2) Reduce the prevalence of overweight individuals to no more than 30 percent.
- (3) Reduce the prevalence of anemia to less than 10 percent among children aged 1 through 5.
- (4) Reduce the level of cancer deaths to a rate of no more than 130 per 100,000.
- (5) Reduce the level of lung cancer deaths to a rate of no more than 42 per 100,000.
- (6) Reduce the level of chronic obstructive pulmonary disease related deaths to a rate of no more than 25 per 100,000.
- (7) Reduce deaths among men caused by alcohol-related motor vehicle crashes to no more than 44.8 per 100,000.
- (8) Reduce cirrhosis deaths to no more than 13 per 100,000.
- (9) Reduce drug-related deaths to no more than 3 per 100,000.
- (10) Reduce pregnancies among girls aged 17 and younger to no more than 50 per 1,000 adolescents.
- (11) Reduce suicide among men to no more than 12.8 per 100,000.
- (12) Reduce by 15 percent the incidence of injurious suicide attempts among adolescents aged 14 through 17.
- (13) Reduce to less than 10 percent the prevalence of mental disorders among children and adolescents.
- (14) Reduce the incidence of child abuse or neglect to less than 25.2 per 1,000 children under age 18.
- (15) Reduce physical abuse directed at women by male partners to no more than 27 per 1,000 couples.
- (16) Increase years of healthy life to at least 65 years.
- (17) Reduce deaths caused by unintentional injuries to no more than 66.1 per 100,000.
- (18) Reduce deaths caused by motor vehicle crashes to no more than 39.2 per 100,000.

(19) Among children aged 6 months through 5 years, reduce the prevalence of blood lead levels exceeding 15 ug/dl and reduce to zero the prevalence of blood lead levels exceeding 25 ug/dl.

(20) Reduce dental caries (cavities) so that the proportion of children with one or more caries (in permanent or primary teeth) is no more than 45 percent among children aged 6 through 8 and no more than 60 percent among adolescents aged 15.

(21) Reduce untreated dental caries so that the proportion of children with untreated caries (in permanent or primary teeth) is no more than 20 percent among children aged 6 through 8 and no more than 40 percent among adolescents aged 15.

(22) Reduce to no more than 20 percent the proportion of individuals aged 65 and older who have lost all of their natural teeth.

(23) Increase to at least 45 percent the proportion of individuals aged 35 to 44 who have never lost a permanent tooth due to dental caries or periodontal disease.

(24) Reduce destructive periodontal disease to a prevalence of no more than 15 percent among individuals aged 35 to 44.

(25) Increase to at least 50 percent the proportion of children who have received protective sealants on the occlusal (chewing) surfaces of permanent molar teeth.

(26) Reduce the prevalence of gingivitis among individuals aged 35 to 44 to no more than 50 percent.

(27) Reduce the infant mortality rate to no more than 8.5 per 1,000 live births.

(28) Reduce the fetal death rate (20 or more weeks of gestation) to no more than 4 per 1,000 live births plus fetal deaths.

(29) Reduce the maternal mortality rate to no more than 3.3 per 100,000 live births.

(30) Reduce the incidence of fetal alcohol syndrome to no more than 2 per 1,000 live births.

(31) Reduce stroke deaths to no more than 20 per 100,000.

(32) Reverse the increase in end-stage renal disease (requiring maintenance dialysis or transplantation) to attain an incidence of no more than 13 per 100,000.

(33) Reduce breast cancer deaths to no more than 20.6 per 100,000 women.

(34) Reduce deaths from cancer of the uterine cervix to no more than 1.3 per 100,000 women.

(35) Reduce colorectal cancer deaths to no more than 13.2 per 100,000.

(36) Reduce to no more than 11 percent the proportion of individuals who experience a limitation in major activity due to chronic conditions.

(37) Reduce significant hearing impairment to a prevalence of no more than 82 per 1,000.

(38) Reduce significant visual impairment to a prevalence of no more than 30 per 1,000.

(39) Reduce diabetes-related deaths to no more than 48 per 100,000.

(40) Reduce diabetes to an incidence of no more than 2.5 per 1,000 and a prevalence of no more than 62 per 1,000.

(41) Reduce the most severe complications of diabetes as follows:

(A) End-stage renal disease, 1.9 per 1,000.

(B) Blindness, 1.4 per 1,000.

(C) Lower extremity amputation, 4.9 per 1,000

(D) Perinatal mortality, 2 percent.

(E) Major congenital malformations, 4 percent.

(42) Confine annual incidence of diagnosed AIDS cases to no more than 1,000 cases.

(43) Confine the prevalence of HIV infection to no more than 100 per 100,000.

(44) Reduce gonorrhea to an incidence of no more than 225 cases per 100,000.

(45) Reduce chlamydia trachomatis infections, as measured by a decrease in the incidence of nongonococcal urethritis to no more than 170 cases per 100,000.

(46) Reduce primary and secondary syphilis to an incidence of no more than 10 cases per 100,000.

(47) Reduce the incidence of pelvic inflammatory disease, as measured by a reduction in hospitalization for pelvic inflammatory disease to no more than 250 per 100,000 women aged 15 through 44.

(48) Reduce viral hepatitis B infection to no more than 40 per 100,000 cases.

(49) Reduce indigenous cases of vaccine-preventable diseases as follows:

(A) Diphtheria among individuals aged 25 and younger, 0.

(B) Tetanus among individuals aged 25 and younger, 0.

(C) Polio (wild-type virus), 0.

(D) Measles, 0.

(E) Rubella, 0.

(F) Congenital Rubella Syndrome, 0.

(G) Mumps, 500.

(H) Pertussis, 1,000.

(50) Reduce epidemic-related pneumonia and influenza deaths among individuals aged 65 and older to no more than 7.3 per 100,000.

(51) Reduce the number of new carriers of viral hepatitis B among Alaska Natives to no more than 1 case.

(52) Reduce tuberculosis to an incidence of no more than 5 cases per 100,000.

(53) Reduce bacterial meningitis to no more than 8 cases per 100,000.

(54) Reduce infectious diarrhea by at least 25 percent among children.

(55) Reduce acute middle ear infections among children aged 4 and younger, as measured by days of restricted activity or school absenteeism, to no more than 105 days per 100 children.

(56) Reduce cigarette smoking to a prevalence of no more than 20 percent.

(57) Reduce smokeless tobacco use by youth to a prevalence of no more than 10 percent.

(58) Increase to at least 65 percent the proportion of parents and caregivers who use feeding practices that prevent baby bottle tooth decay.

(59) Increase to at least 75 percent the proportion of mothers who breast feed their babies in the early postpartum period, and to at least 50 percent the proportion who continue breast feeding until their babies are 5 to 6 months old.

(60) Increase to at least 90 percent the proportion of pregnant women who receive prenatal care in the first trimester of pregnancy.

(61) Increase to at least 70 percent the proportion of individuals who have received, as a minimum within the appropriate interval, all of the screening and immunization services and at least one of the counseling services appropriate for their age and gender as recommended by the United States Preventive Services Task Force.

(c) It is the intent of the Congress that the Nation increase the proportion of all degrees in the health professions and allied and associated health profession fields awarded to Indians to 0.6 percent.

P.L. 102-573

(d) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the progress made in each area of the service toward meeting each of the objectives described in subsection (b).

P.L. 102-573



## DEFINITIONS

### SEC. 4. For purposes of this Act--

(a) "Secretary", unless otherwise designated, means the ~~Secretary of Health, Education, and Welfare~~ Secretary of Health and Human Services.

P.L. 96-537

(b) "Service" means the Indian Health Service.

(c) "Indians" or "Indian", unless otherwise designated, means any person who is a member of an Indian tribe, as defined in subsection (d) hereof, except that, for the purpose of ~~sections 102, 103, and 201(c)(5)~~ section 102 and 103, such terms shall mean any individual who (1), irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is an Eskimo or Aleut or other Alaska Native, or (3) is considered by the Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary.

P.L. 102-573

(d) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(e) "Tribal organization" means the elected governing body of any Indian tribe or any legally established organization of Indians which is controlled by one or more such bodies or by a board of directors elected or selected by one or more such bodies (or elected by the Indian population to be served by such organization) and which includes the maximum participation of Indians in all phases of its activities.

(f) "Urban Indian" means any individual who resides in an urban center, as defined in subsection (g) hereof, and who meets one or more the four criteria in subsection (c) (1) through (4) of this section.

(g) "Urban center" means any community which has a sufficient urban Indian population with unmet health needs to warrant assistance under title V, as determined by the Secretary.

(h) "Urban Indian organization" means a nonprofit corporate body situated in an urban center, ~~composed of urban Indians~~ governed by an urban Indian controlled board of directors, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).

P.L. 96-537

P.L. 100-713

~~(i) "Rural Indian" means any individual who resides in a rural community as defined in subsection (j), who is an Indian~~

P.L. 96-537

P.L. 100-713

~~within the meaning of subsection (c), and who is not otherwise eligible to receive health services from the Service.~~

P.L. 96-537

~~(j) "Rural community" means any community that~~

P.L. 100-713

~~(1) is not located on a Federal Indian reservation or trust area;~~

~~(2) is not an Alaskan Native village;~~

~~(3) is not an urban center; and~~

~~(4) has a sufficient rural Indian population with unmet health needs, as determined by the Secretary, to warrant assistance under title V of this act.~~

P.L. 96-537

~~(k) "Rural Indian organization" means a nonprofit corporate body governed by a board of directors controlled by rural Indians and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).~~

P.L. 100-713

(i) "Area office" mean an administrative entity including a program office, within the Indian Health Service through which services and funds are provided to the service units within a defined geographic area.

P.L. 100-713

(j) "Service unit" means--

P.L. 100-

(1) an administrative entity within the Indian Health Service, or

(2) a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination Act,

through which services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.

(k) "Health promotion" includes--

P.L. 100-713

(1) cessation of tobacco smoking,

(2) reduction in the misuse of alcohol and drugs,

(3) improvement of nutrition,

(4) improvement in physical fitness,

(5) family planning,

(6) control of stress, and

(7) pregnancy and infant care (including prevention of fetal alcohol syndrome).

(l) "Disease prevention" includes--

P.L. 100-713

(1) immunizations,

- (2) control of high blood pressure,
- (3) control of sexually transmittable diseases,
- (4) prevention and control of diabetes,
- (5) control of toxic agents,
- (6) occupational safety and health,
- (7) accident prevention,
- (8) fluoridation of water, and
- (9) control of infectious agents.

(m) "Service area" means the geographical area served by each area office.

P.L. 102-573

(n) "Health profession" means family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, and allied health professions.

P.L. 102-573

(o) "Substance abuse" includes inhalant abuse.

P.L. 102-573

(p) "FAE" means fetal alcohol effect.

P.L. 102-573

(q) "FAS" means fetal alcohol syndrome.

P.L. 102-573

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# TITLE I - INDIAN HEALTH MANPOWER

## PURPOSE

~~SEC. 101. The purpose of this title is to augment the inadequate number of health professionals serving Indians and remove the multiple barriers to the entrance of health professionals into the Service and private practice among Indians.~~

P.L. 102-57

SEC 101. The purpose of this title is to increase the number of Indians entering the health professions and to assure an adequate supply of health professionals to the Service, Indian tribes, tribal organizations, and urban Indian organizations involved in the provision of health care to Indian people.

P.L. 102-573

## HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS

SEC. 102. (a) The Secretary, acting through the Service, shall make grants to public or nonprofit private health or educational entities or Indian tribes or tribal organizations to assist such entities in meeting the costs of--

(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them ~~(A) to enroll in schools of medicine, osteopathy, podiatry, pharmacy, public health, nursing, or allied health professions; or (B) if they are not qualified to enroll in any such school, to undertake such post-secondary education or training as may be required to qualify them for enrollment;--~~

P.L. 102-573

(A) to enroll in courses of study in such health professions; or

P.L. 102-573

(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

(2) publicizing existing sources of financial aid available to Indians enrolled in any ~~school~~ courses of study referred to in ~~clause (1) (A)~~ paragraph (1) of this subsection or who are undertaking training necessary to qualify them to enroll in any such school; or

P.L. 102-573

(3) establishing other programs which the Secretary determines will enhance and facilitate the enrollment of Indians in, and the subsequent pursuit and completion by them of courses of study, ~~in any school referred to in clause (1) (A)~~ paragraph (1) of this subsection.

P.L. 102-573

(b)(1) No grant may be made under this section unless an application therefore has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. ~~Provided, That the~~ The Secretary shall give

preference to applications submitted by Indian tribes or tribal organizations.

(2) The amount of any grant under this section shall be determined by the Secretary. Payments pursuant to grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary finds necessary.

~~(a) For the purpose of making payments pursuant to grants under this section, there are authorized to be appropriated \$500,000 for fiscal year 1978, \$1,500,000 for fiscal year 1979, and \$300,000 for fiscal year 1980. For fiscal year 1981, 1982, 1983, and 1984, there are authorized to be appropriated for such payments such sums as may be specifically authorized by an Act enacted after this Act.~~ P.L. 96-537

~~There are authorized to be appropriated to carry out this section \$300,000 for the fiscal year ending September 30, 1981, \$2,500,000 for the fiscal year ending September 30, 1982, \$3,000,000 for fiscal year ending September 30, 1983, and \$3,500,000 for the fiscal year ending September 30, 1984.~~ P.L. 96-537  
P.L. 100-713

~~(c) There are authorized to be appropriated for the purpose of carrying out the provisions of this section~~ P.L. 100-713  
P.L. 102-573

~~(1) \$500,000 for fiscal year 1989,~~

~~(2) \$650,000 for fiscal year 1990,~~

~~(3) \$700,000 for fiscal year 1991, and~~

~~(4) \$750,000 for fiscal year 1992.~~

#### HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS

SEC. 103. (a) The Secretary, acting through the Service, shall make scholarship grants to Indians who--

(1) have successfully completed their high school education or high school equivalency; and

(2) have demonstrated the capability to successfully complete courses of study in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions in the health professions. P.L. 102-573

~~(b) Each scholarship grant made under this section shall be for a period not to exceed two academic years, which years shall be compensatory, preprofessional education of any grantee.~~ P.L. 96-537

(b) Scholarship grants made pursuant to this section shall be for the following purposes:

(1) compensatory preprofessional education of any grantee, such scholarship not to exceed two years on a full-time basis (or the part-time equivalent thereof, as determined by the Secretary). P.L. 102-573

~~(2) Pregraduate education of any grantee leading to a baccalaureate degree in an approved premedicine, pre dentistry, preosteopathy, preventive medicine, preoptometry, or prepodiatry curriculum, such scholarship not to exceed four years.~~

P.L. 102-573

(2) Pregraduate education of any grantee leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years (or the part-time equivalent thereof, as determined by the Secretary).

P.L. 102-573

(c) Scholarship grants made under this section may cover costs of tuition, books, transportation, board, and other necessary related expenses. expenses of a grantee while attending school full time.

P.L. 100-713

~~(d) There are authorized to be appropriated for the purpose of this section \$800,000 for fiscal year 1978, \$1,000,000 for fiscal year 1979, and \$1,300,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act.~~

P.L. 96-537

~~(d) There are authorized to be appropriated to carry out this section \$3,510,000 for the fiscal year ending September 30, 1981, \$4,000,000 for fiscal year ending September 30, 1982, \$4,620,000 for the fiscal year ending September 30, 1983, and \$5,300,000 for the fiscal year ending September 30, 1984.~~

P.L. 100-713

(d) The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely on the basis of the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution.

P.L. 100-713

~~(e) There are authorized to be appropriated for the purpose of carrying out the provisions of this section~~

P.L. 102-573

~~(1) \$3,000,000 for fiscal year 1989,~~

~~(2) \$3,700,000 for fiscal year 1990,~~

~~(3) \$4,400,000 for fiscal year 1991, and~~

~~(4) \$5,100,000 for fiscal year 1992.~~

(e) The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely by reason of such applicant's eligibility for assistance or benefits under any other Federal program.

P.L. 102-573

#### ~~HEALTH PROFESSIONS SCHOLARSHIP PROGRAM~~

P.L. 100-713

~~SEC. 104. Section 225(j) of the Public Health Service Act (42 U.S.C. 234(i)) is amended (1) by inserting "(1) after "(i)", and (2) by adding at the end the following:~~

~~(2) (A) In addition to the sums authorized to be appropriated under paragraph (1) to carry out the Program, there are authorized to be appropriated for the fiscal year~~

~~ending September 30, 1978, \$5,450,000; for the fiscal year ending September 30, 1979, \$6,300,000; for the fiscal year ending September 30, 1980, \$7,200,000; and for fiscal years 1981, 1982, 1983, and 1984 such sums as may be specifically authorized by an act enacted after the Indian Health Care Improvement Act, to provide scholarships under the Program to provide physicians, osteopaths, dentists, veterinarians, nurses, optometrists, podiatrists, pharmacists, public health personnel, and allied health professionals to provide services to Indians. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with this section except as provided in subparagraph (B).~~

~~(B) (i) The Secretary, acting through the Indian Health Service, shall determine the individuals who receive the Indian Health Scholarships, shall accord priority to applicants who are Indians, and shall determine the distribution of the scholarships on the basis of the relative need of Indians for additional service in specific health professions.~~

~~(ii) The active duty service obligation prescribed by subsection (c) shall be met by the recipient of an Indian Health Scholarship by service in the Indian Health Service, in a program assisted under title V of the Indian Health Care Improvement Act, or in the private practice of his profession if, as determined by the Secretary in accordance with guidelines promulgated by him, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.~~

~~(C) For purposes of this paragraph, the term "Indians" has the same meaning that the term by subsection (c) of section 4 of the Indian Health Care Improvement Act and includes individuals described in clauses (1) through (4) of that subsection.~~

#### INDIAN HEALTH PROFESSIONS SCHOLARSHIP

P.L. 100-713

P.L. 102-573

SEC. 104: (a) In order to provide health professionals to Indian communities, Indians, Indian tribes, tribal organizations, and urban Indian organizations, the Secretary, acting through the Service and in accordance with this section, shall make scholarship grants to Indians who are enrolled full time full or part time in appropriately accredited schools of medicine, osteopathy, podiatry, psychology, dentistry, environmental health, and engineering, nursing, optometry, public health, allied health professions, and social work and pursuing courses of study in the health professions. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with section 338A of the Public Health Service Act (42 U.S.C. 2541), except as provided in subsection (b) of this section.

(b) (1) The Secretary, acting through the Service, shall determine who shall receive scholarships under subsection (a) and shall determine the distribution of such scholarships among such health professions on the basis of the relative needs of Indians for additional service in such health professions.



(2) An individual shall be eligible for a scholarship under P.L. 102-573 subsection (a) in any year in which such individual is enrolled ~~full time full or part time~~ in a ~~health profession school~~ course of study referred to in subsection (a).

(3) (A) The active duty service obligation prescribed under P.L. 102-573 section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by a recipient of an Indian Health Scholarship by service--

~~(A)~~ (i) in the Indian Health Service; P.L. 102-573

~~(B)~~ (ii) in a program conducted under a contract entered into under the Indian Self-Determination Act.; P.L. 102-573

~~(C)~~ (iii) in a program assisted under title V of this Act; or P.L. 102-573

~~(D)~~ (iv) in the private practice of the applicable profession if, as determined by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians. P.L. 102-573

(B) A recipient of an Indian Health Scholarship may, at the election of the recipient, meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) by service in a program specified in subparagraph (A) that-- P.L. 102-573

(i) is located on the reservation of the tribe in which the recipient is enrolled; or

(ii) serves the tribe in which the recipient is enrolled.

(C) Subject to subparagraph (B), the Secretary, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m), shall give priority to assigning individuals to service in those programs specified in subparagraph (A) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

(4) In the case of an individual receiving a scholarship under this section who is enrolled part time in an approved course of study-- P.L. 102-573

(A) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the Secretary;

(B) the period of obligated service specified in section 338A(f)(1)(B)(iv) of the Public Health Service Act (42 U.S.C. 254m(f)(1)(B)(iv)) shall be equal to the greater of--

(i) the part-time equivalent of one year for each year for which the individual was provided a scholarship (as determined by the Secretary); or

(ii) two years; and

(C) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.

(5)(A) An individual who has, on or after the date of the enactment of this paragraph, entered into a written contract with a Secretary under this section and who--

P.L. 102-573

(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

(ii) is dismissed from such educational institution for disciplinary reasons,

(iii) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

(iv) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

(B) If for any reason not specified in subparagraph (A) an individual breaches his written contract by failing either to begin such individual's service obligation under this section or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (1) of section 108 in the manner provided for in such subsection.

(C) For purposes of this section, the term "Indian" has the same meaning given that term by subsection (c) of section 4 of this act, including all individuals described in clauses (a) through (4) of that subsection.

P.L. 102-573

(c) The Secretary shall, acting through the Service, establish a Placement Office to develop and implement a national policy for the placement, to available vacancies within the Service, of Indian health Scholarship recipients required to meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) without regard to any competitive personnel system, agency personnel limitation, or Indian reference policy.

P.L. 102-573

(2) There are authorized to be appropriated for the purpose of carrying out the provisions of this section

P.L. 102-573

(1) \$5,100,000 for fiscal year 1989,

~~(2) \$6,000,000 for fiscal year 1990,~~

~~(3) \$7,100,000 for fiscal year 1991, and~~

~~(4) \$8,234,000 for fiscal year 1992.~~

[Note: Sec. 102(d) of P.L. 102-573 reads: "EFFECTIVE P.L. 102-573 DATE.--The amendments made by subsection (c) (1) (C) [Sec 104(a) of P.L. 94-437 above] and subsection (c) (2) (B) [Sec 104(b) (3) of P.L. 94-437 above] shall apply with respect to scholarships granted under section 104 of the Indian Health Care Improvement Act after the date of the enactment of this Act [October 29, 1992]".]

[NOTE: Section 104 of P.L. 100-713 contained a free-standing provision relevant to section 104 of the Indian Health Care Improvement Act. For easy reference, this language has been provided below.]

(1) Section 338I of the Public Health Service Act (42 U.S.C. 254r) is repealed.

(2) Scholarships that have been provided under section 338I of the Public Health Service Act (42 U.S.C. 254r) on or before the date of enactment of this Act--[November 23, 1988]

(A) shall continue to be provided under the provisions of such section that were in effect on the day before the date of enactment of this Act,

(B) shall be subject to the same terms and conditions to which such scholarships were subject on the day before the date of enactment of this Act, and

(C) shall be funded from funds appropriated to carry out section 104 of the Indian Health Care Improvement Act, as amended by this Act.]

#### INDIAN HEALTH SERVICE EXTERN PROGRAMS

SEC. 105. (a) Any individual who receives a scholarship grant pursuant to section 104 shall be entitled to employment in the Service during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining fulfillment of the service obligation incurred as a condition of the scholarship grant.

(b) Any individual enrolled in a ~~school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions~~ course of study may be employed by the Service during any nonacademic period of the year. Any such employment shall not exceed one hundred and twenty days during any calendar year. P.L. 102-573

(c) Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be countered against any employment ceiling affecting the Service or the ~~Department of Health, Education, and Welfare~~ Department of Health and Human Services. P.L. 102-573

~~(d) There are authorized to be appropriated for the purpose of this section, \$500,000 for fiscal year 1978, \$800,000 for fiscal year 1979, and \$1,000,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983 and 1984, there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this section.~~

P.L. 96-537

~~(d) there are authorized to be appropriated to carry out this section \$990,000 for the fiscal year ending September 30, 1981, \$1,140,000 for the fiscal year ending September 30, 1982, \$1,310,000 for the fiscal year ending September 30, 1983, and \$1,510,000 for the fiscal year ending September 30, 1984.~~

P.L. 100-713

~~(d) There are authorized to be appropriated for the purpose of carrying out the provisions of this section~~

P.L. 100-713

P.L. 102-573

~~(1) \$300,000 for fiscal year 1989,~~

~~(2) \$350,000 for fiscal year 1990,~~

~~(3) \$400,000 for fiscal year 1991, and~~

~~(4) \$450,000 for fiscal year 1992.~~

#### CONTINUING EDUCATION ALLOWANCES

SEC. 106. (a) In order to encourage physicians, dentists, nurses, and other health professionals to join or continue in the Service and to provide their services in the rural and remote areas where a significant portion of the Indian people reside, the Secretary, acting through the Service, may provide allowances to health professionals employed in the Service to enable them for a period of time each year prescribed by regulation of the Secretary to take leave of their duty stations for professional consultation and refresher training courses.

P.L. 102-573

~~(b) There are authorized to be appropriated for the purpose of this section, \$100,000 for fiscal year 1978, \$200,000 for fiscal year 1979, and \$250,000 for fiscal year 1980. For fiscal years 1981, 1982, and 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act.~~

P.L. 100-713

~~(b) There are authorized to be appropriated for the purpose of carrying out the provisions of this section~~

P.L. 100-713

P.L. 102-573

~~(1) \$500,000 for fiscal year 1989,~~

~~(2) \$526,300 for fiscal year 1990,~~

~~(3) \$553,000 for fiscal years 1991, and~~

~~(4) \$582,500 for fiscal year 1992.~~

(b) Of amounts appropriated under the authority of this title for each fiscal year to be used to carry out this section, not more than \$1,000,000 may be used to establish postdoctoral training programs for health professionals.

P.L. 102-573

COMMUNITY HEALTH REPRESENTATIVE PROGRAM

P.L. 100-713

SEC. 107. (a) Under the authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary shall maintain a Community Health Representative Program under which the Service--

(1) provides for the training of Indians as health paraprofessionals, and

(2) uses such paraprofessionals in the provision of health care, health promotion, and disease prevention services to Indian communities.

(b) The Secretary, acting through the Community Health Representative Program of the Service, shall--

(1) provide a high standard of training for paraprofessionals to Community Health Representatives to ensure that the Community Health Representatives provide quality health care, health promotion, and disease prevention services to the Indian communities, served by such Program.

(2) in order to provide such training, develop and maintain a curriculum that--

P.L. 102-573

(A) combines education in the theory of health care with supervised practical experience in the provision of health care, and

(B) provides instruction and practical experience in health promotion and disease prevention activities with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty.

P.L. 102-573

(3) ~~develop~~ maintain a system which identifies the needs of Community Health Representatives for continuing education in health care, health promotion, and disease prevention and develop programs that meet the needs for continuing education,

P.L. 102-573

(4) ~~develop and~~ maintain a system that provides close supervision of Community Health Representatives,

P.L. 102-573

(5) ~~develop~~ maintain a system under which the work of the Community Health Representatives is reviewed and evaluated, and

P.L. 102-573

(6) promote traditional health care practices of the Indian tribes served consistent with the Service standards for the provision of health care, health promotion, and disease prevention.

INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM

P.L. 100-713

SEC. 108. (a) (1) the Secretary, acting through the service, shall establish a program to be known as the Indian Health service Loan Repayment Program (hereinafter referred to as the "Loan repayment Program") in order to assure an adequate supply of trained

~~physicians, dentists, nurses, nurse practitioners, physician assistants, clinical and counseling psychologists, graduates of schools of public health, graduates of schools of social work, and other health professionals~~ health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs.

P.L. 102-573

(2) For the purposes of this section--

~~(A) the term "Indian health program" means any health program or facility funded, in whole or part, by the Service for the benefit of Indians and administered--~~

(i) directly by the Service;

(ii) by any Indian tribe or tribal or Indian organization pursuant to a contract under--

(I) The Indian Self-Determination Act, or

(II) section 23 of the Act of April 30, 1908 (25 U.S.C. 47), popularly known as the "Buy Indian" Act; or

(iii) by an urban Indian organization pursuant to title V of this Act; and

(B) the term "State" has the same meaning given such term in section 331(i)(4) of the Public Health Service Act.

(b) To be eligible to participate in the Loan Repayment program, an individual must--

~~(1) (A) be enrolled--~~

~~(i) as a full-time student in the final year of a course of study or program in an accredited institution, as determined by the Secretary, within any State; or~~

P.L. 102-573

(i) in a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or

P.L. 102-573

~~(ii) in an approved graduate training program in medicine, osteopathy, dentistry, or other health profession; a health profession or~~

P.L. 102-573

(B) have--

~~(i) a degree in medicine, osteopathy, dentistry, or other health profession a health profession;~~  
and

P.L. 102-573

~~(ii) completed an approved graduate training program in medicine, osteopathy, dentistry, or other health profession in a State, except that~~

P.L. 102-573

~~the Secretary may waive the completion requirement of this clause for good cause; and~~

~~(iii) (ii) a license to practice medicine, osteopathy, dentistry, or other health profession in a State a health profession;~~

P.L. 102-573

(2) (A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

(B) be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service;

(C) meet the professional standards for civil service employment in the Indian Health Service; or

(D) be employed in an Indian Health program without service obligation and;

P.L. 102-573

~~(3) submit an application to participate in the Loan Repayment Program; and~~

P.L. 102-573

(3) submit to the Secretary an application for a contract described in subsection (f).

P.L. 102-573

~~(4) sign and submit to the Secretary, at the time of submission of such application, a written contract (described in subsection (f) to accept repayment of education loans and to serve (in accordance with this section) for the applicable period of obligated service in an Indian health program.~~

P.L. 102-573

(c) (1) In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (1) in the case of the individual's breach of contract. The Secretary shall provide such individuals with sufficient information regarding the advantages and disadvantages of service as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or a civilian employee of the Indian Health Service to enable the individual to make a decision on an informed basis.

(2) The application form, contract form, and all other information furnished by the Secretary under this section shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

(3) The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

(d) (1) The Consistent with paragraph (3), the Secretary, acting through the Service and in accordance with subsection (k), shall annually--

P.L. 102-573

(A) identify the positions in each ~~Indian Health~~ program Indian health and program for which there is a need or a vacancy, and

(B) rank those positions in order of priority.

(2) Consistent with the priority determined under paragraph 1), the Secretary, in determining which applications under the Loan Repayment Program to approve (and which contracts to accept), shall give priority to applications made by—

(A) Indians; and

(B) individuals recruited through the efforts of Indian tribes or tribal or Indian organizations.

(3) (A) Subject to subparagraph (B), of the total amounts appropriated for each of the fiscal years 1993, 1994, and 1995 for loan repayment contracts under this section, the Secretary shall provide that—

P.L. 102-573

(i) not less than 25 percent be provided to applicants who are nurses, nurse practitioners, or nurse midwives; and

(ii) not less than 10 percent be provided to applicants who are mental health professionals (other than applicants described in clause (i)).

(B) The requirements specified in clause (i) or clause (ii) of subparagraph (A) shall not apply if the Secretary does not receive the number of applications from the individuals described in clause (i) or clause (ii), respectively, necessary to meet such requirements.

~~(c) (1) An individual becomes a participant in the Loan Repayment Program only upon the Secretary's approval of the individual's application submitted under subsection (b) (3) and the Secretary's acceptance of the contract submitted by the individual under subsection (b) (4).~~

P.L. 102-573

(e) (1) An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in subsection (f).

P.L. 102-573

(2) The Secretary shall provide written notice to an individual promptly on—

(A) The Secretary's approving, under paragraph (1), of the individual's participation in the Loan Repayment Program including extensions resulting in an aggregate period of obligated service in excess of 4 years; or

P.L. 102-573

(B) The Secretary's disapproving an individual's participation in such program.

(f) The written contract referred to in this section between the Secretary and an individual shall contain—

(1) an agreement under which—

(A) subject to paragraph (3), the Secretary agrees—



(i) to pay loans on behalf of the individual in accordance with the provisions of this section, and

(ii) to accept (subject to the availability of appropriated funds for carrying out this section) the individual into the Service or place the individual with a tribe or Indian organization as provided in subparagraph (B) (iii), and

(B) subject to paragraph (3), the individual agrees—

(i) to accept loan payments on behalf of the individual;

(ii) in the case of an individual described in subsection (b) (1)—

(I) to maintain enrollment in a course of study or training described in subsection (b) (1) A) until the individual completes the course of study or training, and

(II) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the education institution offering such course of study or training);

(iii) to serve for a time period (hereinafter in this section referred to as the "period of obligated service") equal to 2 years or such longer period as the individual may agree to serve in the full-time clinical practice of such individual's profession in an Indian health program to which the individual may be assigned by the Secretary.

(2) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under paragraph (1) (B) (iii);

(3) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments under this section;

(4) a statement of the damages to which the United States is entitled under subsection (1) for the individual's breach of the contract; and

(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

(g) (1) A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of a payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest and related expenses on

government and commercial loans received by the individual for loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for-- P.L. 102-57

(A) tuition expenses;

(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

(C) reasonable living expenses as determined by the Secretary.

~~(2) (A) Except as provided in subparagraph (B) and paragraph (3) for each year of obligated service for which an individual contracts to serve under subsection (f), the Secretary may pay up to \$25,000 on behalf of the individual for loans described in paragraph (1).~~ P.L. 102-573

(2) (A) For each year of obligated service that an individual contracts to serve under subsection (f) the Secretary may pay up to \$35,000 (or an amount equal to the amount specified in section 338B(g)(2)(A) of the Public Health Service Act) on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination-- P.L. 102-573

(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

(ii) provides an incentive to serve in Indian health programs with the greatest shortages of health professionals; and

(iii) provides an incentive with respect to the health professional involved remaining in an Indian health program with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.

(B) Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

~~(3) In addition to payments made under paragraph (2), in any case in which payments on behalf of an individual under the Loan Repayment Program result in an increase in Federal, State, or local income tax liability for such individual, the Secretary may, on the request of such individual, make payments to such individual in a reasonable amount, as determined by the Secretary, to reimburse such individual for all or part of the increased tax liability of the individual.~~ P.L. 102-573

(3) For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual, the Secretary—

P.L. 102-573

(A) in addition to such payments, may make payments to the individual in an amount not less than 20 percent and not more than 39 percent of the total amount of loan repayments made for the taxable year involved; and

(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.

[Note: Sec. 106(g) (2) of P.L. 102-573 states: "The amendment made by paragraph (1) [Sec. 108 g (3) of P.L. 94-437, above] shall apply only with respect to contracts under section 108 of the Indian Health Care Improvement Act entered into on or after the date of enactment of the Act [October 29, 1992]."]

(4) The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

(h) Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department of Health and Human Services.

(i) The Secretary shall conduct recruiting programs for the Loan Repayment Program and other Service manpower programs at educational institutions training health professionals or specialists identified in subsection (a).

(j) Section 214 of the Public Health Service Act (42 U.S.C. 15) shall not apply to individuals during their period of obligated service under the Loan Repayment Program.

~~(k) The Secretary shall ensure that the staffing needs of Indian health programs administered by any Indian tribe or tribal or Indian organizations receive consideration on an equal basis with programs that are administered directly by the Service.~~

P.L. 102-573

(k) The Secretary, in assigning individuals to serve in Indian health programs pursuant to contracts entered into under this section, shall—

P.L. 102-573

(1) ensure that the staffing needs of Indian health programs administered by an Indian tribe or tribal or health organization receive consideration on an equal basis with programs that are administered directly by the Service; and

(2) give priority to assigning individuals to Indian health programs that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

(1) (1) An individual who has entered into a written contract with the Secretary under this section and who--

(A) is enrolled in the final year of a course of study and who--

(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary);

(ii) voluntarily terminates such enrollment; or

(iii) is dismissed from such educational institution before completion of such course of study; or

(B) is enrolled in a graduate training program, fails to complete such training program, and does not receive a waiver from the Secretary under subsection

(b) (1) (B) (ii),

shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount which has been paid on such individual's behalf under the contract.

(2) If, for any reason not specified in paragraph (1), an individual breaches his written contract under this section by failing either to begin, or complete, such individual's period of obligated service in accordance with subsection (f), the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula:

$$A = 3Z(t-s/t)$$

in which--

(A) "A" is the amount the United States is entitled to recover,

(B) "Z" is the sum of the amounts paid under this section 50, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States;

(C) "t" is the total number of months in the individual's period of obligated service in accordance with subsection (f); and

(D) "s" is the number of months of such period served by such individual in accordance with this section.

Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1892 of the Social Security Act.

(3) (A) Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the

United States within the 1-year period beginning on the date of the breach or such longer period beginning on such date as shall be specified by the Secretary.

(B) If damages described in subparagraph (A) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages--

(i) utilize collection agencies contracted with by the Administrator of the General Services Administration; or

(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

(C) Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent not inconsistent with this subsection.

(m) (1) Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

(2) The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Loan Repayment Program whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

(3) The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

(4) Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

~~(n) (i) By not later than the first of March of each year, the Secretary shall, beginning with the fiscal year 1990, submit to the Congress an annual report for the preceding fiscal year setting out~~

P.L. 102-573

~~(A) the number of such applications filed with respect to each type of health profession;~~

~~(B) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;~~

~~(C) the number of contracts described in subsection (f) that are entered into with respect to each health profession; and~~

~~(B) the amount of loan payments made in total and by health professions.~~

~~(2) Not later than the first of July of each year, beginning 1989, the Secretary shall submit to Congress a report on~~

~~(A) the number of providers of health care that will be needed by Indian health programs by location and profession during the three fiscal years beginning after the date the report is filed, and~~

~~(B) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes or tribal or Indian organizations for which recruitment or retention is difficult.~~

(n) The Secretary shall submit to the President, for inclusion in each report required to be submitted to the Congress under section 801, a report concerning the previous fiscal year which sets forth—

P.L. 102-573

(1) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

(2) the number of Loan Repayment Program applications filed with respect to each type of health profession;

(3) the number of contracts described in subsection (f) that are entered into with respect to each health profession;

(4) the amount of loan payments made under this section, in total and by health profession;

(5) the number of scholarship grants that are provided under section 104 with respect to each health profession;

(6) the amount of scholarship grants provided under section 104, in total and by health profession;

(7) the number of providers of health care that will be needed by Indian health programs, by location and profession, during the three fiscal years beginning after the date the report is filed; and

(8) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes or tribal or Indian organizations for which recruitment or retention is difficult.

~~(c) There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out the provisions of this section.~~

P.L. 102-573

SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND

P.L. 102-573

SEC. 108A. (a) There is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (hereafter in this section referred to as the 'Fund'). The Fund shall consist of such amounts as may be appropriated to the Fund under subsection (b). Amounts appropriated for the Fund shall remain available until expended.

(b) For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of--

(1) the amount collected during the preceding fiscal year by the Federal Government pursuant to--

(A) the liability of individuals under subparagraph (A) or (B) of section 104(b)(5) for the breach of contracts entered into under section 104; and

(B) the liability of individuals under section 108(1) for the breach of contracts entered into under section 108; and

(2) the aggregate amount of interest accruing during the preceding fiscal year on obligations held in the Fund pursuant to subsection (d) and the amount of proceeds from the sale or redemption of such obligations during such fiscal year.

(c) (1) Amounts in the Fund and available pursuant to appropriation Acts may be expended by the Secretary, acting through the Service, to make payments to an Indian tribe or tribal organization administering a health care program pursuant to a contract entered into under the Indian Self-Determination Act--

(A) to which a scholarship recipient under section 104 or a loan repayment program participant under section 108 has been assigned to meet the obligated service requirements pursuant to sections; and

(B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 104 or section 108.

(2) An Indian tribe or tribal organization receiving payments pursuant to paragraph (1) may expend the payments to recruit and employ, directly or by contract, health professionals to provide health care services.

(d) (1) The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may

be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(2) Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

TRAVEL EXPENSES FOR RECRUITMENT

P.L. 100-713

P.L. 102-573

RECRUITMENT ACTIVITIES

SEC. 109. (a) The Secretary may reimburse health professionals seeking positions with the Service, including individuals considering entering into a contract under section 108, and their spouses, for actual and reasonable expenses incurred in traveling to and from their places of residence to an area in which they may be assigned for the purpose of evaluating such area with respect to such assignment.

~~(b) There are authorized to be appropriated \$100,000 for each of the fiscal years 1990, 1991, and 1992, for the purpose of carrying out the provisions of this section.~~

P.L. 102-573

~~(b) The Secretary, acting through the Service, shall assign one individual in each area office to be responsible on a full-time basis for recruitment activities.~~

P.L. 102-573

TRIBAL RECRUITMENT AND RETENTION PROGRAM

P.L. 100-713

SEC. 110. (a) The Secretary, acting through the Service, shall fund, on a competitive basis, projects to enable Indian tribes and tribal and Indian organizations to recruit, place, and retain health professionals to meet the staffing needs of Indian health programs (as defined in section 108(a)(2)).

(b)(1) Any Indian tribe or tribal or Indian organization may submit an application for funding of a project pursuant to this section.

(2) Indian tribes and tribal and Indian organizations under the authority of the Indian Self-Determination Act shall be given an equal opportunity with programs that are administered directly by the Service to compete for, and receive, grants under subsection (a) for such projects.

~~(c) There are authorized to be appropriated \$1,000,000 for each of the fiscal years 1990, 1991, and 1992, for the purpose of carrying out the provisions of this section.~~

P.L. 102-573

(NOTE: P.L. 100-713 established a free-standing provision affecting sections 109 and 110 of the Indian Health Care Improvement Act. For easy reference, this language has been provided below.)

(REPORT ON RECRUITMENT AND RETENTION

(SEC. 110. (a) The Secretary of Health and Human Services shall establish an advisory panel composed of--

- (1) 10 physicians or other health professionals who are employees of, or assigned to, the Indian Health Service;
- (2) 3 representatives of tribal health boards, and



(3) 1 representative of an urban health care organization.

(b) The advisory panel established under subsection (a) shall conduct an investigation of--

(1) the administrative policies and regulatory procedures which impede the recruitment or retention of physicians and other health professionals by the Indian Health Service, and

(2) the regulatory changes necessary to establish pay grades for health professionals employed by, or assigned to, the Service that correspond to the pay grades established for positions provided under sections 4103 and 4104 of title 38, United States Code, and the costs associated with establishing such pay grades.

(c) By no later than the date that is 18 months after the date of enactment of this Act, the advisory panel established under subsection (a) shall submit to the Congress a report on the investigation conducted under subsection (b), together with any recommendations for administrative or legislative changes in existing law, practices or procedures.)

#### ADVANCED TRAINING AND RESEARCH

P.L. 100-713

SEC. 111. (a) The Secretary, acting through the Service, shall establish a program to enable health professionals who have worked in an Indian health program (as defined in section 108 (a) (2)) for a substantial period of time to pursue advanced training or research areas of study for which the Secretary determines a need exists.

(b) An individual who participates in a program under subsection (a) where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the individual shall be liable to the United States for the period of service remaining. The Secretary shall develop standards for appropriate recoupment for such remaining service. In such event, with respect to individuals entering the program after the date of enactment of the Indian Health Amendments of 1992, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (1) of section 108 in the manner provided for in such subsection.

P.L. 102-573

(c) Health professionals from Indian tribes and tribal and Indian organizations under the authority of the Indian Self-Determination Act shall be given an equal opportunity to participate in the program under subsection (a).

~~(d) REGULATIONS. The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.~~

P.L. 102-573

#### NURSING PROGRAM

P.L. 100-713

#### QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM"

P.L. 102-573

SEC. 112. (a) The Secretary, acting through the Service, shall provide grants to--

(1) public or private schools of nursing,

(2) tribally-controlled community colleges and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2))), and

(3) nurse midwife programs, and nurse practitioner programs, that are provided by any public or private institutions,

or the purpose of increasing the number of nurses, nurse midwives, and nurse practitioners who deliver health care services to Indians.

(b) Grants provided under subsection (a) may be used to--

(1) recruit individuals for programs which train individuals to be nurses, nurse midwives, or nurse practitioners,

(2) provide scholarships to individuals enrolled in such programs that may pay the tuition charged for such program and other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses,

(3) provide a program that encourages nurses, nurse midwives, and nurse practitioners to provide, or continue to provide, health care services to Indians,

(4) provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and nurse practitioners, or

(5) provide any program that is designed to achieve the purpose described in subsection (a).

(c) Each applicant for a grant under subsection (a) shall include such information as the Secretary may require to establish the connection between the program of the applicant and a health care facility that primarily serves Indians.

(d) In providing grants under subsection (a), the Secretary shall extend a preference to--

(1) programs that provide a preference to Indians,

(2) programs that train nurse midwives or nurse practitioners,

(3) programs that are interdisciplinary, and

(4) programs that are conducted in cooperation with a center for gifted and talented Indian students established under section 5324(a) of the Indian Education Act of 1988.

(e) The Secretary shall provide one of the grants authorized under subsection (a) to establish and maintain a program at the University of North Dakota to be known as the "Quentin N. Burdick American Indians Into Nursing Program". Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs established under section 114(b) and the Quentin N. Burdick American Indians Into Psychology Program established under section 217(b).

~~(c)~~ (f) The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each individual who receives training or assistance described in paragraph (1) or (2) of subsection (b) that is funded by a grant provided under subsection (a). Such obligation shall be met by service-- P.L. 102-573

(A) in the Indian Health Service;

(B) in a program conducted under a contract entered into under the Indian Self-Determination Act;

(C) in a program assisted under title V of this Act; or

(D) in the private practice of nursing if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

~~(5) (1) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, \$5,000,000 for the purpose of carrying out the provisions of this section.~~ P.L. 102-573

~~(2) Of the amounts appropriated under the authority of paragraph (1) for each fiscal year, the Secretary shall use at least \$1,000,000 to provide grants under subsection (a) for the training of nurse midwives.~~ P.L. 102-573

(g) Beginning with fiscal year 1993, of the amounts appropriated under the authority of this title for each fiscal year to be used to carry out this section, not less than \$1,000,000 shall be used to provide grants under subsection (a) for the training of nurse midwives, nurse anesthetists, and nurse practitioners.

#### NURSING SCHOOL CLINICS

P.L. 102-573

SEC. 112A. (a) GRANTS.--In addition to the authority of the Secretary under section 112(a)(1), the Secretary, acting through the Service, is authorized to provide grants to public or private schools of nursing for the purpose of establishing, developing, operating, and administering clinics to address the health care needs of Indians, and to provide primary health care services to Indians who reside on or within 50 miles of Indian country, as defined in section 1151 of title 18, United States Code.

(b) PURPOSES.--Grants provided under subsection (a) may be used to--

(1) establish clinics, to be run and staffed by the faculty and students of a grantee school, to provide primary care services in areas in or within 50 miles of Indian country (as defined in section 1151 of title 18, United States Code)

(2) provide clinical training, program development, faculty enhancement, and student

scholarships in a manner that would benefit such clinics; and

(3) carry out any other activities determined appropriate by the Secretary.

(c) AMOUNT AND CONDITIONS.—The Secretary may award grants under this section in such amounts and subject to such conditions as the Secretary deems appropriate.

(d) DESIGN.—The clinics established under this section shall be designed to provide nursing students with a structured clinical experience that is similar in nature to that provided by residency training programs for physicians.

(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.

(f) AUTHORIZATION TO USE AMOUNTS.—Out of amounts appropriated to carry out this title for each of the fiscal years 1993 through 2000 not more than \$5,000,000 may be used to carry out this section.

P.L. 100-713

#### TRIBAL CULTURE AND HISTORY

SEC 113. (a) The Secretary, acting through the Service, shall establish a program under which appropriate employees of the Service who serve particular Indian tribes shall receive educational instruction in the history and culture of such tribes and in the history of the Service.

(b) To the extent feasible, the program established under subsection (a) shall—

(1) be carried out through tribally-controlled community colleges (within the meaning of section 2(4) of the Tribally Controlled Community College Assistance Act of 1978) and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397 h(2))), and

P.L. 102-573

(2) be developed in consultation with the affected tribal government; and

(3) include instruction in Native American studies.

~~(c) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, \$1,000,000 to carry out the provisions of this section.~~

P.L. 102-573

#### INMED PROGRAM

SEC. 114. (a) The Secretary is authorized to provide grants to at least 3 colleges and universities for the purpose of maintaining and expanding the Native American health careers recruitment program known as the "Indians into Medicine Program"

P.L. 100-713

(hereinafter in this section referred to as "INMED") as a means of encouraging Indians to enter the health professions.

(b) The Secretary shall provide one of the grants authorized under subsection (a) to maintain the INMED program at the University of North Dakota to be known as the Quentin N. Burdick Indian Health Programs, unless the Secretary makes a determination, based upon program reviews, that the program is not meeting the purposes of this section such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 217(b) and the Quentin N. Burdick American Indians Into Nursing Program established under section 112(e).

P.L. 102-573

(c)(1) The Secretary shall develop regulations for the competitive awarding of the grants provided under this section.

(2) Applicants for grants provided under this section shall agree to provide a program which--

(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations which will be served by the program,

(B) incorporates a program advisory board comprised of representatives from the tribes and communities which will be served by the program,

(C) provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions,

(D) provides tutoring, counseling and support to students who are enrolled in a health career program of study at the respective college or university, and

(E) to the maximum extent feasible, employs qualified Indians in the program.

(d) By no later than the date that is 3 years after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall submit a report to the Congress on the program established under this section including recommendations for expansion or changes to the program.

~~(e) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, \$1,000,000 to carry out the provisions of this section.~~

P.L. 102-573

#### HEALTH TRAINING PROGRAMS OF COMMUNITY COLLEGES

P.L. 100-713

SEC. 115. (a)(1) The Secretary, acting through the Service, shall award grants to community colleges for the purpose of assisting the community college in the establishment of programs which provide education in a health profession leading to a degree or diploma in a health profession for individuals who desire to practice such profession on an Indian reservation or in a tribal clinic.

(2) The amount of any grant awarded to a community college under paragraph (1) for the first year in which such a grant is provided to the community college shall not exceed \$100,000.

~~(b) (1) The Secretary, acting through the Service, shall award grants to community colleges that have established a program described in subsection (a) (1) for the purpose of maintaining the program and recruiting students for the program.~~

~~(2) Grants may only be made under this section to a community college which--~~

(A) is accredited,

(B) has access to a hospital facility, Service facility, or hospital that could provide training of nurses or health professionals.

(C) has entered into an agreement with an accredited college or university medical school, the terms of which--

(i) provide a program that enhances the transition and recruitment of students into advanced baccalaureate or graduate programs which train health professionals, and

(iii) stipulate certifications necessary to approve internship and field placement opportunities at service unit facilities of the Service or at tribal health facilities,

(D) has a qualified staff which has the appropriate certifications, and

(E) is capable of obtaining State or regional accreditation of the program described in subsection (a) (1).

(c) The Secretary shall encourage community colleges described in subsection (b) (2) to establish and maintain programs described in subsection (a) (1) by--

(1) entering into agreements with such colleges for the provision of qualified personnel of the service to teach courses of study in such programs, and

(2) providing technical assistance and support to such colleges.

(d) Any program receiving assistance under this section that is conducted with respect to a health profession shall also offer courses of study which provide advanced training for any health professional who--

(1) has already received a degree or diploma in such health profession, and

(2) provides clinical services on an Indian reservation, at a Service facility, or at a tribal clinic.

Such courses of study may be offered in conjunction with the college or university with which the community college has entered into the agreement required under subsection (b) (2) (C).

(e) For purposes of this section--

(1) The term "community college" means--

(A) a tribally controlled community college, or

(B) a junior or community college.

(2) the term "tribally controlled community college" has the meaning given to such term by section 2(4) of the Tribally Controlled Community College Assistance Act of 1978.

(3) The term "junior or community college" has the meaning given to such term by section 312(e) of the Higher Education Act of 1965 (20 U.S.C. 1058(e)).

~~(5) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, \$1,500,000 to carry out the provisions of this section.~~

P.L. 102-573

#### ADDITIONAL INCENTIVES FOR HEALTH PROFESSIONALS

P.L. 100-713

SEC. 116. (a) The Secretary may provide the incentive special pay authorized under section 302(b) of title 37, United States Code, to civilian medical officers of the Indian Health Service who are assigned to, and serving in, positions included in the list established under subsection (b) (1) for which recruitment or retention of personnel is difficult.

(b) (1) The Secretary shall establish and update on an annual basis a list of positions of health care professionals employed by, or assigned to, the Service for which recruitment or retention is difficult.

(2) (A) The Secretary may pay a bonus to any commissioned officer or civil service employee, other than a commissioned medical officer, dental officer, optometrist, and veterinarian, who is employed in or assigned to, and serving in, a position in the Service included in the list established by the Secretary under paragraph (1).

(B) The total amount of bonus payments made by the Secretary under this paragraph to any employee during any 1-year period shall not exceed \$2,000.

(c) The Secretary may establish programs to allow the use of flexible work schedules, and compressed work schedules, in accordance with the provisions of subchapter II of chapter 61, title 5, United States Code, for health professionals employed by, or assigned to, the Service.

~~(d) By no later than the date that is 6 months after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall submit a report to the Congress on the limitation imposed on amounts of premium pay for overtime to any individual employed by, or assigned to, the Service. The report shall include~~

P.L. 102-573

~~an explanation of existing overtime pay policy, an estimate of the budget impact of removing limitations on overtime pay, a summary of problems associated with overtime pay limitations, and recommendations for changes to the overtime pay policy.~~

~~(c) There are authorized to be appropriated \$500,000 for each of the fiscal years 1990, 1991, and 1992 to carry out the provisions of this section.~~

P.L. 102-573

#### RETENTION BONUS

P.L. 100-713

SEC. 117. (a) The Secretary may pay a retention bonus to any physician or nurse employed by, or assigned to, and serving in, the Service either as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service

no--

(1) is assigned to, and serving in, a position included in the list established under section 116(b)(1) for which recruitment or retention of personnel is difficult,

(2) the Secretary determines is needed by the Service,

(3) has--

(A) completed 3 years of employment with the Service, or

(B) completed any service obligations incurred as a requirement of--

(i) any Federal scholarship program, or

(ii) any Federal education loan repayment program, and

(4) enters into an agreement with the Service for continued employment for a period of not less than 1 year.

(b) Beginning with fiscal year 1993, not less than 25 percent of the retention bonuses awarded each year under subsection (a) shall be awarded to nurses.

P.L. 102-573

~~(b)~~ (c) The Secretary may establish rates for the retention bonus which shall provide for a higher annual rate for multiyear agreements than for single year agreements referred to in subsection (a)(4), but in no event shall the annual rate be more than \$25,000 per annum.

P.L. 102-573

~~(c)~~ (d) The retention bonus for the entire period covered by the agreement described in subsection (a)(4) shall be paid at the beginning of the agreed upon term of service.

P.L. 102-573

~~(d)~~ (e) Any physician or nurse failing to complete the agreed upon term of service, except where such failure is through no fault of the individual, shall be obligated to refund to the Government the full amount of the retention bonus for the period covered by the agreement, plus interest as determined by the Secretary in accordance with section 108(1)(2)(B).

P.L. 102-573



(f) The Secretary may pay a retention bonus to any physician or nurse employed by an organization providing health care services to Indians pursuant to a contract under the Indian Self-Determination Act if such physician or nurse is serving in a position which the Secretary determines is--

P.L. 102-573

(1) a position for which recruitment or retention is difficult; and

(2) necessary for providing health care services to Indians.

#### NURSING RESIDENCY PROGRAM

P.L. 102-573

SEC. 118. (a) The Secretary, acting through the Service, shall establish a program to enable licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian health program (as defined in section 108(a)(2)(A)), and have done so for a period of not less than one year, to pursue advanced training.

(b) Such program shall include a combination of education and work study in an Indian health program (as defined in section 108(a)(2)(A)) leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse) or a bachelor's degree (in the case of a registered nurse).

(c) An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least three times the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (1) of section 108 in the manner provided for in such subsection.

#### COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA

P.L. 102-573

SEC. 119. (a) Under the authority of the Act of November 2, 1921 (25 U.S.C. 13; popularly known as the Snyder Act), the Secretary shall maintain a Community Health Aide Program in Alaska under which the Service--

(1) provides for the training of Alaska Natives as health aides or community health practitioners;

(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

(b) The Secretary, acting through the Community Health Aide Program of the Service, shall--

(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

(2) in order to provide such training, develop a curriculum that:

(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

(C) promotes the achievement of the health status objectives specified in section 3(b);

(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or can demonstrate equivalent experience;

(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services.

#### MATCHING GRANTS TO TRIBES FOR SCHOLARSHIP PROGRAMS

P.L. 102-573

SEC. 120. (a) (1) The Secretary shall make grants to Indian tribes and tribal organizations for the purpose of assisting such tribes and tribal organizations in educating Indians to serve as health professionals in Indian communities.

(2) Amounts available for grants under paragraph (1) for any fiscal year shall not exceed 5 percent of amounts available for such fiscal year for Indian Health Scholarships under section 104.

(3) An application for a grant under paragraph (1) shall be in such form and contain such agreements, assurances, and information as the Secretary determines are necessary to carry out this section.

(b) (1) An Indian tribe or tribal organization receiving a grant under subsection (a) shall agree to provide scholarships to Indians pursuing education in the health professions in accordance with the requirements of this section.

(2) With respect to the costs of providing any scholarship pursuant to paragraph (1)—

(A) 80 percent of the costs of the scholarship shall be paid from the grant made under subsection (a) to the Indian tribe or tribal organization; and

(B) 20 percent of such costs shall be paid from non-Federal contributions by the Indian tribe or tribal organization through which the scholarship is provided.

(3) In determining the amount of non-Federal contributions that have been provided for purposes of subparagraph (B) of paragraph (2), any amounts provided by the Federal Government to the Indian tribe or tribal organization involved or to any other entity shall not be included.

(4) Non-Federal contributions required by subparagraph (B) of paragraph (2) may be provided directly by the Indian tribe or tribal organization involved or through donations from public and private entities.

(c) An Indian tribe or tribal organization shall provide scholarships under subsection (b) only to Indians enrolled or accepted for enrollment in a course of study (approved by the Secretary) in one of the health professions described in section 104 (a).

(d) In providing scholarships under subsection (b), the Secretary and the Indian tribe or tribal organization shall enter into a written contract with each recipient of such scholarship. Such contract shall—

(1) obligate such recipient to provide service in an Indian health program (as defined in section 108 (a) (2) (A)), in the same service area where the Indian tribe or tribal organization providing the scholarship is located, for—

(A) a number of years equal to the number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

(B) such greater period of time as the recipient and the Indian tribe or tribal organization may agree;

(2) provide that the amount of such scholarship—

(A) may be expended only for—

(i) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

(ii) payment to the recipient of a monthly stipend of not more than the amount authorized

by section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)), such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled; and

(B) may not exceed, for any year of attendance which the scholarship is provided, the total amount required for the year for the purposes authorized in subparagraph

(B).

(3) require the recipient of such scholarship to maintain an acceptable level of academic standing (as determined by the educational institution in accordance with regulations issued by the Secretary); and

(4) require the recipient of such scholarship to meet the educational and licensure requirements necessary to be a physician, certified nurse practitioner, certified nurse midwife, or physician assistant.

(e)(1) An individual who has entered into a written contract with the Secretary and an Indian tribe or tribal organization under subsection (d) and who

(A) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

(B) is dismissed from such educational institution for disciplinary reasons,

(C) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

(D) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract, shall be liable to the United States for the Federal share of the amount which has been paid to him, or on his behalf, under the contract.

(2) If for any reason not specified in paragraph (1), an individual breaches his written contract by failing either to begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (1) of section 108 in the manner provided for in such subsection.

(3) The Secretary may carry out this subsection on the basis of information submitted by the tribes or tribal organizations involved, or on the basis of information collected through such other means as the Secretary determines to be appropriate.

(f) The recipient of a scholarship under subsection (b) shall agree, in providing health care pursuant to the requirements of subsection (d) (1) --

(1) not to discriminate against an individual seeking such care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act or pursuant to the program established in title XIX of such Act; and

(2) to accept assignment under section 1842 (b) (3) (B) (ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

(g) The Secretary may not make any payments under subsection (a) to an Indian tribe or tribal organization for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the Indian tribe or tribal organization has complied with requirements of this section.

#### TRIBAL HEALTH PROGRAM ADMINISTRATION

P.L. 102-573

SEC. 121. The Secretary shall, by contract or otherwise, provide training for individuals in the administration and planning of tribal health programs.

#### UNIVERSITY OF SOUTH DAKOTA PILOT PROGRAM

P.L. 102-573

SEC. 122. (a) The Secretary may make a grant to the School of Medicine of the University of South Dakota (hereafter in this section referred to as "USDSM") to establish a pilot program on an Indian reservation at one or more service units in South Dakota to address the chronic manpower shortage in the Aberdeen Area of the Service.

(b) The purposes of the program established pursuant to a grant provided under subsection (a) are--

(1) to provide direct clinical and practical experience at a service unit to medical students and residents from USDSM and other medical schools;

(2) to improve the quality of health care for Indians by assuring access to qualified health care professionals; and

(3) to provide academic and scholarly opportunities for physicians, physician assistants, nurse practitioners, nurses, and other allied health professionals serving Indian people by identifying and utilizing all academic and scholarly resources of the region.

(c) The pilot program established pursuant to a grant provided under subsection (a) shall--

(1) incorporate a program advisory board composed of representatives from the tribes and communities in the area which will be served by the program; and

(2) shall be designated as an extension of the USDSM campus and program participants shall be under the direct supervision and instruction of qualified medical staff serving at the service unit who shall be members of the USDSM faculty.

(d) The USDSM shall coordinate the program established pursuant to a grant provided under subsection (a) with other medical schools in the region, nursing schools, tribal community colleges, and other health professional schools.

(e) The USDSM, in cooperation with the Service, shall develop additional professional opportunities for program participants on Indian reservations in order to improve the recruitment and retention of qualified health professionals in the Aberdeen Area of the Service.

AUTHORIZATION OF APPROPRIATIONS

SEC. 123. There are authorized to be appropriated, such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.

P.L. 102-573

1933

## TITLE II - HEALTH SERVICES

### HEALTH SERVICES

P.L. 100-71:

~~SEC. 201. (a) For the purpose of eliminating backlogs in Indian health care services and to supply known, urgent medical, surgical, dental, optometrical, and other Indian health needs, the Secretary is authorized to expend, through the Service, over the seven fiscal year period beginning after the date of the enactment of this Act the amounts authorized to be appropriated by subsection (c). Funds appropriated pursuant to this section for each fiscal year shall not be used to offset or limit the appropriations required by the Service under other Federal laws to continue to serve the health needs of Indians during and subsequent to such seven fiscal year period, but shall be in addition to the level of appropriations provided to the Service under this Act and such other Federal laws in the preceding fiscal year plus an amount equal to the amount required to cover pay increases and employee benefits for personnel employed under this Act and such laws and increases in the costs of serving the health needs of Indians under this Act and such laws, which increases are caused by inflation.~~

~~(b) The Secretary, acting through the Service, is authorized to employ persons to implement the provisions of this section during the seven fiscal year period in accordance with the schedule provided in subsection (c). Such positions authorized each fiscal year pursuant to this section shall not be considered as offsetting or limiting the personnel required by the Service to serve the health needs of Indians during and subsequent to such seven fiscal year period but shall be in addition to the positions authorized in the previous fiscal year.~~

~~(c) The following amounts and positions are authorized, in accordance with the provisions of subsections (a) and (b), for specific purposes noted:~~

~~(1) Patient care (direct and indirect): sums and positions as provided in subsection (c) for fiscal year 1978, \$8,500,000 and two hundred and twenty five positions for fiscal year 1979, and \$16,200,000 and three hundred positions for fiscal year 1980.~~

~~(1) There are authorized to be appropriated \$20,250,000 for fiscal year ending September 30, 1981, \$23,000,000 for the fiscal year ending September 30, 1982, \$26,500,000 for the fiscal year ending September 30, 1983, and \$30,500,000 for the fiscal year ending September 30, 1984, and such further additional positions are authorized as may be necessary for each such fiscal year.~~

~~(2) field health, excluding dental care (direct and indirect): sums and positions as provided in subsection (c) for fiscal year 1978, \$3,250,000 and eighty five positions for fiscal year 1979, and \$5,550,000 and one hundred and thirteen positions for fiscal year 1980.~~

~~(2) There are authorized to be appropriated \$5,400,000 for the fiscal year ending September 30, 1981, \$7,250,000 for the fiscal year ending September 30, 1982, \$8,450,000 for the~~

~~fiscal year ending September 30, 1983, and \$5,750,000 for the fiscal year ending September 30, 1984, and such further additional positions are authorized as may be necessary for each such fiscal year.~~

~~(2) Dental care (direct and indirect), sums and positions as provided in subsection (a) for fiscal year 1976, \$1,500,000 and eighty positions for fiscal year 1977, and \$1,500,000 and fifty positions for fiscal year 1980.~~

~~(3) There are authorized to be appropriated \$1,500,000 for the fiscal year ending September 30, 1981, \$2,500,000 for the fiscal year ending September 30, 1982, \$2,500,000 for the fiscal year ending September 30, 1983, and \$2,500,000 for the fiscal year ending September 30, 1984, and such further additional positions are authorized as may be necessary for each such fiscal year.~~

~~(4) Mental health. (a) Community mental health services, sums and positions as provided in subsection (c) for fiscal year 1976, \$1,300,000 and thirty positions for fiscal year 1977, and \$1,000,000 and thirty positions for fiscal year 1980.~~

~~(b) There are authorized to be appropriated \$2,500,000 for the fiscal year ending September 30, 1981, \$2,625,000 for the fiscal year ending September 30, 1982, \$2,600,000 for the fiscal year ending September 30, 1983, and \$2,600,000 for the fiscal year ending September 30, 1984, and such further additional positions are authorized as may be necessary for each such fiscal year.~~

~~(c) Inpatient mental health services, sums and positions as provided in subsection (a) for fiscal year 1976, \$400,000 and fifteen positions for fiscal year 1977, and \$600,000 and fifteen positions for fiscal year 1980.~~

~~(d) There are authorized to be appropriated \$750,000 for the fiscal year ending September 30, 1981, \$875,000 for the fiscal year ending September 30, 1982, \$1,000,000 for the fiscal year ending September 30, 1983, and \$1,150,000 for the fiscal year ending September 30, 1984, and such further additional positions are authorized as may be necessary for each such fiscal year.~~

~~(e) Model dormitory mental health services, sums and positions as provided in subsection (c) for fiscal year 1976, \$1,250,000 and fifty positions for fiscal year 1977, and \$1,8750,000 and fifty positions for fiscal year 1980.~~

~~(f) There are authorized to be appropriated \$2,250,000 for the fiscal year ending September 30, 1981, \$2,700,000 for the fiscal year ending September 30, 1982, \$2,100,000 for the fiscal year ending September 30, 1983, and \$2,600,000 for the fiscal year ending September 30, 1984, and such further positions are authorized as may be necessary for each such fiscal year.~~

~~(D) Therapeutic and residential treatment centers, sums and positions as provided in subsection (c) for fiscal year 1976, \$300,000 and ten positions for fiscal year 1977, and \$400,000 and five positions for fiscal year 1980.~~



~~(D) There are authorized to be appropriated \$466,666 for the fiscal year ending September 30, 1981, \$525,666 for the fiscal year ending September 30, 1982, \$666,666 for the fiscal year ending September 30, 1983, and \$690,666 for the fiscal year ending September 30, 1984, and such further additional positions are authorized as may be necessary for each such fiscal year.~~

~~(E) Training of traditional Indian practitioners in mental health: sums as provided in subsection (c) for fiscal year 1978, \$150,000 for fiscal year 1979, and \$266,666 for fiscal year 1980.~~

~~(F) There are authorized to be appropriated \$357,666 for the fiscal year ending September 30, 1981, \$285,666 for the fiscal year ending September 30, 1982, \$325,666 for the fiscal year ending September 30, 1983, and \$375,666 for the fiscal year ending September 30, 1984.~~

~~(G) Treatment and control of alcoholism among Indians: \$1,000,000 for fiscal year 1978, \$9,666,666 for fiscal year 1979, and \$9,200,000 for fiscal year 1980.~~

~~(H) There are authorized to be appropriated \$16,500,000 for the fiscal year ending September 30, 1981, \$19,666,666 for the fiscal year ending September 30, 1982, \$22,000,000 for the fiscal year ending September 30, 1983, and \$25,166,666 for the fiscal year ending September 30, 1984.~~

~~(I) Maintenance and repair (direct and indirect): sums and positions as provided in subsection (c) for fiscal year 1978 \$3,666,666 and twenty positions for fiscal year 1979, and \$4,666,666 and thirty positions for fiscal year 1980.~~

~~(J) There are authorized to be appropriated \$5,666,666 for the fiscal year ending September 30, 1981, \$5,756,666 for the fiscal year ending September 30, 1982, \$6,666,666 for the fiscal year ending September 30, 1983, and \$7,666,666 for the fiscal year ending September 30, 1984, and such further additional positions are authorized as may be necessary for each such fiscal year.~~

~~(K) For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the items referred to in the preceding paragraph such sums as may be specifically authorized by an Act enacted after this Act. For such fiscal years, positions are authorized for such items (other than the items referred to in paragraphs (1)(E) and (5)) as may be specified in an Act enacted after the date of the enactment of this Act.~~

~~(L) The Secretary, acting through the Service, shall expend directly or by contract not less than 1 per centum of the funds appropriated under the authorizations in each of the clauses (1) through (5) of subsection (c) for research in each of the areas of Indian health care for which such funds are authorized to be appropriated.~~

~~(M) for fiscal year 1978, the Secretary is authorized to apportion not to exceed a total of \$10,025,000 and 425 positions for the programs enumerated in clauses (c)(1) through (4) and (c)(6) of this section.~~

IMPROVEMENT OF HEALTH STATUS

INDIAN HEALTH CARE IMPROVEMENT FUND

P.L. 100-713

SEC. 201. (a) The Secretary is authorized to expend funds which are appropriated under the authority of ~~subsection (b) of this section~~, through the Service, for the purpose of--

P.L. 102-573

~~(1) raising the health status of Indians to core deficiency,~~ P.L. 102-573

~~(1) eliminating the deficiencies in health status and resources of all Indian tribes,~~ P.L. 102-573

(2) Eliminating backlogs in the provision of health care services to Indians.

(3) meeting the health needs of Indians in an efficient and equitable manner, and

(4) augmenting the ability of the Service to meet the following health service responsibilities, ~~either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act~~, with respect to those Indian tribes with the highest levels of health ~~resources deficiency status and resource deficiencies;~~ P.L. 102-573

(A) clinical care (direct and indirect) including clinical eye and vision care;

(B) preventive health, including screening mammography in accordance with section 212; P.L. 102-573

(C) dental care (direct and indirect);

(D) mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential treatment centers, and training of traditional Indian practitioners;

(E) emergency medical services;

(F) treatment and control of, and rehabilitative care related to, alcoholism and drug abuse (including fetal alcohol syndrome) among Indians;

(G) accident prevention programs;

(H) home health care;

(I) community health representatives; and

(J) maintenance and repair.

(b)(1) Any funds appropriated under the authority of ~~subsection (a) of this section~~ shall not be used to offset or limit any appropriations made to the Service under the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, or any other provision of law.

P.L. 102-73

~~(2) Funds which are appropriated under the authority of subsection (h) may be allocated to, or used for the benefit of, any Indian tribe which has a health resources deficiency level at level I or II only if a sufficient amount of funds have been appropriated under the authority of subsection (h) to raise all Indian tribes to health resources deficiency level II.~~

P.L. 102-573

~~(3)(2)(A) Funds appropriated under the authority of subsection (h) this section may be allocated on a service unit basis but such allocation shall be made in a manner which ensures that the requirement of paragraph (2) is met. The funds allocated to each service unit under this subparagraph shall be used by the service unit in accordance with paragraph (2) to raise the deficiency, reduce the health status and resource deficiency level of each tribe served by such service unit.~~

P.L. 102-573

(B) The apportionment of funds allocated to a service unit under subparagraph (A) among the health service responsibilities described in subsection (a)(4) shall be determined by the Service in consultation with, and with the active participation of, the affected Indian tribes.

P.L. 102-573

(c) For purposes of this section--

~~(1) The health resources deficiency levels of an Indian tribe are as follows:~~

P.L. 102-573

~~(A) level I 0 to 20 percent health resources deficiency;~~

~~(B) level II 21 to 40 percent health resources deficiency;~~

~~(C) level III 41 to 60 percent health resources deficiency;~~

~~(D) level IV 61 to 80 percent health resources deficiency; and~~

~~(E) level V 81 to 100 percent health resources deficiency.~~

~~(2) The term "health resources deficiency" means a percentage determined by dividing--~~

~~(i) the excess, if any, of--~~

~~(i) the value of the health resources that the Indian tribe needs, over~~

~~(ii) the value of the health resources available to the Indian tribe, by.~~

~~(2) the value of the health resources that the Indian tribe needs.~~

(1) The term "health status and resource deficiency" means the extent to which--

P.L. 102-573

(A) the health status objectives set forth in section 3(b) are not being achieved; and

(B) the Indian tribe does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances.

~~(2)~~ (2) The health resources available to an Indian tribe include health resources provided by the Service as well as health resources used by the Indian tribe, including services and financing systems provided by any Federal programs, private insurance, and programs of State or local governments. P.L. 102-573

~~(3)~~ (3) Under regulations, the Secretary shall establish procedures which allow any Indian tribe to petition the Secretary for a review of any determination of the health resources deficiency level extent of the health status and resource deficiency of such tribe. P.L. 102-573

(d) (1) Programs administered by any Indian tribe or tribal organization under the authority of the Indian Self-Determination Act shall be eligible for funds appropriated under the authority of ~~subsection (4) this section~~ on an equal basis with programs that are administered directly by the Service. P.L. 102-573

(2) If any funds allocated to a tribe or service unit under the authority of this section are used for a contract entered into under the Indian Self-Determination Act, a reasonable portion of such funds may be used for health planning, training, technical assistance and other administrative support functions.

(e) By no later than the date that is ~~40 days~~ 3 years after the date of enactment of the Indian Health Care Amendments of 1992, the Secretary shall submit to the Congress the current health services priority system health status and resource deficiency report of the Service for each Indian tribe or service unit, including newly recognized or acknowledged tribes. Such report shall set out-- P.L. 102-573

(1) the methodology then in use by the Service for determining tribal health resources deficiencies health status and resource deficiencies, as well as the most recent application of that methodology; P.L. 102-573

(2) ~~the level of health resources deficiency for the~~ extent of the health status and resource deficiency of each Indian tribe served by the Service; P.L. 102-573

(3) the amount of funds necessary to ~~raise all Indian tribes served by the Service below health resources deficiency level II to health resources deficiency level II~~ eliminate the health status and resource deficiencies of all Indian tribes served by the Service; and P.L. 102-573

~~(4) the amount of funds necessary to raise all tribes served by the Service below health resources deficiency level I to health resources deficiency level I;~~ P.L. 102-573

~~(5) the amount of funds necessary to raise all tribes served by the Service to zero health resources deficiency; and~~ P.L. 102-573

~~(6)~~ (4) an estimate of-- P.L. 102-573

(A) the amount of health service funds appropriated under the authority of this Act, or any other Act, including the amount of any funds transferred to the Service, for the preceding fiscal year which is allocated to each service unit, Indian tribe, or comparable entity. P.L. 102-573

(B) the number of Indians eligible for health services in each service unit or Indian tribe; and

(C) the number of Indians using the Service resources made available to each service unit or Indian tribe.

~~(f) (2) The President shall include with the budget submitted to the Congress under section 1105 of title 31, United States Code, for each fiscal year a separate statement which specifies the amount of funds requested to carry out the provisions of this section for each fiscal year.~~ P.L. 102-573

~~(2)(f)~~ Funds appropriated under authority of this section for any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

(g) Nothing in this section is intended to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs, nor are the provisions of this section intended to discourage the Service from undertaking additional efforts to achieve parity among Indian tribes.

~~(h) There are authorized to be appropriated for the purpose of carrying out the provisions of this section~~ P.L. 102-573

~~(1) \$19,000,000 for fiscal year 1990,~~

~~(2) \$19,000,000 for fiscal year 1991, and~~

~~(3) \$20,000,000 for fiscal year 1992.~~

any funds appropriated under the authority of this subsection section shall be designated as the "Indian Health Care Improvement Fund".

[NOTE: Section 201(b) of P.L. 102-573 provides that the amendments made to subsection 201(a) through (d) of the Indian Health Care Improvement Act shall take effect 3 years after date of enactment (October 29, 1995). Amendments to subsection (e) take effect on the date of enactment (October 29, 1992).

#### CATASTROPHIC HEALTH EMERGENCY FUND

P.L. 100-713

SEC. 202. (a) (1) There is hereby established an Indian Catastrophic Health Emergency Fund (hereafter in this section referred to as the "Fund") consisting of--

(A) the amounts deposited under subsection (d), and

(B) the amounts appropriated under subsection ~~(e)~~ to the Fund under this section. P.L. 102-573

(2) The fund shall be administered by the Secretary, acting

rough the central office of the Service, solely for the purpose of  
eting the extraordinary medical costs associated with the  
eatment of victims of disasters or catastrophic illnesses who are  
thin the responsibility of the Service.

(3) The Fund shall not be allocated, apportioned, or  
legated on a service unit, area office, or any other basis.

(4) No part of the Fund or its administration shall be  
subject to contract or grant under any law, including the Indian  
Self-Determination Act.

(b) The Secretary shall, through the promulgation of  
regulations consistent with the provisions of this section--

(1) establish a definition of disasters and  
catastrophic illnesses for which the cost of the treatment  
provided under contract would qualify for payment from the  
Fund;

(2) provide that a service unit shall not be eligible  
for reimbursement for the cost of treatment from the Fund  
until its cost of treating any victim of such catastrophic  
illness or disaster has reached a certain threshold cost which  
the Secretary shall establish at not less than \$10,000 or not  
more than \$20,000; shall establish at--

P.L. 102-573

(A) for 1993, not less than \$15,000 or not more than  
\$25,000; and

(B) for any subsequent year, not less than the  
threshold cost of the previous year increased by the  
percentage increase in the medical care expenditure  
category of the consumer price index for all urban  
consumers (United States city average) for the 12-month  
period ending with December of the previous year; and

[NOTE: Section 202(b) of P.L. 102-573 provides that the  
amendments made to section 202(b) (2) of the Indian Health Care  
Improvement Act shall take effect on January 1, 1993.]

(3) establish a procedure for the reimbursement of the  
portion of the costs incurred by--

(A) service units or facilities of the Service, or

(B) whenever otherwise authorized by the Service, non-  
Service facilities or providers,

in rendering treatment that exceeds such threshold cost;

(4) establish a procedure for payment from the Fund in  
cases in which the exigencies of the medial circumstances  
warrant treatment prior to the authorization of such treatment  
by the Service; and

(5) establish a procedure that will ensure that no  
payment shall be made from the Fund to any provider of  
treatment to the extent that such provider is eligible to  
receive payment for the treatment from any other Federal,  
State, local, or private source of reimbursement for which the  
patient is eligible.

~~(c) Funds appropriated under subsection (c) Amounts appropriated to the Fund under this section shall not be used to offset or limit appropriations made to the Service under the authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, or any other law.~~

P.L. 102-573

(d) There shall be deposited into the Fund all reimbursements to which the Service is entitled from any Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from the Fund.

~~(e) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—~~

P.L. 102-573

~~(1) \$12,000,000 for fiscal year 1980, and~~

~~(2) for each of the fiscal years 1990, 1991, and 1992, such sums as may be necessary to restore the Fund to a level of \$12,000,000 for such fiscal year.~~

~~Funds appropriated under the authority of this subsection shall remain available until expended.~~

#### HEALTH PROMOTION AND DISEASE PREVENTION SERVICES

P.L. 100-713

(NOTE: P.L. 100-713 contained a free-standing provision affecting section 203. This language is provided below for easy reference.)

(Sec. 203. (a) The Congress finds that health promotion and disease prevention activities will—

- (1) improve the health and well-being of Indians, and
- (2) reduce the expenses for medical care of Indians.)

SEC. 203. (a) The Secretary, acting through the Service, shall provide health promotion and disease prevention services to Indians so as to achieve the health status objectives set forth in section 3(b).

P.L. 102-573

(b) The Secretary shall submit to the President for inclusion in each statement which is required to be submitted to the Congress under ~~section 291(f)~~ section 801 an evaluation of—

P.L. 102-573

(1) the health promotion and disease prevention needs of Indians,

(2) the health promotion and disease prevention activities which would best meet such needs,

(3) the internal capacity of the Service to meet such needs, and

(4) the resources which would be required to enable the Service to undertake the health promotion and disease prevention activities necessary to meet such needs.

~~(c) (i) The Secretary shall establish at least 2 demonstration projects (but no more than 4 demonstration projects) to determine the~~

P.L. 102-573

~~most effective and cost efficient means of~~

~~(1) providing health promotion and disease prevention services;~~

~~(2) encouraging Indians to adopt good health habits;~~

~~(3) reducing health risks to Indians, particularly the risks of heart disease, cancer, diabetes, alcoholism, anxiety, depression, and lifestyle-related accidents;~~

~~(4) reducing medical expenses of Indians through health promotion and disease prevention activities;~~

~~(5) establishing a program~~

~~(i) which trains Indians in the provision of health promotion and disease prevention services to members of their tribes; and~~

~~(ii) under which such Indians are available on a contract basis to provide such services to other tribes; and~~

~~(7) providing training and continuing education to employees of the Service and to paraprofessionals participating in the Community Health Representative Program, in the delivery of health promotion and disease prevention services.~~

~~(2) The demonstration project described in paragraph (1) shall include an analysis of the cost effectiveness of organizational structures and of social and educational programs that may be useful in achieving the objectives described in paragraph (1).~~

~~(2)(A) The demonstration project described in paragraph (1) shall be conducted in association with at least one~~

~~(i) health profession school;~~

~~(ii) allied health profession or nurse training institution; or~~

~~(iii) public or private entity that provides health care.~~

~~(3) The Secretary is authorized to enter into contracts with, or make grants to, any school of medicine or school of osteopathy for the purpose of carrying out the demonstration project described in paragraph (1).~~

~~(4) For purposes of this paragraph, the term "school of medicine" and "school of osteopathy" have the respective meaning given to such terms by section 701(4) of the Public Health Service Act (42 U.S.C. 202a(4)).~~

~~(4) the Secretary shall submit to Congress a final report on the demonstration project described in paragraph (1) within 60 days after the termination of such project.~~

~~(5) The demonstration project described in paragraph (1)~~



~~shall be established by no later than the date that is 12 months after the date of enactment of the Indian Health Care Amendments of 1988 and shall terminate on the date that is 30 months after the date of enactment of such amendments.~~

~~(6) There are authorized to be appropriated \$500,000 for the purpose of carrying out the provisions of this subsection, such sum to remain available without fiscal year limitation.~~

DIABETES PREVENTION, TREATMENT, AND CONTROL

P.L. 100-713

SEC. 204. ~~(a)(1)~~ (a) The Secretary, in consultation with the tribes, shall determine--

P.L. 102-573

~~(1)~~ (1) by tribe and by service unit of the Service, the incidence of, and the types of complications resulting from, diabetes among Indians; and

~~(2)~~ (2) based on subparagraph ~~(2)~~ paragraph (1), the measures (including patient education) each Service unit should take to reduce the incidence of, and prevent, treat, and control the complications resulting from, diabetes among tribes within that service unit.

~~(2) Within 18 months after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall prepare and transmit to the President and the Congress a report describing the determinations made and measures taken under paragraph (1) and making recommendations for additional funding to prevent, treat, and control diabetes among Indians.~~

P.L. 102-573

(b) The Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic. Such screening may be done by a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination Act.

~~(c)(1) The Secretary shall continue to maintain during fiscal years 1988 through 1991 each of the following model diabetes projects which are in existence on the date of enactment of the Indian Health Care Amendments of 1988.~~

P.L. 102-573

(c)(1) The Secretary shall continue to maintain through fiscal year 2000 each model diabetes project in existence on the date of enactment of the Indian Health Amendments of 1992 and located--

P.L. 102-573

- (A) at the Claremore Indian Hospital in Oklahoma;
- (B) at the Fort Totten Health Center in North Dakota;
- (C) at the Sacaton Indian Hospital in Arizona;
- (D) at the Winnebago Indian Hospital in Nebraska;
- (E) at the Albuquerque Indian Hospital in New Mexico;
- (F) at the Perry, Princeton, and Old Town Health Centers in Maine; and

(G) at the Bellingham Health Center in Washington;

~~(2) The Secretary shall establish in fiscal year 1989, and maintain during fiscal years 1989 through 1991, a model diabetes project in each of the following locations:~~

~~(A) Fort Berthold Reservation;~~

~~(B) the Navajo Reservation;~~

~~(C) the Papago Reservation;~~

~~(D) the Zuni Reservation; and~~

~~(E) the States of Alaska, California, Minnesota, Montana, Oregon, and Utah.~~

(H) at the Fort Berthold Reservation;

(I) at the Navajo Reservation;

(J) at the Papago Reservation;

(K) at the Zuni Reservation; or

(L) in the States of Alaska, California, Minnesota, Montana, Oregon, or Utah.

(2) The Secretary may establish new model diabetes projects under this section taking into consideration applications received under this section from all service areas, except that the Secretary may not establish a greater number of such projects in one service area than in any other service area until there is an equal number of such projects established with respect to all service areas from which the Secretary receives qualified applications during the application period (as determined by the Secretary).

P.L. 102-573

(d) The Secretary shall--

(1) employ in each area office of the Service at least one diabetes control officer who shall coordinate and manage on a full-time basis activities within that area office for the prevention, treatment, and control of diabetes.

(2) establish in each area office of the Service a registry of patients with diabetes to track the incidence of diabetes and the complications from diabetes in that area; and

(3) ensure that data collected in each area office regarding diabetes and related complications among Indians is disseminated to all other area offices; and

(4) evaluate the effectiveness of services provided through model diabetes projects established under this section.

P.L. 102-573

~~(e) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Funds appropriated under subsection (c) this section in any fiscal year shall be in addition to base resources appropriated to the Service for that year.~~

P.L. 102- 3

~~NATIVE HAWAIIAN HEALTH PROMOTION AND DISEASE PREVENTION~~

P.L. 100-579

P.L. 100-690

~~Sec. 205. (a) (1) The Secretary shall, acting through the Public Health Service, establish in the State of Hawaii, as a demonstration project, a Native Hawaiian Program for Health Promotion and Disease Prevention for the purpose of exploring ways to meet the unique health care needs of Native Hawaiians.~~

~~(2) The demonstration program that is to be established under paragraph (1) shall~~

~~(A) provide necessary preventive oriented health services, including health education and mental health care,~~

~~(B) develop innovative training and research projects,~~

~~(C) establish cooperative relationships with the leaderships of the Native Hawaiian community,~~

~~(D) ensure that a continuous effort is made to establish programs which can be of direct benefit to other Native American people, and~~

~~(E) assure a comprehensive effort to reduce the incidence of diabetes among Native Hawaiians.~~

~~(3) The Secretary is authorized to enter into contracts with Native Hawaiian organizations for the purpose of assisting the Secretary in meeting the objectives of the demonstration program that is to be established under paragraph (1).~~

~~(b) (1) In fulfillment of the objective set forth in subsection (a) (2) (E), the Secretary shall enter into a contract with a Native Hawaiian organization to conduct a study to determine~~

~~(A) the incidence of diabetes among Native Hawaiians,~~

~~(B) activities which should be undertaken~~

~~(i) to reduce the incidence of diabetes among Native Hawaiians,~~

~~(ii) to provide Native Hawaiians with guidance in the prevention, treatment, and control of diabetes,~~

~~(iii) to provide early diagnosis of diabetes among Native Hawaiians, and~~

~~(iv) to ensure that proper continuing health care is provided to Native Hawaiians who are diagnosed as diabetic.~~

~~(2) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of preparing an inventory of all health care programs (public and private) within the State of Hawaii that are available for the treatment, prevention, or control of diabetes among Native Hawaiians.~~

~~(2) By no later than the date that is two years after the date of enactment of this section, the Native Hawaiian organization with whom the Secretary has entered into a contract, shall prepare and transmit to the Secretary a report describing the determinations made under paragraph (1), containing the inventory prepared under paragraph (2), and describing the research activities conducted under this subsection. The Secretary shall submit the report to the Congress and the President.~~

~~(3) No later than the date that is three years after the date of enactment of this section, the Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of implementing a program designed~~

~~(A) to establish a diabetes control program;~~

~~(B) to screen those Native Hawaiian individuals that have been identified as having a high risk of becoming diabetic;~~

~~(C) to effectively treat~~

~~(i) individuals diagnosed as diabetics in order to reduce further complications from diabetes;~~

~~(ii) individuals who have a high risk of becoming diabetic in order to reduce the incidence of diabetes; and~~

~~(iii) short-term and long-term complications of diabetes;~~

~~(D) to conduct for Federal, State, and other Native Hawaiian health care providers (including Native Hawaiian community health outreach workers), training programs concerning current methods of prevention, diagnosis, and treatment of diabetes and related complications among Native Hawaiians;~~

~~(E) to determine the appropriate delivery to Native Hawaiians of health care services relating to diabetes;~~

~~(F) to develop and present health education information to Native Hawaiian communities and schools concerning the prevention, treatment, and control of diabetes; and~~

~~(G) to ensure that proper continuing health care is provided to Native Hawaiians who are diagnosed as being diabetic.~~

~~(2) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of~~

~~(A) promoting coordination and cooperation between all health care providers in the delivery of diabetes-related services to Native Hawaiians; and~~

~~(B) encouraging and funding joint projects between Federal programs, State health care facilities, community health centers, and Native Hawaiian communities for the prevention and treatment of diabetes.~~

~~(2) (2) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of establishing a model diabetes program to serve Native Hawaiians in the State of Hawaii.~~

~~(E) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of developing and implementing an outreach program to ensure that the achievements and benefits derived from the activities of the model diabetes program established under subparagraph (2) are applied in Native Hawaiian communities to assure the diagnosis, prevention, and treatment of diabetes among Native Hawaiians.~~

~~(4) The Secretary shall submit to the Congress an annual report outlining the activities, achievements, needs, and goals of the Native Hawaiian diabetes care program established under this paragraph.~~

~~(d) The Secretary shall enter into a contract with a Native Hawaiian organization, for the purpose of developing a standardized system to collect, analyze, and report data regarding diabetes and related complications among Native Hawaiians. Such system shall be designed to facilitate dissemination of the best available information on diabetes to Native Hawaiian communities and health care professionals.~~

~~(e) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of~~

~~(1) conducting research concerning the causes, diagnosis, treatment, and prevention of diabetes and related complications among Native Hawaiians, and~~

~~(2) coordinating such research with all other relevant agencies and units of the government of the State of Hawaii and the Department of Health and Human Services which conduct research relating to diabetes and related complications.~~

~~(f) The Secretary shall submit to the Congress an annual report on the status and accomplishments of the programs established under this section during each of the fiscal years 1990, 1991, and 1992.~~

~~(g) (1) The Secretary shall include in any contract which the Secretary enters into with any Native Hawaiian organization under this subsection such conditions as the Secretary considers necessary to ensure that the objectives of such contract are achieved.~~

~~(2) The Secretary shall develop procedures to evaluate compliance with, and performance of, contracts entered into by Native Hawaiian organizations under this subsection.~~

~~(3) The Secretary shall conduct an evaluation of each Native Hawaiian organization which has entered into a contract under this subsection for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract.~~

~~(4) If, as a result of the evaluations conducted under paragraph (3), the Secretary determines that a Native Hawaiian organization has not complied with or satisfactorily performed a contract entered into under this subsection, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of~~

~~noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not enter such contract with such organization and is authorized to enter into a contract under this subsection with another Native Hawaiian organization that serves the same population of Native Hawaiians which is served by the organization whose contract is not renewed by reason of this subparagraph.~~

~~(5) In determining whether to renew a contract entered into with a Native Hawaiian organization under this subsection, the Secretary shall~~

~~(i) review the records of the Native Hawaiian organization and~~

~~(ii) shall consider the results of the onsite evaluations conducted under paragraph (3).~~

~~(6) All contracts entered into by the Secretary under this subsection shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provision of the Act of August 24, 1975 (49 U.S.C. 2702, et seq.).~~

~~(7) Payments made under any contract entered into under this subsection may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this subsection.~~

~~(8) Notwithstanding any other provision of law, the Secretary may, at the request or consent of a Native Hawaiian organization, revise or amend any contract entered into by the Secretary with such organization under this subsection as necessary to carry out the purposes of this subsection.~~

~~(9) For each fiscal year during which a Native Hawaiian organization receives or expends funds pursuant to a contract entered into under this subsection, such organization shall submit to the Secretary a quarterly report on~~

~~(i) activities conducted by the organization under the contract,~~

~~(ii) the amounts and purposes for which Federal funds were expended, and~~

~~(iii) such other information as the Secretary may request.~~

~~(10) The reports and records of any Native Hawaiian organization which concern any contract entered into under this subsection shall be subject to audit by the Secretary and the Comptroller General of the United States.~~

~~(11) The Secretary shall allow as a cost of any contract entered into under this subsection the cost of an annual private audit conducted by a certified public accountant.~~

~~(11) The authority of the Secretary to enter into contracts under this subsection shall be to the extent, and in amounts, provided for in appropriation Acts.~~

~~(1) For purposes of this subsection--~~

~~(1) The term "Native Hawaiian" means any individual who--~~

~~(A) is a citizen of the United States,~~

~~(B) is a resident of the State of Hawaii, and~~

~~(C) is a descendant of the aboriginal people who, prior to 1776, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by--~~

~~(i) genealogical records,~~

~~(ii) Kūpuna (elders) or Kama'āina (long term community residents) verification, or~~

~~(iii) birth records of the State of Hawaii.~~

~~(2) The term "Native Hawaiian organization" means any organization--~~

~~(A) which serves and represents the interests of Native Hawaiians,~~

~~(B) which is recognized by the Department of Health of the State of Hawaii, the Office of Hawaiian Affairs of the State of Hawaii, and I Ola Mau for the purpose of planning, conducting, or administering programs (or portion of programs) authorized under this Act for Native Hawaiians, and~~

~~(C) in which Native Hawaiian health professionals significantly participate in the planning, management, monitoring, and evaluation of health services.~~

~~(i) There are authorized to be appropriated \$750,000 for each of the fiscal years 1990, 1991, 1992, and 1993, for the purpose of carrying out the provisions of this subsection.~~

~~(j) The programs and services established by this section shall not be administered by or through the Indian Health Service nor shall any funds appropriated to the Indian Health Service be used to supplement funding of such programs and services.~~

#### HOSPICE CARE FEASIBILITY STUDY

SEC. 205. (a) The Secretary, acting through the Service and in consultation with representatives of Indian tribes, tribal organizations, Indian Health Service personnel, and hospice providers, shall conduct a study--

P.L. 102-573

(1) to assess the feasibility and desirability of furnishing hospice care to terminally ill Indians; and

(2) to determine the most efficient and effective means of furnishing such care.

(b) Such study shall--

(1) assess the impact of Indian culture and beliefs concerning death and dying on the provision of hospice care to Indians;

(2) estimate the number of Indians for whom hospice care may be appropriate and determine the geographic distribution of such individuals;

(3) determine the most appropriate means to facilitate the participation of Indian tribes and tribal organizations in providing hospice care;

(4) identify and evaluate various means for providing hospice care, including--

(A) the provision of such care by the personnel of a Service hospital pursuant to a hospice established by the Secretary at such hospital; and

(B) the provision of such care by a community-based hospice program under contract to the Service; and

(5) identify and assess any difficulties in furnishing such care and the actions needed to resolve such difficulties.

(c) Not later than the date which is 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report containing--

(1) a detailed description of the study conducted pursuant to this section; and

(2) a discussion of the findings and conclusions of such study.

(d) For the purposes of this section--

(1) the term "terminally ill" means any Indian who has a medical prognosis (as certified by a physician) of a life expectancy of six months or less; and

(2) the term "hospice program" means any program which satisfies the requirements of section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)); and

(3) the term "hospice care" means the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)).



REIMBURSEMENT FROM CERTAIN THIRD PARTIES OF COSTS OF HEALTH SERVICES

P.L. 100-713

SEC. 206. ~~(a) The~~ (a) Except as provided in subsection

P.L. 102-573

(f), the United States, an Indian tribe or tribal organization shall have the right to recover the reasonable expenses incurred by the Secretary, an Indian tribe or tribal organization in providing health services, through the Service, an Indian tribe, or tribal organization to any individual to the same extent that such individual, or any nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such expenses if--

(1) such services had been provided by a nongovernmental provider, and

(2) such individual had been required to pay such expenses and did pay such expenses.

(b) Subsection (a) shall provide a right of recovery against any State, ~~or any political subdivision of a State,~~ only if the injury, illness, or disability for which health services were provided is covered under--

P.L. 102-573

(1) workers' compensation laws, or

(2) a no-fault automobile accident insurance plan or program.

(c) No law of any State, or of any political subdivision of a State and no provision of any contract entered into or renewed after the date of enactment of the Indian Health Care Amendments of 1988, shall prevent or hinder the right of recovery of the United States, an Indian tribe, or tribal organization under subsection (a).

P.L. 102-573

(d) No action taken by the United States, an Indian tribe, or tribal organization to enforce the right of recovery provided under subsection (a) shall affect the right of any person to any damages (other than damages for the cost of health services provided by the Secretary through the Service).

P.L. 102-573

(e) The United States, an Indian tribe, or tribal organization, may enforce the right of recovery provided under subsection (a) by--

P.L. 102-573

(1) intervening or joining in any civil action or proceeding brought--

(A) by the individual for whom health services were provided by the Secretary, an Indian tribe or tribal organization or

P.L. 102-573

(B) by any representative or heirs of such individual, or

(2) instituting a separate civil action, after providing such individual, or to the representative or heirs of such individual, notice of the intention of the United States, an Indian tribe, or tribal organization to institute a separate civil action.

P.L. 102-573

(f) The United States shall not have a right of recovery under

P.L. 102-573

services were provided is covered under a self-insurance plan funded by an Indian tribe or tribal organization.

#### CREDITING OF REIMBURSEMENTS

P.L. 100-713

P.L. 102-573

SEC. 207. (a) Except as provided in section 202(d), title IV, and section ~~713~~ 813 of this Act, all reimbursements received or recovered under authority of this Act, Public law 87-693 (42 U.S.C. 2651, et seq.), or any other provision of law, by reason of the provision of health services by the Service or by a tribe or tribal organization under a contract pursuant to the Indian Self-Determination Act shall be retained by the Service or that tribe or tribal organization and shall be available for the facilities, and to carry out the programs, of the Service or that tribe or tribal organization to provide health care services to Indians.

(b) The Service may not offset or limit the amount of funds obligated to any service unit or entity under contract with the Service because of the receipt of reimbursements under subsection (a).

P.L. 100-713

#### HEALTH SERVICES RESEARCH

SEC. 208. Of the amounts appropriated for the Service in any fiscal year, other than amounts made available for the Indian Health Care Improvement Fund, not less than \$200,000 shall be available only for research to further the performance of the health service responsibilities of the Service. Indian tribes and tribal organizations contracting with the Service under the authority of the Indian Self-Determination Act shall be given under an equal opportunity to compete for, and receive, research funds under this section.

(NOTE: P.L. 101-630 included a free-standing provision affecting section 209, Indian Mental Health provisions. This language has been provided below for easy reference)

P.L. 101-630

#### (MENTAL HEALTH PREVENTION AND TREATMENT SERVICES)

(a) PURPOSES.--The purposes of this section are to--

(1) authorize and direct the Indian Health Service to develop a comprehensive mental health prevention and treatment program;

(2) provide direction and guidance relating to mental illness and dysfunction and self-destructive behavior, including child abuse and family violence, to those Federal, tribal, State, and local agencies responsible for programs in Indian communities in areas of health care, education, social services, child and family welfare, alcohol and substance abuse, law enforcement and judicial services;

(3) assist Indian tribes to identify services and resources available to address mental illness and dysfunctional and self-destructive behavior;

(4) provide authority and opportunities for Indian tribes to develop and implement, and coordinate with, community-based mental health programs which include identification, prevention, education, referral, and treatment services, including through multi-disciplinary resource teams;

(5) ensure that Indians, as citizens of the United States and of the States in which they reside, have the same access to mental health services to which all citizens have access; and

(6) modify or supplement existing programs and authorities in the areas identified in paragraph (2).)

~~Sec. 209. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES.~~

P.L. 101-630

P.L. 102-573

MENTAL HEALTH PREVENTION AND TREATMENT SERVICES

Sec. 209. (a) National Plan for Indian Mental Health Services.--

(1) Not later than 120 days after the date of enactment of this section, the Secretary, acting through the Service, shall develop and publish in the Federal Register, a final national plan for Indian Mental Health Services. The plan shall include--

(A) an assessment of the scope of the problem of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians, including--

(i) the number of Indians served by the Service who are directly or indirectly affected by such illness or behavior, and

(ii) an estimate of the financial and human cost attributable to such illness or behavior;

(B) an assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior; and

(C) an estimate of the additional funding needed by the Service to meet its responsibilities under the plan.

(2) The Secretary shall submit a copy of the national plan to the Congress.

~~(c)~~ (b) MEMORANDUM OF AGREEMENT.-- Not later than 180 days after the date of enactment of this section, the Secretary and the Secretary of the Interior shall develop and enter into a memorandum of agreement under which the Secretaries shall, among other things--

P.L. 102-573

(1) determine and define the scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians;

(2) make an assessment of the existing Federal, tribal, State, local, and private services, resources, and programs available to provide mental health services for Indians;

(3) make an initial determination of the unmet need for additional services, resources, programs necessary to meet the needs identified pursuant to paragraph (1);

(4) (A) ensure that Indians, as citizens of the United States and of the States in which they reside, have access to

mental health services to which all citizens have access;

(B) determine the right of Indians to participate in, and receive the benefit of, such services; and

(C) take actions necessary to protect the exercise of such right;

(5) delineate the responsibilities of the Bureau of Indian Affairs and the Service, including mental health identification, prevention, education, referral, and treatment services (including services through multidisciplinary resource teams), at the central, area, and agency and service unit levels to address the problems identified in paragraph (1);

(6) provide a strategy for the comprehensive coordination of the mental health services provided by the Bureau of Indian Affairs and the Service to meet the needs identified pursuant to paragraph (1), including--

(A) the coordination of alcohol and substance abuse programs of the Service, the Bureau of Indian Affairs, and the various tribes, (developed under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986) with the mental health initiatives pursuant to this Act, particularly with respect to the referral and treatment of dually-diagnosed individuals requiring mental health and substance abuse treatment; and

(B) ensuring that the Bureau of Indian Affairs and Service programs and services (including multidisciplinary resource teams) addressing child abuse and family violence are coordinated with such non-Federal programs and services;

(7) direct appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and service unit levels to cooperate fully with tribal requests made pursuant to subsection (d); and

NOTE: Reference to subsection (d) should be to (c)

(8) provide for an annual review of such agreement by the two Secretaries.

~~4~~(c) **COMMUNITY MENTAL HEALTH PLAN.**-- (1) The governing body of any Indian tribe may, at its discretion, adopt a resolution for the establishment of a community mental health plan providing for the identification and coordination of available resources and programs to identify, prevent, or treat mental illness or dysfunctional and self-destructive behavior, including child abuse and family violence, among its members.

P.L. 102-573

(2) In furtherance of a plan established pursuant to paragraph (1) and at the request of a tribe, the appropriate agency, service unit, or other officials of the Bureau of Indian Affairs and the Service shall cooperate with, and provide technical assistance to, the tribe in the development of such plan. Upon the establishment of such a plan and at the request of the tribe, such officials, as directed by the memorandum of agreement developed pursuant to subsection (c), shall cooperate with the tribe in the implementation of such plan.

NOTE: Reference to subsection (c) should be to (b)

(3) Two or more Indian tribes may form a coalition for the adoption of resolutions and the establishment and development of a joint community mental health plan under this subsection.

(4) The Secretary, acting through the Service, may make grants to Indian tribes adopting a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community mental health plan and to provide administrative support in the implementation of such plan.

~~(5) There is hereby authorized to be appropriated \$100,000 for fiscal year 1982 and \$1,000,000 for fiscal year 1983 to carry out this subsection.~~

P.L. 102-573

~~(e)~~ (d) **MENTAL HEALTH TRAINING AND COMMUNITY EDUCATION PROGRAMS.**--(1) The Secretary and the Secretary of the Interior, in consultation with representatives of Indian tribes, shall conduct a study and compile a list of the types of staff positions specified in paragraph (2) whose qualifications include, or should include, training in the identification, prevention, education, referral, or treatment of mental illness or dysfunctional and self-destructive behavior.

P.L. 102-573

(2) The positions referred to in paragraph (1) are--

(A) staff positions within the Bureau of Indian Affairs, including existing positions, in the fields of--

(i) elementary and secondary education;

(ii) social services and family and child welfare;

(iii) law enforcement and judicial services; and

(iv) alcohol and substance abuse;

(B) staff positions with the Service; and

(C) staff positions similar to those identified in subparagraphs (A) and (B) established and maintained by Indian tribes, including positions established in contracts entered into under the Indian Self-Determination Act.

(3)(A) The appropriate Secretary shall provide training criteria appropriate to each type of position identified in paragraph (2)(A) and ensure that appropriate training has been, or will be, provided to any individual in any such position. With respect to any such individual in a position identified pursuant to paragraph (2)(C), the respective Secretaries shall provide appropriate training to, or provide funds to an Indian tribe for the training of, such individual. In the case of positions funded under a contract entered into under the Indian Self-Determination Act, the appropriate Secretary shall ensure that such training costs are included in the contract, if necessary.

(B) Funds authorized to be appropriated pursuant to ~~this subsection~~ this section may be used to provide training authorized by this paragraph for community education programs described in paragraph (5) if a plan adopted pursuant to subsection (d)

P.L. 102-573

Note: Reference to subsection (d) should be to (c).

identifies individuals or employment categories, other than those identified pursuant to paragraph (1), for which such training or community education is deemed necessary or desirable.

(4) ~~Position-specific training criteria described in paragraph (3) shall be culturally relevant to Indians and Indian tribes and shall ensure that appropriate information regarding traditional Indian healing and treatment practices is provided.~~

(5) The Service shall develop and implement, or, upon the request of the Indian tribe, assist such tribe to develop and implement, a program of community education on mental illness and dysfunctional and self-destructive behavior for individuals, as determined in a plan adopted pursuant to subsection (d). In carrying out this paragraph, the Service shall provide, upon the request of an Indian tribe, technical assistance to the Indian tribe to obtain or develop community education and training materials on the identification, prevention, referral, and treatment of mental illness and dysfunctional and self-destructive behavior.

Note: Reference to subsection (d) should be to (c).

~~(6) There is hereby authorized to be appropriated~~

~~(A) \$100,000 for fiscal year 1991 to carry out this subsection, of which \$100,000 shall be allocated for community education under paragraph (5); and~~

P.L. 102-573

~~(B) \$5,500,000 for fiscal year 1992 to carry out this subsection, of which \$1,200,000 shall be allocated for community education under paragraph (5).~~

~~(e)~~ (e) STAFFING.--(1) Within 90 days after the date of enactment of this section, the Secretary shall develop a plan under which the Service will increase the health care staff providing mental health services by at least 500 positions within five years after the date of enactment of this section, with at least 200 of such positions devoted to child, adolescent, and family services. Each additional staff shall be primarily assigned to the service at level for services which shall include outpatient, emergency, tertiary and follow-up, and prevention and education services.

P.L. 102-573

(2) The plan developed under paragraph (1) shall be implemented under the Act of November 2, 1921 (25 U.S.C. 13) popularly known as the "Snyder Act".

~~(f)~~ (f) STAFF RECRUITMENT AND RETENTION.--(1) The Secretary shall provide for the recruitment of the additional personnel required by subsection (f) and the retention of all Service personnel providing mental health services. In carrying out this subsection, the Secretary shall give priority to practitioners providing mental health services to children and adolescents with mental health problems.

P.L. 102-573

Note: Reference to subsection (f) should be to (e)

(2) In carrying out paragraph (1), the Secretary shall develop a program providing for---

(A) the payment of bonuses (which shall not be more favorable than those provided for under sections 116 and 117) for service in hardship posts;

(B) the repayment of loans (for which the provisions of repayment contracts shall not be more favorable than the repayment contracts under section 108) for health

professions education as a recruitment incentive; and

(C) a system of postgraduate rotations as a retention incentive.

(3) This subsection shall be carried out in coordination with the recruitment and retention programs under title I.

~~(4) There are authorized to be appropriated \$1,200,000 for the fiscal year 1962 to carrying out this subsection.~~ P.L. 102-573

~~(A)~~ (g) MENTAL HEALTH TECHNICIAN PROGRAM.-- (1) Under the authority of the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Secretary shall establish and maintain a Mental Health Technician program within the Service which-- P.L. 102-573

(A) provides for the training of Indians as mental health technicians; and

(B) employs such technicians in the provision of community-based mental health care that includes identification, prevention, education, referral, and treatment services.

(2) In carrying out paragraph (1)(A), the Secretary shall provide high standard paraprofessional training in mental health care necessary to provide quality care to the Indian communities to be served. Such training shall be based upon a curriculum developed or approved by the Secretary which combines education in the theory of mental health care with supervised practical experience in the provision of such care.

(3) The Secretary shall supervise and evaluate the mental health technicians in the training program.

(4) The Secretary shall ensure that the program established pursuant to this subsection involves the utilization and promotion of the traditional Indian health care and treatment practices of the Indian tribes to be served.

~~(5) For purposes of providing the training required under this subsection, there are authorized to be appropriated \$1,000,000 for the fiscal year 1962, which shall remain available until expended.~~ P.L. 102-573

~~(i)~~ (h) MENTAL HEALTH RESEARCH.-- ~~(1)~~ The Secretary, acting through the Service and in consultation with the National Institute of Mental Health, shall enter into contracts with, or make grants to, appropriate institutions for the conduct of research on the incidence and prevalence of mental disorders among Indians on Indian reservations and in urban areas. Research priorities under this subsection shall include-- P.L. 102-573

~~(i)~~ (1) the inter-relationship and inter-dependence of mental disorders with alcoholism, suicide, homicides, accidents, and the incidence of family violence, and

~~(ii)~~ (2) the development of models of prevention techniques.

The effect of the inter-relationships and interdependencies referred to in ~~subparagraph (i)~~ paragraph (1) on children, and the

development of prevention techniques under ~~subparagraph (1)~~,  
~~paragraph (2)~~ applicable to children, shall be emphasized.

~~(2) For purposes of carrying out this subsection, there are authorized to be appropriated \$2,000,000 for fiscal year 1962, which shall remain available until expended.~~

P.L. 102-573

~~(1) FACILITIES ASSESSMENT.--~~ Within one year after the date of enactment of this section, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, under-utilized service hospital beds into psychiatric units to meet such need.

P.L. 102-573

~~(2) There are authorized to be appropriated \$200,000 for the fiscal year 1962 to make the assessment required by this subsection.~~

P.L. 102-573

~~(3) ANNUAL REPORT.--~~ The Service shall develop methods for analyzing and evaluating the overall status of mental health programs and services for Indians and shall submit to the Congress an annual report submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, on the mental health status of Indians which shall describe the progress being made to address mental health problems of Indian communities.

P.L. 102-573

~~(k) MENTAL HEALTH DEMONSTRATION GRANT PROGRAM.--~~ (1) The Secretary, acting through the Service, is authorized to make grants to Indian tribes and inter-tribal consortia to pay 75 percent of the cost of planning, developing, and implementing programs to deliver innovative community-based mental health services to Indians. The percent tribal share of such cost may be provided in cash or through the provision of property or services.

P.L. 102-573

(2) The Secretary may award a grant for a project under paragraph (1) to an Indian tribe or inter-tribal consortium which meets the following criteria:

(A) The project will address significant unmet mental health needs among Indians.

(B) The project will serve a significant number of Indians.

(C) The project has the potential to deliver services in an efficient and effective manner.

(D) The tribe or consortium has the administrative and financial capability to administer the project.

(E) The project will deliver services in a manner consistent with traditional Indian healing and treatment practices.

(F) The project is coordinated with, and avoids duplication of, existing services.

(3) For purposes of this subsection, the Secretary shall, in evaluating applications for grants for projects to be operated under any contract entered into with the Service under the Indian Self-



Determination Act, use the same criteria that the Secretary uses in evaluating any other application for such a grant.

(4) The Secretary may only award one grant under this subsection with respect to a service area until the Secretary has awarded grants for all service areas with respect to which the Secretary receives applications during the application period, as determined by the Secretary, which meet the criteria specified in paragraph (2).

(5) Not later than 180 days after the close of the term of the last grant awarded pursuant to this subsection, the Secretary shall submit to the Congress a report evaluating the effectiveness of the innovative community-based projects demonstrated pursuant to this subsection. Such report shall include findings and recommendations, if any, relating to the reorganization of the programs of the Service for delivery of mental health service to Indians.

~~(6) There is authorized to be appropriated \$2,000,000 for fiscal year 1991 and \$2,000,000 for fiscal year 1992 to carry out the purposes of this subsection. Grants made pursuant to this subsection may be expended over a period of three years and no grant may exceed \$1,000,000 for the fiscal years involved.~~

P.L. 102-573

(1) LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS.--Any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under the authority of this Act or through a contract pursuant to the Indian Self-Determination Act shall--

P.L. 102-573

(1) in the case of a person employed as a psychologist, be licensed as a clinical psychologist or working under the direct supervision of a licensed clinical psychologist;

(2) in the case of a person employed as a social worker, be licensed as a social worker or working under the direct supervision of a licensed social worker; or

(3) in the case of a person employed as a marriage and family therapist, be licensed as a marriage and family therapist or working under the direct supervision of a licensed marriage and family therapist.

(m) INTERMEDIATE ADOLESCENT MENTAL HEALTH SERVICES.--(1) The Secretary, acting through the Service, may make grants to Indian tribes and tribal organizations to provide intermediate mental health services to Indian children and adolescents, including--

P.L. 102-573

(A) inpatient and outpatient services;

(B) emergency care;

(C) suicide prevention and crisis intervention; and

(D) prevention and treatment of mental illness, and dysfunctional and self-destructive behavior, including child abuse and family violence.

(2) Funds provided under this subsection may be used--

(A) to construct or renovate an existing health facility to provide intermediate mental health services;

(B) to hire mental health professionals;

(C) to staff, operate, and maintain an intermediate mental health facility, group home, or youth shelter where intermediate mental health services are being provided; and

(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units.

(3) Funds provided under this subsection may not be used for the purposes described in section 216 (b) (1).

(4) An Indian tribe or tribal organization receiving a grant under this subsection shall ensure that intermediate adolescent mental health services are coordinated with other tribal, Service, and Bureau of Indian Affairs mental health, alcohol and substance abuse, and social services programs on the reservation of such tribe or tribal organization.

(5) The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this subsection.

(6) There are authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

#### MANAGED CARE FEASIBILITY STUDY

P.L. 102-573

SEC. 210. (a) The Secretary, acting through the Service, shall conduct a study to assess the feasibility of allowing an Indian tribe to purchase, directly or through the Service, managed care coverage for all members of the tribe from—

(1) a tribally owned and operated managed care plan; or

(2) a State licensed managed care plan.

(b) Not later than the date which is 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report containing—

(1) a detailed description of the study conducted pursuant to this section; and

(2) a discussion of the findings and conclusions of such study.

#### CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM

P.L. 10. 73

SEC. 211. (a) The Secretary shall establish a demonstration program to evaluate the use of a contract care intermediary to improve the accessibility of health services to

California Indians.

(b)(1) In establishing such program, the Secretary shall enter into an agreement with the California Rural Indian Health Board to reimburse the Board for costs (including reasonable administrative costs) incurred, during the period of the demonstration program, in providing medical treatment under contract to California Indians described in section 809(b) throughout the California contract health services delivery area described in section 810 with respect to high-cost contract care cases.

(2) Not more than 5 percent of the amounts provided to the Board under this section for any fiscal year may be for reimbursement for administrative expenses incurred by the Board during such fiscal year.

(3) No payment may be made for treatment provided under the demonstration program to the extent payment may be made for such treatment under the Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

(c) There is hereby established an advisory board which shall advise the California Rural Indian Health Board in carrying out the demonstration pursuant to this section. The advisory board shall be composed of representatives, selected by the California Rural Indian Health Board, from not less than 8 tribal health programs serving California Indians covered under such demonstration, at least one half of whom are not affiliated with the California Rural Indian Health Board.

(d) The demonstration program described in this section shall begin on January 1, 1993, and shall terminate on September 30, 1997.

(e) Not later than July 1, 1998, the California Rural Indian Health Board shall submit to the Secretary a report on the demonstration program carried out under this section, including a statement of its findings regarding the impact of using a contract care intermediary on--

(1) access to needed health services;

(2) waiting periods for receiving such services; and

(3) the efficient management of high-cost contract care cases.

(f) For the purposes of this section, the term 'high-cost contract care cases' means those cases in which the cost of the medical treatment provided to an individual--

(1) would otherwise be eligible for reimbursement from the Catastrophic Health Emergency Fund established under section 202, except that the cost of such treatment does not meet the threshold cost requirement established pursuant to section 202(b)(2); and

(2) exceeds \$1,000.

(g) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as may be

cessary to carry out the purposes of this section.

COVERAGE OF SCREENING MAMMOGRAPHY

P.L. 102-573

SEC. 212. The Secretary, through the Service, shall provide for screening mammography (as defined in section 1861(jj) of the Social Security Act) for Indian and urban Indian women 35 years of age or older at a frequency, determined by the Secretary (in consultation with the Director of the National Cancer Institute), appropriate to such women, and under such terms and conditions as are consistent with standards established by the Secretary to assure the safety and accuracy of screening mammography under part B of title XVIII of the Social Security Act.

PATIENT TRAVEL COSTS

P.L. 102-573

SEC. 213. (a) The Secretary, acting through the Service, shall provide funds for the following patient travel costs associated with receiving health care services provided (either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act) under this Act--

- (1) emergency air transportation; and
- (2) nonemergency air transportation where ground transportation is infeasible.

(b) There are authorized to be appropriated to carry out this section \$15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

EPIDEMIOLOGY CENTERS

P.L. 102-573

SEC. 214. (a) (1) The Secretary shall establish an epidemiology center in each Service area to carry out the functions described in paragraph (3).

(2) To assist such centers in carrying out such functions, the Secretary shall perform the following:

(A) In consultation with the Centers for Disease and Indian tribes, develop sets of data (which to the extent practicable, shall be consistent with the uniform data sets used by the States with respect to the year 2000 health objectives) for uniformly defining health status for purposes of the objectives specified in section 3(b). Such sets shall consist of one or more categories of information. The Secretary shall develop formats for the uniform collecting and reporting of information on such categories.

(B) Establish and maintain a system for monitoring the progress made toward meeting each of the health status objectives described in section 3(b).

(3) In consultation with Indian tribes and urban Indian

communities, each area epidemiology center established under this subsection shall, with respect to such area--

(A) collect data relating to, and monitor progress made toward meeting, each of the health status objectives described in section 3(b) using the data sets and monitoring system developed by the Secretary pursuant to paragraph (2);

(B) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

(C) assist tribes and urban Indian communities in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

(D) make recommendations for the targeting of services needed by tribal, urban, and other Indian communities;

(E) make recommendations to improve health care delivery systems for Indians and urban Indians;

(F) work cooperatively with tribal providers of health and social services in order to avoid duplication of existing services; and

(G) provide technical assistance to Indian tribes and urban Indian organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community.

(4) Epidemiology centers established under this subsection shall be subject to the provisions of the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

(5) The director of the Centers for Disease Control shall provide technical assistance to the centers in carrying out the requirements of this subsection.

(6) The Service shall assign one epidemiologist from each of its area offices to each area epidemiology center to provide such center with technical assistance necessary to carry out this subsection.

(b)(1) The Secretary may make grants to Indian tribes, tribal organizations, and eligible intertribal consortia or Indian organizations to conduct epidemiological studies of Indian communities.

(2) An intertribal consortia or Indian organization is eligible to receive a grant under this subsection if--

(A) it is incorporated for the primary purpose of improving Indian health; and

(B) it is representative of the tribes or urban Indian communities in which it is located.

(3) An application for a grant under this subsection shall be submitted in such manner and at such time as the Secretary shall

describe.

(4) Applicants for grants under this subsection shall--

(A) demonstrate the technical, administrative, and financial expertise necessary to carry out the functions described in paragraph (5);

(B) consult and cooperate with providers of related health and social services in order to avoid duplication of existing services; and

(C) demonstrate cooperation from Indian tribes or urban Indian organizations in the area to be served.

(5) A grant awarded under paragraph (1) may be used to--

(A) carry out the functions described in subsection (a)(3);

(B) provide information to and consult with tribal leaders, urban Indian community leaders, and related health staff, on health care and health services management issues; and

(C) provide, in collaboration with tribes and urban Indian communities, the Service with information regarding ways to improve the health status of Indian people.

(6) There are authorized to be appropriated to carry out the purposes of this subsection not more than \$12,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000."

COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS

P.L. 102-573

SEC. 215. (a) The Secretary, acting through the Service and in consultation with the Secretary of the Interior, may award grants to Indian tribes to develop comprehensive school health education programs for children from preschool through grade 12 in schools located on Indian reservations.

(b) Grants awarded under this section may be used to--

(1) develop health education curricula;

(2) train teachers in comprehensive school health education curricula;

(3) integrate school-based, community-based, and other public and private health promotion efforts;

(4) encourage healthy, tobacco-free school environments;

(5) coordinate school-based health programs with existing services and programs available in the community;

(6) develop school programs on nutrition education, personal health, and fitness;

- (7) develop mental health wellness programs;
- (8) develop chronic disease prevention programs;
- (9) develop substance abuse prevention programs;
- (10) develop accident prevention and safety education programs;
- (11) develop activities for the prevention and control of communicable diseases; and
- (12) develop community and environmental health education programs.

(c) The Secretary shall provide technical assistance to Indian tribes in the development of health education plans, and the dissemination of health education materials and information on existing health programs and resources.

(d) The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this section.

(e) Recipients of grants under this section shall submit to the Secretary an annual report on activities undertaken with funds provided under this section. Such reports shall include a statement of--

(1) the number of preschools, elementary schools, and secondary schools served;

(2) the number of students served;

(3) any new curricula established with funds provided under this section;

(4) the number of teachers trained in the health curricula; and

(5) the involvement of parents, members of the community, and community health workers in programs established with funds provided under this section.

(f)(1) The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary, shall develop a comprehensive school health education program for children from preschool through grade 12 in schools operated by the Bureau of Indian Affairs.

(2) Such program shall include--

(A) school programs on nutrition education, personal health, and fitness;

(B) mental health wellness programs;

(C) chronic disease prevention programs;

(D) substance abuse prevention programs;

(E) accident prevention and safety education programs; and

(F) activities for the prevention and control of communicable diseases.

(3) The Secretary of the Interior shall--

(A) provide training to teachers in comprehensive school health education curricula;

(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

(C) encourage healthy, tobacco-free school environments.

(g) There are authorized to be appropriated to carry out this section \$15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

#### INDIAN YOUTH GRANT PROGRAM

P.L. 102-573

SEC. 216. (a) The Secretary, acting through the Service, is authorized to make grants to Indian tribes, tribal organizations, and urban Indian organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian preadolescent and adolescent youths.

(b) (1) Funds made available under this section may be used

(A) develop prevention and treatment programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional healers; and

(B) develop and provide community training and education.

(2) Funds made available under this section may not be used to provide services described in section 209(m).

(c) The Secretary shall--

(1) disseminate to Indian tribes information regarding models for the delivery of comprehensive health care services to Indian and urban Indian adolescents;

(2) encourage the implementation of such models; and

(3) at the request of an Indian tribe, provide technical assistance in the implementation of such models.

(d) The Secretary shall establish criteria for the review and approval of applications under this section.

(e) There are authorized to be appropriated to carry out this section \$5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.



AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM

P.L. 102-573

SEC. 217. (a) The Secretary may provide grants to at least 3 colleges and universities for the purpose of developing and maintaining American Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field.

(b) The Secretary shall provide one of the grants authorized under subsection (a) to develop and maintain a program at the University of North Dakota to be known as the "Quentin N. Burdick American Indians Into Psychology Program". Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs authorized under section 114(b), the Quentin N. Burdick American Indians Into Nursing Program authorized under section 112(e), and existing university research and communications networks.

(c)(1) The Secretary shall issue regulations for the competitive awarding of the grants provided under this section.

(2) Applicants for grants under this section shall agree to provide a program which, at a minimum--

(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations that will be served by the program;

(B) incorporates a program advisory board comprised of representatives from the tribes and communities that will be served by the program;

(C) provides summer enrichment programs to expose Indian students to the varied fields of psychology through research, clinical, and experiential activities;

(D) provides stipends to undergraduate and graduate students to pursue a career in psychology;

(E) develops affiliation agreements with tribal community colleges, the Service, university affiliated programs, and other appropriate entities to enhance the education of Indian students;

(F) to the maximum extent feasible, utilizes existing university tutoring, counseling and student support services; and

(G) to the maximum extent feasible, employs qualified Indians in the program.

(d) The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each graduate student who receives a stipend described in subsection (c)(2)(D) that is funded by a grant provided under this section. Such obligation shall be met by service--

(1) in the Indian Health Service;

(2) in a program conducted under a contract entered into under the Indian Self-Determination Act;

(3) in a program assisted under title V of this Act; or

(4) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

PREVENTION, CONTROL, AND ELIMINATION OF TUBERCULOSIS

P.L. - 102-573

SEC. 218. (a) The Secretary, acting through the Service after consultation with the Centers for Disease Control, may make grants to Indian tribes and tribal organizations for--

(1) projects for the prevention, control, and elimination of tuberculosis;

(2) public information and education programs for the prevention, control, and elimination of tuberculosis; and

(3) education, training, and clinical skills improvement activities in the prevention, control, and elimination of tuberculosis for health professionals, including allied health professionals.

(b) The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains the assurances required by subsection (c) and such other agreements, assurances, and information as the Secretary may require.

(c) To be eligible for a grant under subsection (a), an applicant must provide assurances satisfactory to the Secretary that--

(1) the applicant will coordinate its activities for prevention, control, and elimination of tuberculosis with activities of the Centers for Disease Control, and State and local health agencies; and

(2) the applicant will submit to the Secretary an annual report on its activities for the prevention, control, and elimination of tuberculosis.

(d) In carrying out this section, the Secretary--

(1) shall establish criteria for the review and approval of applications for grants under subsection (a), including requirement of public health qualifications of applicants;

(2) shall, subject to available appropriations, make at least one grant under subsection (a) within each area office;

(3) may, at the request of an Indian tribe or tribal organization, provide technical assistance; and

(4) shall prepare and submit a report to the Committee on Energy and Commerce and the Committee on Interior and

Insular Affairs of the House and the Select Committee on Indian Affairs of the Senate not later than February 1, 1994, and biennially thereafter, on the use of funds under this section and on the progress made toward the prevention, control, and elimination of tuberculosis among Indian tribes and tribal organizations.

(e) The Secretary may, at the request of a recipient of a grant under subsection (a), reduce the amount of such grant by--

(1) the fair market value of any supplies or equipment furnished the grant recipient; and

(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

#### CONTRACT HEALTH SERVICES PAYMENT STUDY

P.L. 102-573

SEC. 219. (a) The Secretary, acting through the Service and in consultation with representatives of Indian tribes and tribal organizations operating contract health care programs under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or under self-governance compacts, Service personnel, private contract health services providers, the Indian Health Service Fiscal Intermediary, and other appropriate experts, shall conduct a study--

(1) to assess and identify administrative barriers that hinder the timely payment for services delivered by private contract health services providers to individual Indians by the Service and the Indian Health Service Fiscal Intermediary;

(2) to assess and identify the impact of such delayed payments upon the personal credit histories of individual Indians who have been treated by such providers; and

(3) to determine the most efficient and effective means of improving the Service's contract health services payment system and ensuring the development of appropriate consumer protection policies to protect individual Indians who receive authorized services from private contract health services providers from billing and collection practices, including the development of materials and programs explaining patients' rights and responsibilities.

(b) The study required by subsection (a) shall--

(1) assess the impact of the existing contract health services regulations and policies upon the ability of the Service and the Indian Health Service Fiscal Intermediary to process, on a timely and efficient basis, the payment of bills submitted by private contract health services providers;

(2) assess the financial and any other burdens imposed upon individual Indians and private contract health services providers by delayed payments;

(3) survey the policies and practices of collection agencies used by contract health services providers to collect payments for services rendered to individual Indians;

(4) identify appropriate changes in Federal policies, administrative procedures, and regulations, to eliminate the problems experienced by private contract health services providers and individual Indians as a result of delayed payments; and

(5) compare the Service's payment processing requirements with private insurance claims processing requirements to evaluate the systemic differences or similarities employed by the Service and private insurers.

(c) Not later than 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report that includes--

(1) a detailed description of the study conducted pursuant to this section; and

(2) a discussion of the findings and conclusions of such study.

#### PROMPT ACTION ON PAYMENT OF CLAIMS

SEC. 220. (a) The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

(b) If the Service fails to respond to a notification of a claim in accordance with subsection (a), the Service shall accept as valid the claim submitted by the provider of a contract care service.

(c) The Service shall pay a completed contract care service claim within 30 days after completion of the claim.

#### DEMONSTRATION OF ELECTRONIC CLAIMS PROCESSING

SEC. 221. (a) Not later than June 15, 1993, the Secretary shall develop and implement, directly or by contract, 2 projects to demonstrate in a pilot setting the use of claims processing technology to improve the accuracy and timeliness of the billing for, and payment of, contract health services.

(b) The Secretary shall conduct one of the projects authorized

P.L. 102-573

P.L. 102-573

in subsection (a) in the Service area served by the area office located in Phoenix, Arizona.

LIABILITY FOR PAYMENT

P.L. 102-573

SEC. 222. (a) A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services.

(b) The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services.

OFFICE OF INDIAN WOMEN'S HEALTH CARE

P.L. 102-573

SEC. 223. There is established within the Service an Office of Indian Women's Health Care to oversee efforts of the Service to monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.

AUTHORIZATION OF APPROPRIATIONS

SEC. 224. Except as provided in sections 209(m), 211, 213, 214(b)(5), 215, and 216, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.

P.L. 102-573

Note: Reference to section 214(b)(5) should be to section 214(b)(6)

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# TITLE III--HEALTH FACILITIES

## ~~CONSTRUCTION AND RENOVATION OF SERVICE FACILITIES~~

~~Sec. 301. (a) The Secretary, acting through the Service, is authorized to expend over the seven year period beginning after the date of the enactment of this Act the sums authorized by subsection (b) for the construction and renovation of hospitals, health centers, health stations, and other facilities of the Service.~~

P.L. 100-713

~~(b) The following amounts are authorized to be appropriated for purposes of subsection (a):~~

~~(1) Hospitals: \$67,180,000 for fiscal year 1978, \$72,256,000 for fiscal year 1979, and \$19,742,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for hospitals such sums as may be specifically authorized by an Act enacted after this Act.~~

~~(2) Health centers and health stations: \$6,060,500 for fiscal year 1978, \$6,226,000 for fiscal year 1979, and \$2,720,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for health centers and health stations such sums as may be specifically authorized by an Act enacted after this Act.~~

~~(3) Staff housing: \$1,242,000 for fiscal year 1978, \$21,725,000 for fiscal year 1979, and \$1,116,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for staff housing such sums as may be specifically authorized by an Act enacted after this Act.~~

~~(c) Prior to the expenditure of, or the making of any firm commitment to expend, any funds authorized in subsection (a), the Secretary, acting through the Service shall~~

~~(1) consult with any Indian tribe to be significantly affected by any such expenditure for the purpose of determining and, wherever practicable, honoring tribal preferences concerning the size, location, type, and other characteristics of any facility on which such expenditure is to be made; and~~

~~(2) be assured that, wherever practicable, such facility, no later than one year after its construction or renovation, shall meet the standards of the Joint Committee on Accreditation of Hospitals.~~

## CONSULTATION; CLOSURE OF FACILITIES; REPORTS

P.L. 100-713

Sec. 301. (a) Prior to the expenditure of, or the making of any firm commitment to expend, any funds appropriated for the planning, design, construction, or renovation of facilities pursuant to the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, acting through the Service, shall--

(1) consult with any Indian tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made, and

(2) ensure, whenever practicable, that such facility meets the standards of the Joint Commission on Accreditation of ~~Hospital Health Care Organizations~~ by not later than 1 year after the date on which the construction or renovation of such facility is completed. P.L. 102-573

(b)(1) Notwithstanding any provision of law other than this subsection, no Service hospital or ~~other~~ outpatient health care facility of the Service, or any portion of such a hospital or facility, may be closed if the Secretary has not submitted to the Congress at least 1 year prior to the date such hospital or facility or portion thereof is proposed to be closed an evaluation of the impact of such proposed closure which specifies, in addition to other considerations--

(A) the accessibility of alternative health care resources for the population served by such hospital or facility;

(B) the cost effectiveness of such closure;

(C) the quality of health care to be provided to the population served by such hospital or facility after such closure;

(D) the availability of contract health care funds to maintain existing levels of service; and

(E) the views of the Indian tribes served by such hospital or facility concerning such closure--;

(2) Paragraph (1) shall not apply to any temporary closure of a facility or any portion of a facility if such closure is necessary for medical, environmental, or safety reasons.

(F) the level of utilization of such hospital or facility by all eligible Indians; and P.L. 102-573

(G) the distance between such hospital or facility and the nearest operating Service hospital. P.L. 102-573

~~(e) The President shall include with the budget submitted under section 1105 of title 21, United States Code, for each of the fiscal years 1990, 1991, and 1992, program information documents for the construction of 10 Indian health facilities which~~ P.L. 102-573

~~(1) comply with applicable construction standards, and~~

~~(2) have been approved by the Secretary.~~

~~(d)(1) The Secretary shall submit to the Congress an annual report which sets forth~~



(c)(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report which sets forth--;

P.L. 102-573

(A) the current health facility priority system of the Service,

(B) the planning, design, construction, and renovation needs for the 10 top-priority inpatient care facilities and the 10 top-priority ambulatory care facilities (together with required staff quarters),

(C) the justification for such order of priority,

(D) the projected cost of such projects, and

(E) the methodology adopted by the Service in establishing priorities under its health facility priority system.

~~(2) The first report required under paragraph (1) shall be submitted by no later than the date that is 180 days after the date of enactment of the Indian Health Care Amendments of 1988 and, beginning in 1990, each subsequent annual report shall be submitted by the date that is 60 days after the date on which the President submits the budget to the Congress under section 1105 of title 31, United States Code.~~

P.L. 102-573

~~(2)~~ (2) In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall--

(A) consult with Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any contract entered into with the Service under the Indian Self-Determination Act, and

(B) review the needs of such tribes and tribal organizations for inpatient and outpatient facilities, including their needs for renovation and expansion of existing facilities.

~~(3)~~ (3) For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any contract entered into with the Service under the Indian Self-Determination Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

~~(4)~~ (4) The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities which are the subject of a contract for health services entered into with the Service, under the Indian Self-Determination Act are fully and equitably integrated into the development of the health facility priority system.

~~(d)~~ (d) All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13), for the planning, design, construction, or renovation of health facilities for the benefit of an Indian tribe or tribes shall be subject to the provisions of ~~sections 102 and 103(b)~~ section 102 of the Indian Self-Determination Act.

~~CONSTRUCTION OF SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES~~

~~Sec. 302. (1) During the seven fiscal year period beginning after the date of enactment of this Act, the Secretary is authorized to expend under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the sums authorized under subsection (b) to supply unmet needs for safe water and sanitary waste disposal facilities in existing and new Indian homes and communities.~~

P.L. 100-713

~~(a) For expenditures of the Secretary authorized by subsection (a) for facilities in existing Indian homes and communities there are authorized to be appropriated \$13,000,000 for fiscal year 1978, \$30,000,000 for fiscal year 1979, and \$20,000,000 for fiscal year 1980. For expenditures of the Secretary authorized by subsection (a) for facilities in new Indian homes and communities there are authorized to be appropriated such sums as may be necessary for fiscal years 1978, 1979, and 1980. For fiscal years 1981, 1982, 1983, and 1984 for expenditures authorized by subsection (a) there are authorized to be appropriated such sums as may be specifically authorized in an Act enacted after this Act.~~

~~(c) Former and currently federally recognized Indian tribes in the State of New York shall be eligible for assistance under this section.~~

SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES

P.L. 100-713

Sec. 302. (a) The Congress hereby finds and declares that--

(1) the provision of safe water supply systems and sanitary sewage and solid waste disposal systems is primarily a health consideration and function;

(2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of such systems;

(3) the long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing such systems and other preventive health measures;

(4) many Indian homes and communities still lack safe water supply systems and sanitary sewage and solid waste disposal systems; and

(5) it is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with safe and adequate water supply systems and sanitary sewage waste disposal systems as soon as possible.

(b)(1) In furtherance of the findings and declarations made in subsection (a), Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).--

(2) The Secretary, acting through the Service, is authorized to provide under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a)--

(A) financial and technical assistance to Indian tribes and communities in the establishment, training, and equipping of utility organizations to operate and maintain Indian sanitation facilities;

(B) ongoing technical assistance and training in the management of utility organizations which operate and maintain sanitation facilities; and

(C) operation and maintenance assistance for, and emergency repairs to, tribal sanitation facilities when necessary to avoid a health hazard or to protect the Federal investment in sanitation facilities.

(3) Notwithstanding any other provision of law--

(A) the Secretary of Housing and Urban Affairs is authorized to transfer funds appropriated under the Housing and Community Development Act of 1974 (42 U.S.C. 5301, et seqq.) to the Secretary of Health and Human Services, and

(B) the Secretary of Health and Human Services is authorized to accept and use such funds for the purpose of providing sanitation facilities and services for Indians under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

(c) Beginning in fiscal year 1990, the Secretary, acting through the Service, shall develop and begin implementation of a 10-year plan to provide safe water supply and sanitation sewage and solid waste disposal facilities to existing Indian homes and communities and to new and renovated Indian homes.

(d) The financial and technical capability of an Indian tribe or community to safely operate and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.

~~(e) The provisions of this section shall not diminish the primary responsibility of the Indian family, community, or tribe to establish, collect, and utilize reasonable user fees, or otherwise set aside funding, for the purpose of operating and maintaining sanitation facilities.~~

P.L. 102-573

(e)(1) The Secretary is authorized to provide financial assistance to Indian tribes and communities in an amount equal to the Federal share of the costs of operating, managing, and maintaining the facilities provided under the plan described in subsection (c).

P.L. 102-573

(2) For the purposes of paragraph (1), the term "Federal share" means 80 percent of the costs described in paragraph (1).

(3) With respect to Indian tribes with fewer than 1,000 enrolled members, the non-Federal portion of the costs of operating, managing, and maintaining such facilities may be provided, in part, through cash donations or in kind property, fairly evaluated.

(f) Programs administered by Indian tribes or tribal organizations under the authority of the Indian Self-Determination Act shall be eligible for--

(1) any funds appropriated pursuant to ~~subsection (h)~~ this section, and

P.L. 102-573

(2) any funds appropriated for the purpose of providing water supply or sewage disposal services,

on an equal basis with programs ~~that are administered directly by the Service.~~

~~(g) (1) The Secretary shall submit to the Congress an annual report. The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 101, a report which sets forth--~~

P.L. 102-573

(A) the current Indian sanitation facility priority system of the Service;

(B) the methodology for determining sanitation deficiencies;

(C) the level of sanitation deficiency for each sanitation facilities project of each Indian tribe or community;

(D) the amount of funds necessary to raise all Indian tribes and communities to level I sanitation deficiency; and

(E) the amount of funds necessary to raise all Indian tribes and communities to zero sanitation deficiency.

~~(2) The first report required under paragraph (1) shall be submitted by no later than the date that is 180 days after the date of enactment of the Indian Health Care Amendments of 1988 and, beginning in 1990, each subsequent annual report shall be submitted by the date that is 60 days after the date on which the President submits the budget to the Congress under section 1105 of title 31, United States Code.~~

P.L. 102-573

~~43(2)~~ In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall consult with Indian tribes and tribal organizations (including those tribes or tribal organizations operating health care programs or facilities under any contract entered into with the Service under the Indian Self-Determination Act) to determine the sanitation needs of each tribe.

~~44(3)~~ The methodology used by the Secretary in determining sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian tribes and communities.

~~45(4)~~ For purposes of this subsection, the sanitation deficiency levels for an Indian tribe or community are as follows:

(A) level I is an Indian tribe or community with a sanitation system--

- (i) which complies with all applicable water supply and pollution control laws, and
  - (ii) in which the deficiencies relate to routine replacement, repair, or maintenance needs;
- (B) level II is an Indian tribe or community with a sanitation system--
- (i) which complies with all applicable water supply and pollution control laws, and
  - (ii) in which the deficiencies relate to capital improvements that are necessary to improve the facilities in order to meet the needs of such tribe or community for domestic sanitation facilities;
- (C) level III is an Indian tribe or community with a sanitation system which--
- (i) has an inadequate or partial water supply and a sewage disposal facility that does not comply with applicable water supply and pollution control laws, or
  - (ii) has no solid waste disposal facility;
- (D) level IV is an Indian tribe or community with a sanitation system which lacks either a safe water supply system or a sewage disposal system; and
- (E) level V is an Indian tribe or community that lacks a safe water supply and a sewage disposal system.

~~(5)~~ (5) For purposes of this subsection, any Indian tribe or community that lacks the operation and maintenance capability to enable its sanitation system to meet pollution control laws may not be treated as having a level I or II sanitation deficiency.

~~(b)(1) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, \$3,000,000 for the purpose of providing funds necessary to implement the responsibilities of the Service described in subsection (b)(2).~~

P.L. 102-573

~~(2) In addition to the amount authorized under paragraph (1), there are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, \$850,000 for the sanitation service account of the Service which shall be used to carry out the responsibilities of the Service described in subsection (b)(2).~~

P.L. 102-573

#### PREFERENCE TO INDIANS AND INDIAN FIRMS

Sec. 303. (a) The Secretary, acting through the Service, may utilize the negotiating authority of the Act of June 25, 1910 (25 U.S.C. 47), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or current federally recognized Indian tribes in the State of New York (hereinafter referred to as an "Indian firm") in the construction

and renovation of Service facilities pursuant to section 301 and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302. Such preference may be accorded by the Secretary unless he finds, pursuant to rules and regulations promulgated by him, that the project, or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at his finding, shall consider whether the Indian or Indian firm will be deficient with respect to (1) ownership and control by Indians, (2) equipment, (3) bookkeeping and accounting procedures, (4) substantive knowledge of the project or function to be contracted for, (5) adequately trained personnel, or (6) other necessary components of contract performance.

(b) For the purpose of implementing the provisions of this title, the Secretary shall assure that the rates of pay for personnel engaged in the construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this title are not less than the prevailing local wage rates for similar work as determined in accordance with the Act of March 3, 1931 (40 U.S.C. 276a-276a-5, known as the Davis-Bacon Act).

#### SOBOBA SANITATION FACILITIES

Sec. 304. The Act of December 17, 1970 (84 Stat. 1465), is hereby amended by adding the following new section 9 at the end hereof:

Sec. 9. Nothing in this Act shall preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5, 1954 (68 Stat. 674), as amended by the Act of July 31, 1959 (73 Stat. 267).

#### AUTHORIZATIONS

~~Sec. 305. There are authorized to be appropriated to carry out sections 201 and 202 for the fiscal year ending September 30, 1981, for the fiscal year ending September 30, 1982, for the fiscal year ending September 30, 1983, and for the fiscal year ending September 30, 1984, such sums as may be necessary.~~ P.L. 100-713

#### EXPENDITURE OF NON-SERVICE FUNDS FOR RENOVATION

P.L. 100-713  
P.L. 102-573

Sec. 305. (a)(1) Notwithstanding any other provision of law, the Secretary is authorized to accept any major renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a contract entered into under the Indian Self-Determination Act, including--

~~(1)(A)~~ any plans or designs for such renovation or modernization, and

~~(2)(B)~~ any renovation or modernization for which funds appropriated under any Federal law were lawfully expended, but only if the requirements of subsection (b) are met. P.L. 102-573

~~but only if the requirements of subsection (b) are met.~~

(2) The Secretary shall maintain a separate priority list to address the needs of such facilities for personnel or equipment.

(3) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, the priority list maintained pursuant to paragraph (2).

(b) The requirements of this subsection are met with respect to any renovation or modernization if ~~the renovation or modernization~~

~~(1) does not require or obligate the Secretary to provide any additional employees or equipment,~~

~~(2) is approved by the appropriate area director of the Service, and~~

~~(3) is administered by the Indian tribe in accordance with the rules and regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.~~

(1) the tribe or tribal organization--

(A) provides notice to the Secretary of its intent to renovate or modernize; and

(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for personnel or equipment; and

(2) the renovation or modernization--

(A) is approved by the appropriate area director of the Service; and

(B) is administered by the tribe in accordance with the rules and regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

~~(c) A renovation or modernization shall not be authorized by this section if such renovation or modernization would require the diversion of funds appropriated to the Service from any project which has a higher priority under the health facility priority system of the Service.~~

(c) If any Service facility which has been renovated or modernized by an Indian tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such renovation or modernization) bore to the value of such facility at the time of the completion of such renovation or modernization.

BETHHEL, ALASKA, HOSPITAL

P.L. 102-573

~~Sec. 306. (a) If a final administrative ruling by the Department of the Interior holds that the Bethel Native Corporation is entitled to conveyance under the Alaska Native Claims Settlement Act of the title to the real property described in Subsection (d)(1), such ruling shall be subject to judicial review.~~

~~(b) The Secretary is authorized to enter into an agreement with the Bethel Native Corporation for an exchange of the real property described in subsection (d)(2) for~~

~~(1) the lands described in subsection (d)(2), or~~

~~(2) any other Federal property which the Bethel Native Corporation would have been able to select under the Alaska Native Claims Settlement Act.~~

~~(c) If an agreement for the exchange of lands is not entered into under subsection (b) before the date that is 90 days after the date on which a ruling described in subsection (b) becomes final and is no longer appealable, the Secretary shall, subject to the availability of funds provided by Appropriations Acts, purchase the lands described in subsection (d)(1) at fair market value.~~

~~(d)(1) The real property referred to in subsection (a) is United States Survey Numbered 4000, other than the lands described in paragraph (2).~~

~~(2) The lands referred to in subsection (d)(1) are the lands identified as tracts A and B in the determination of the Bureau of Land Management issued on September 26, 1983, pursuant to the Alaska Native Claims Settlement Act.~~

GRANT PROGRAM FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES

P.L. 102-573

Sec. 306. (a)(1) The Secretary, acting through the Service, shall make grants to tribes and tribal organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and ineligible persons as provided in subsection (c)(1)(C)). A grant made under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term "construction" includes the replacement of an existing facility.

(2) A grant under paragraph (1) may only be made to a tribe or tribal organization operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to a tribe or tribal organization) pursuant to a contract entered into under the Indian Self-Determination Act.

(b)(1) A grant provided under this section may be used only for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

(A) located apart from a hospital;



(B) not funded under section 301 or section 307; and

(C) which, upon completion of such construction, or modernization will—

(i) have a total capacity appropriate to its projected service population;

(ii) serve no less than 500 eligible Indians annually; and

(iii) provide ambulatory care in a service area (specified in the contract entered into under the Indian Self-Determination Act) with a population of not less than 2,000 eligible Indians.

(2) The requirements of clauses (ii) and (iii) of paragraph (1) (C) shall not apply to a tribe or tribal organization applying for a grant under this section whose tribal government offices are located on an island.

(c) (1) No grant may be made under this section unless an application for such a grant has been submitted to and approved by the Secretary. An application for a grant under this section shall be submitted in such form and manner as the Secretary shall by regulation prescribe and shall set forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out pursuant to a grant received under this section—

(A) adequate financial support will be available for provision of services at such facility;

(B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and

(C) such facility will, as feasible without the quality or quantity of services provided to eligible Indians, serve noneligible persons on a cost basis.

(2) In awarding grants under this section the Secretary shall give priority to tribes and tribal organizations that demonstrate—

(A) a need for increased ambulatory care services; and

(B) insufficient capacity to deliver such services.

(d) If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, at any time after completion of the construction, expansion, or modernization carried out with such funds, to be utilized for the purposes of providing ambulatory care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States.

~~SBC. 307 INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT~~  
INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT

P.L. 101-63

P.L. 102-573

**Sec. 307 (a) HEALTH CARE DEMONSTRATION PROJECTS.**—The Secretary, acting through the Service, is authorized to enter into contracts with, or make grants to, Indian tribes or tribal organizations for the purpose of carrying out a health care delivery demonstration project to test alternative means of delivering health care and services through facilities to Indians.

**(b) USE OF FUNDS.**—The Secretary, in approving projects pursuant to this section, may authorize funding for the construction and renovation of hospitals, health centers, health stations, and other facilities to deliver health care services and is authorized to—

- (1) waive any leasing prohibition;
- (2) permit carryover of funds appropriated for the provision of health care services;
- (3) permit the use of non-Service Federal funds and non-Federal funds;
- (4) permit the use of funds or property donated from any source for project purposes; and
- (5) provide for the reversion of donated real or personal property to the donor.

**(c) CRITERIA.**—(1) Within 180 days after the date of enactment of this section, the Secretary, after consultation with Indian tribes and tribal organizations, shall develop and publish in the Federal Register criteria for the review and approval of applications submitted under this section. The Secretary may enter into a contract or award a grant under this section for projects which meet the following criteria:

(A) There is a need for a new facility or program of the reorientation of an existing facility or program. P.L. 102-573

(B) A significant number of Indians, including those with low health status, will be served by the project.

(C) The project has the potential to deliver services in an efficient and effective manner.

(D) The project is economically viable.

(E) The Indian tribe or tribal organization has the administrative and financial capability to administer the project.

(F) The project is integrated with providers of related health and social services and is coordinated with, and avoids duplication of, existing services.

(2) The Secretary may provide for the establishment of peer review panels, as necessary to review and evaluate applications using the criteria developed pursuant to paragraph (1).

(3) (A) The On or before September 30, 1995, the Secretary shall enter into contracts or award grants under this section for a demonstration project in each of the following service units which meets the criteria specified in paragraph (1) and for which a completed application has been received by the Secretary:

P.L. 102-573

- (i) Cass Lake, Minnesota.
- (ii) Clinton, Oklahoma.
- (iii) Harlem, Montana.
- (iv) Mescalero, New Mexico.
- (v) Owyhee, Nevada.
- (vi) Parker, Arizona.
- (vii) Schurz, Nevada.
- (viii) Winnebago, Nebraska.
- (ix) Ft. Yuma, California

~~(B) After entering into contracts or awarding grants in accordance with subparagraph (A), and taking into account contracts entered into and grants awarded under such subparagraph, the Secretary may only enter into one contract or award one grant under this subsection with respect to a service area until the Secretary has entered into contracts or awarded grants for all service areas with respect to which the Secretary receives applications during the application period, as determined by the Secretary, which meet the criteria developed under paragraph (1).~~

P.L. 102-573

(B) The Secretary may also enter into contracts or grants under this section taking into consideration applications received under this section from all service areas. The Secretary may not award a greater number of such contracts or grants in one service area than in any other service area until there is an equal number of such contracts or grants awarded with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria specified in paragraph (1).

P.L. 102-573

(d) TECHNICAL ASSISTANCE.-- The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

(e) SERVICE TO INELIGIBLE PERSONS.-- The authority to provide services to persons otherwise ineligible for the health care benefits of the Service and the authority to extend hospital privileges in service facilities to non-Service health practitioners as provided in section 713 may be included, subject to the terms of such section, in any demonstration project approved pursuant to this section.

(f) EQUITABLE TREATMENT.-- For purposes of subsection (c) (1) (a), the Secretary shall, in evaluating facilities operated under any contract entered into with the Service under the Indian

self-Determination Act, use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service.

(g) EQUITABLE INTEGRATION OF FACILITIES.—The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities which are the subject of a contract for health services entered into with the Service under the Indian Self-Determination Act, are fully and equitably integrated into the implementation of the health care delivery demonstration projects under this section.

~~(h) REPORT TO CONGRESS. Within 90 days after the end of the period set out in subsection (a), the Secretary shall prepare and submit to Congress a report, together with legislative recommendations, on the findings and conclusions derived from the demonstration projects.~~

P.L. 102-573

(h) (1) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 801 for fiscal year 1997, an interim report on the findings and conclusions derived from the demonstration projects established under this section.

P.L. 102-573

(2) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 801 for fiscal year 1999, a final report on the findings and conclusions derived from the demonstration projects established under this section, together with legislative recommendations.

~~(i) AUTHORIZATION OF APPROPRIATIONS. There is authorized to be appropriated such sums as may be necessary for fiscal years 1991 and 1992 for the purpose of carrying out this section, which are authorized to remain available until expended.~~

P.L. 102-573

#### LAND TRANSFER

Sec. 308. The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Service and occupied by the Chemawa Indian Health Center.

P.L. 102-573

#### AUTHORIZATION OF APPROPRIATIONS

Sec. 309. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.

P.L. 102-573

#### APPLICABILITY OF BUY AMERICAN REQUIREMENT

Sec. 310. (a) The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds provided pursuant to the authorization contained in section 309.

P.L. 102-573

(b) The Secretary shall submit to the Congress a report on the amount of procurements from foreign entities made in fiscal years 1993 and 1994 with funds provided pursuant to the authorization contained in section 309. Such report shall separately indicate the dollar value of items procured with such funds for which the Buy American Act was waived pursuant to the Trade Agreement Act of 1979 or any international agreement to which the United States is a party.

(c) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to the authorization contained in section 309, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(d) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

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## TITLE IV--ACCESS TO HEALTH SERVICES

### ELIGIBILITY OF INDIAN HEALTH SERVICE FACILITIES UNDER MEDICARE PROGRAM

#### TREATMENT OF PAYMENTS UNDER MEDICARE PROGRAM

SEC. 401. (a) Any payments received by a hospital or skilled nursing facility of the Service (whether operated by the Service or by an Indian tribe or tribal organization pursuant to a contract under the Indian Self-Determination Act) for services provided to Indians eligible for benefits under title XVIII of the Social Security Act shall not be considered in determining appropriations for health care and services to Indians.

(b) Nothing in this Act authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act, as amended, in preference to an Indian beneficiary without such coverage.

[NOTE: Sections 401(a) and 401(b) as originally enacted by P.L. 94-437 amended titles XVIII of the Social Security Act. Subsequent amendments to title IV of P.L. 94-437 did not change these earlier amendments to the Social Security Act. As a convenience, the original language of sections 401 (a) and 401(b) are reprinted below though they are not now part of P.L. 94-437 as amended.]

(Sec. 401. (a) Sections 1814(c) and 1835(d) of the Social Security Act are each amended by striking out "No payment" and inserting in lieu thereof "Subject to section 1880, no payment".

(b) Part C of title XVIII of such Act is amended by adding at the end thereof the following new section:

#### ("INDIAN HEALTH SERVICE FACILITIES

"Sec. 1880. (a) A hospital or skilled nursing facility of the Indian Health Service, whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d), if and for so long as it meets all of the conditions and requirements for such payments which are applicable generally to hospitals or skilled nursing facilities (as the case may be) under this title.

("(b) Notwithstanding subsection (a), a hospital or skilled nursing facility of the Indian Health Service which does not meet all of the conditions and requirements of this title which are applicable generally to hospitals or skilled nursing facilities (as the case may be), but which submits to the Secretary within six months after the date of enactment of this section an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for payments under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first 12 months after the month in which such plan is submitted.

("(c) Notwithstanding any other provision of this title, payments to which any hospital or skilled nursing facility of the Indian Health Service is entitled by reason of this section shall be placed in a special fund to be held by the Secretary and used by him

(to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the hospitals and skilled nursing facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of this title. The preceding sentence shall cease to apply when the Secretary determines and certifies that substantially all of the hospitals and skilled nursing facilities of such Service in the United States are in compliance with such conditions and requirements.

(d) The annual report of the Secretary which is required by section 701 of the Indian Health Care Improvement Act shall include (along with the matters specified in section 403 of such Act) a detailed statement of the status of the hospitals and skilled nursing facilities of the Service in terms of their compliance with the applicable conditions and requirements of this title and of the progress being made by such hospitals and facilities (under plans submitted under subsection (b) and otherwise) toward the achievement of such compliance.

Note: Now in sec: 301

~~(c) Any payments received for services provided to Indians under title XIX of the Social Security Act shall not be considered in determining appropriations for health care and services to Indians.~~

P.L. 102-573

~~(d) Nothing herein authorizes the Secretary to provide to an Indian beneficiary with coverage under title XIX of the Social Security Act as amended, in preference to an Indian already without such coverage.~~

P.L. 102-573

#### SERVICES PROVIDED TO MEDICAID ELIGIBLE INDIANS

#### TREATMENT OF PAYMENTS UNDER MEDICAID PROGRAM

SEC. 402. (a) Notwithstanding any other provision of law, amounts to which any facility of the Service (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act is entitled under a State plan by reason of section 1911 of the Social Security Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives at least 80 percent of the amounts to which the facilities of the Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act.

P.L. 102-573

(b) Any payments received by such facility for services provided to Indians eligible for benefits under title XIX of the Social Security Act shall not be considered in determining appropriations for the provision of health care and services to Indians.

[NOTE: Section 401(b)(2) of P.L. 102-573 provides that:

"The increase (from 50 percent) in the percentage of the payments from the fund to be made to each service unit of the Service specified in the amendment made by paragraph (1) shall take effect beginning with payments made on January 1, 1993."

[NOTE: Sec. 402(a) as originally enacted by P.L. 94-437, added section 1911 to title XVIII of the Social Security Act.



Subsequently, a number of amendments to section 1911 were made. However, the amendments made by P.L. 100-573 neither repeal nor amend section 1911. As a convenience, section 1911, as previously amended, is reprinted below.]

(Sec. 402. (a) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

INDIAN HEALTH SERVICE FACILITIES

{Sec. 1911. (a) A facility of the Indian Health Service (including a hospital, ~~intermediate care facility, or skilled nursing facility or nursing facility~~ nursing facility or any other type of facility which provides services of a type otherwise covered under the State plan), whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for reimbursement for medical assistance provided under a State plan if and for so long as it meets all of the conditions and requirements which are applicable generally to such facilities under this title.

P.L. 100-203  
Secs. 4211(h) and  
4118(f)(1)

(b) Notwithstanding subsection (a), a facility of the Indian Health Service (including a hospital, ~~intermediate care facility, or skilled nursing facility or nursing facility~~ nursing facility, or any other type of facility which provides services of a type otherwise covered under the State plan) which does not meet all of the conditions and requirements of this title which are applicable generally to such facility, but which submits to the Secretary within six months after the date of enactment of this section an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first twelve months after the month in which such plan is submitted.

P.L. 100-203

(c) The Secretary is authorized to enter into agreements with the State agency for purpose of reimbursement such agency for health care and services provided in Indian Health Service facilities to Indians who are eligible for medical assistance under the State plan.

P.L. 100-203

(NOTE: Sec. 4118(f)(2) of P.L. 100-203 provides that: "The amendments made by . . . (Sec. 4118(f)(1)) shall apply to the health care services performed on or after the date of enactment (December 22, 1967) of this Act (P.L. 100-203)."

~~(b) The Secretary is authorized to enter into agreements with the appropriate State agency for the purpose of reimbursement such agency for health care and services provided in Service facilities to Indians who are eligible for medical assistance under title XIX of the Social Security Act, as amended.~~

P.L. 100-713

~~(c) Notwithstanding any other provision of law, payments to which any facility of the Indian Health Service (including a hospital, intermediate care facility, or a skilled nursing facility) skilled nursing facility, or any other type of facility which provides services of a type otherwise covered under a State plan for medical assistance approved under title XIX of the Social Security Act) is entitled to under a State plan approved under title XIX of the Social Security Act such a State plan by reason of Section 1911 of such Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may~~

P.L. 102-573

~~necessary to achieve compliance with the applicable conditions and requirements of such title. The preceding sentence shall in making payments from such fund, the Secretary shall ensure that each service unit of the Indian Health Service receives at least 50 percent of the amounts to which the facilities of the Indian Health Service for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act, if such amount is necessary for the purpose of making improvements in such facilities in order to achieve compliance with the conditions and requirements of title XIX of the Social Security Act. This subsection shall cease to apply when the Secretary determines and certifies that substantially all of the health facilities of such service in the United States are in compliance with such conditions and requirements.~~

~~(d) Any payments received for services provided recipients hereunder shall not be considered in determining appropriations for the provision of health care and services to Indians.~~

P.L. 102-573

[NOTE: Sec. 402(e) as originally enacted by P.L. 94-437, amended section 1905(b) of the Social Security Act. Subsequent amendments to title IV of P.L. 94-437 did not further change section 1905(b). As a convenience, the original language of section 402(e), which contains the section 1905(b) amendment, is reprinted below though it is not now part of P.L. 94-437, as amended.]

((e) Section 1905 (b) of the Social Security Act is amended by inserting at the end thereof the following: "Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 percentum with respect to amounts expended as medical assistance for services which are received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act).")

[NOTE: Section 401(c) of P.L. 100-713 provides that: "The amendments made by this section (Section 401 of P.L. 100-713) shall apply to services performed on or after the date of enactment (November 23, 1988) of this Act (P.L. 100-713)."]

#### REPORT

~~Sec. 403. The Secretary shall include in his annual report required by section 701 The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 801, an accounting on the amount and use of funds made available to the Service pursuant to this title as a result of reimbursements through title XVIII and XIX of the Social Security Act, as amended.~~

P.L. 102-573

#### GRANTS TO AND CONTRACTS WITH TRIBAL ORGANIZATIONS

P.L. 96-

Sec. 404. (a) The Secretary, acting through the Service, shall make grants to or enter into contract with tribal organizations to assist such organizations in establishing and administering programs on or near Federal Indian reservations and

trust areas and in or near Alaska Native villages to assist individual Indians to--

(1) enroll under section 1818 of part A and sections 1836 and 1837 of part B of title XVIII of the Social Security Act;

(2) pay monthly premiums for coverage due to financial need of such individual; and

(3) apply for medical assistance provided pursuant to title XIX of the Social Security Act.

(b) The Secretary, acting through the Service, shall place conditions as deemed necessary to effect the purpose of this section in any contract or grant which the Secretary makes with any tribal organization pursuant to this section. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake to--

(1) determine the population of Indians to be served that are or could be recipients of benefits under titles XVIII and XIX of the Social Security Act;

(2) assist individual Indians in becoming familiar with and utilizing such benefits;

(3) provide transportation to such individual Indians to the appropriate offices for enrollment or applications for medical assistance;

~~(4) develop and implement a schedule of income levels to determine the extent of payment of premiums by such organization for coverage of needy individuals; and methods of improving the participation of Indians in receiving the benefits provided pursuant to titles XVIII and XIX of the Social Security Act.~~

P.L. 102-573

(4) develop and implement--

(A) a schedule of income levels to determine the extent of payments of premiums by such organizations for coverage of needy individuals; and

(B) methods of improving the participation of Indians in receiving the benefits provided under titles XVIII and XIX of the Social Security Act.

~~(c) There are authorized to be appropriated \$5,000,000 for the fiscal year ending September 30, 1981, \$5,750,000 for the fiscal year ending September 30, 1982, \$6,615,000 for the fiscal year ending September 30, 1983, and \$7,610,000 for the fiscal year ending September 30, 1984.~~

P.L. 102-573

(c) The Secretary, acting through the Service, may enter into an agreement with an Indian tribe, tribal organization, or urban Indian organization which provides for the receipt and processing of applications for medical assistance under title XIX of the Social Security Act and benefits under title XVIII of the Social Security Act at a Service facility or a health care facility administered by

such tribe or organization pursuant to a contract under the Indian Self-Determination Act.

DEMONSTRATION PROGRAM FOR DIRECT BILLING OF MEDICARE,  
MEDICAID, AND OTHER THIRD PARTY PAYORS

P.L. 100-713

Sec. 405. (a) The Secretary shall establish a demonstration program under which Indian tribes, tribal organizations, and Alaska Native health organizations, which are contracting the entire operation of an entire hospital or clinic of the Service under the authority of the Indian Self-Determination Act, shall directly bill for, and receive payment for, health care services provided by such hospital or clinic for which payment is made under title XVIII of the Social Security Act (medicare), under the State plan for medical assistance approved under title XIX of the Social Security Act (medicaid), or from any other third-party payor. The last sentence of section 1905(b) of the Social Security Act shall apply for purposes of the demonstration program.

(b)(1) Each hospital or clinic participating in the demonstration program described in subsection (a) shall be reimbursed directly under the medicare and medicaid programs for services furnished without regard to the provisions of section 380(c) of the Social Security Act and sections 402(c) and 13(b)(2)(A) of this Act, but all funds so reimbursed shall first be used by the hospital or clinic for the purpose of making any improvements in the hospital or clinic that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under the medicare or medicaid program. Any funds to be reimbursed which are in excess of the amount necessary to achieve or maintain such conditions and requirements shall be used--

Note: Substance of sec 402(c) now in sec 402(a) by P.L. 102-573. Reference to sec 402(c) has not been changed.

(A) solely for improving the health resources deficiency level of the Indian tribe, and

(B) in accordance with the regulations of the Service applicable to funds provided by the Service under any contract entered into under the Indian Self-Determination Act.

(2) The amounts paid to the hospitals and clinics participating in the demonstration program described in subsection (a) shall be subject to all auditing requirements applicable to programs administered directly by the Service and to facilities participating in the medicare and medicaid programs.

(3) The Secretary shall monitor the performance of hospitals and clinics participating in the demonstration program described in subsection (a), and shall require such hospitals and clinics to submit reports on the program to the Secretary on a quarterly basis or more frequently if the Secretary deems it necessary).

(4) Notwithstanding section 1880(c) of the Social Security Act or section 402(c) of this Act, no payment may be made out of the special fund described in section 1880(c) of the Social Security Act, or section 402(c) of this Act for the benefit of any hospital or clinic participating in the demonstration program described in subsection (a) during the period of such participation.

Note: Substance of sec 402(c) now in sec 402(a) by P.L. 102-573. Reference to sec 402(c) has not been changed.

(c)(1) In order to be considered for participation in the demonstration program described in subsection (a), a hospital or clinic must submit an application to the Secretary which establishes to the satisfaction of the Secretary that--

(A) The Indian tribe, tribal organization, or Alaska Native health organization contracts the entire operation of the Service facility;

(B) the facility is eligible to participate in the medicare and medicaid programs under sections 1880 and 1911 of the Social Security Act;

(C) the facility meets any requirements which apply to the programs operated directly by the Service; and

(D) the facility is accredited by the Joint Commission on Accreditation of Hospitals, or has submitted a plan, which has been approved by the Secretary, for achieving such accreditation prior to October 1, 1990.

(2) From among the qualified applicants, the Secretary shall, prior to October 1, 1989, select no more than 4 facilities to participate in the demonstration program described in subsection (a). The demonstration program described in subsection (a) shall begin by no later than October 1, 1991, and end on September 30, ~~1995~~ 1996.

P.L. 102-573

(d)(1) Upon the enactment of the Indian Health Care Amendments of 1988, the Secretary, acting through the Service, shall commence an examination of--

(A) any administrative changes which may be necessary to allow direct billing and reimbursement under the demonstration program described in subsection (a), including any agreements with States which may be necessary to provide for such direct billing under the medicaid program; and

(B) any changes which may be necessary to enable participants in such demonstration program to provide to the Service medical records information on patients served by such demonstration program which is consistent with the medical records information system of the Service.

(2) Prior to the commencement of the demonstration program described in subsection (a), the Secretary shall implement all changes required as a result of the examinations conducted under paragraph (1).

(3) Prior to October 1, 1990, the Secretary shall determine any accounting information which a participant in the demonstration program described in subsection (a) would be required to report.

(e) The Secretary shall submit a final report at the end of fiscal year ~~1995~~ 1996, on the activities carried out under the demonstration program described in subsection (a) which have fulfilled the objectives of such program. In such report the Secretary shall provide a recommendation, based upon the results of such demonstration program, as to whether direct billing or, and reimbursement by, the medicare and medicaid programs and other

P.L. 102-573

third-party payors should be authorized for all Indian tribes and Alaska Native Health organizations which are contracting the entire operation of a facility of a Service.

(f) The Secretary shall provide for the retrocession of any contract entered into between a participant in the demonstration program described in subsection (a) and the Service under the authority of the Indian Self-Determination Act. All cost accounting and billing authority shall be retroceded to the Secretary upon the Secretary's acceptance of a retroceded contract.

AUTHORIZATION FOR EMERGENCY CONTRACT HEALTH SERVICES

P.L. 102-573

SEC. 406. With respect to an elderly or disabled Indian receiving emergency medical care or services from a non-Service provider or in a non-Service facility under the authority of this title, the time limitation (as a condition of payment) for notifying a Service of such treatment or admission shall be 30 days.

AUTHORIZATION OF APPROPRIATIONS

P.L. 102-573

SEC. 407. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.

XX

## ~~TITLE V HEALTH SERVICES FOR URBAN INDIANS~~

P.L. 96-537

### ~~PURPOSE~~

~~Sec. 501. The purpose of this title is to encourage the establishment of programs in the urban areas to make health services more accessible to the urban Indian population.~~

### ~~CONTRACTS WITH URBAN INDIAN ORGANIZATIONS~~

~~Sec. 502. The Secretary, acting through the Service, shall enter into contracts with urban Indian organizations to assist such organizations to establish and administer, in the urban centers in which such organizations are situated, programs which meet the requirements set forth in sections 503 and 504.~~

### ~~CONTRACT ELIGIBILITY~~

~~Sec. 503. (a) The Secretary, acting through the Service, shall place such conditions as he deems necessary to effect the purpose of this title in any contract which he makes with any urban Indian organization pursuant to this title. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake the following activities:~~

- ~~(1) determine the population of urban Indians which are or could be recipients of health referral or care services,~~
- ~~(2) identify all public and private health service resources within the urban center in which the organization is situated which are or may be available to urban Indians,~~
- ~~(3) assist such resources in providing service to such urban Indians,~~
- ~~(4) assist such urban Indians in becoming familiar with and utilizing such resources,~~
- ~~(5) provide basic health education to such urban Indians,~~
- ~~(6) establish and implement manpower training programs to accomplish the referral and education tasks set forth in clauses (2) through (5) of this subsection,~~
- ~~(7) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs,~~
- ~~(8) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians, and~~
- ~~(9) where necessary, provide or contract for health care services to urban Indians.~~

~~(b) The Secretary, acting through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations with which to contract pursuant to this title. Such criteria shall, among other factors, take into consideration:~~

~~(1) the extent of the unmet health care needs of urban Indians in the urban center involved;~~

~~(2) the size of the urban Indian population which is to receive assistance;~~

~~(3) the relative accessibility which such population has to health care services in such urban center;~~

~~(4) the extent, if any, to which the activities set forth in subsection (a) would duplicate any previous or current public or private health services project funded by another source in such urban center;~~

~~(5) the appropriateness and likely effectiveness of the activities set forth in subsection (a) in such urban center;~~

~~(6) the existence of an urban Indian organization capable of performing the activities set forth in subsection (a) and of entering into a contract with the Secretary pursuant to this title; and~~

~~(7) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health related Federal, State, local, and other resource agencies.~~

#### ~~OTHER CONTRACT REQUIREMENTS~~

~~Sec. 504. (a) Contracts with urban Indian organizations pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (48 Stat. 792), as amended.~~

~~(b) Payments under any contracts pursuant to this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.~~

~~(c) Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract made by him with such organization pursuant to this title as necessary to carry out the purposes of this title. Provided, however, That whenever an urban Indian organization requests retrocession of the Secretary for any contract entered into pursuant to this title, such retrocession shall become effective upon a date specified by the Secretary not more than one hundred and twenty days from the date of the request by the organization or at such later date as may be mutually agreed to by the Secretary and the organization.~~

~~(d) In connection with any contract made pursuant to this title, the Secretary may permit an urban Indian organization to~~



~~utilize, in carrying out such contract, existing facilities owned by the Federal Government within his jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.~~

~~(c) Contracts with urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts by such organization.~~

#### ~~REPORTS AND RECORDS~~

~~Sec. 505. For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract under this title, such organization shall submit to the Secretary a report including information gathered pursuant to section 503(a)(7) and (8), information on activities conducted by the organization pursuant to the contract, an accounting of the amounts and purposes for which Federal funds were expended, and such other information as the Secretary may request. The reports and records of the urban Indian organization with respect to such contract shall be subject to audit by the Secretary and the Comptroller General of the United States.~~

#### ~~AUTHORIZATIONS~~

~~Sec. 506. There are authorized to be appropriated for the purpose of this title: \$5,000,000 for fiscal year 1978, \$10,000,000 for fiscal year 1979, and \$15,000,000 for fiscal year 1980.~~

#### ~~REVIEW OF PROGRAM~~

~~Sec. 507. Within six months after the end of fiscal year 1979, the Secretary, acting through the Service and with the assistance of the urban Indian organizations which have entered into contracts pursuant to this title, shall review the program established under this title and submit to the Congress his assessment thereof and recommendations for any further legislative efforts he deems necessary to meet the purpose of this title.~~

#### ~~RURAL HEALTH PROJECTS~~

~~Sec. 508. Not to exceed 1 per centum of the amounts authorized by section 506 shall be available for not to exceed two pilot projects providing outreach services to eligible Indians residing in rural communities near Indian reservations.~~

## ~~TITLE V HEALTH SERVICES FOR URBAN AND RURAL INDIANS~~

P.L. 96-537

P.L. 100-713

#### ~~PURPOSE~~

~~Sec. 501. The purpose of this title is to encourage the establishment of programs in urban areas and rural communities to~~

~~make health services more accessible to the urban and rural Indian populations, respectively.~~

#### ~~CONTRACTS WITH URBAN AND RURAL INDIAN ORGANIZATIONS~~

~~Sec. 502. The Secretary, acting through the Service, shall enter into contracts with urban Indian organizations and with rural Indian organizations to assist such organizations to establish and administer, in the urban centers or rural communities in which such organizations are situated, programs which meet the requirements set forth in sections 503 and 504.~~

#### ~~CONTRACT ELIGIBILITY~~

~~Sec. 503. (a) The Secretary, acting through the Service, shall place such conditions as deemed necessary to effect the purpose of this title in any contract which the Secretary makes with any urban or rural Indian organization pursuant to this title. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake to~~

~~(1) determine the population of urban or rural Indians which are or could be recipients of health referral or care services;~~

~~(2) identify all public and private health service resources within the urban center or rural community in which the organization is situated which are or may be available to urban Indians or rural Indians, respectively;~~

~~(3) assist such health service resources in providing service to such urban or rural Indians;~~

~~(4) assist such urban or rural Indians in becoming familiar with and utilizing such resources;~~

~~(5) provide basic health education to such urban or rural Indians;~~

~~(6) establish and implement manpower training programs to accomplish the referral and education task set forth in clauses (3) through (5) of this subsection;~~

~~(7) identify gaps between unmet health needs of urban Indians or rural Indians and resources available to meet such needs;~~

~~(8) make recommendations to the Secretary and Federal, State, local and other resource agencies on methods of improving health service programs to meet the needs of urban or rural Indians; and~~

~~(9) where necessary, provide or contract for health care services to urban or rural Indians.~~

~~(b) The Secretary, acting through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations and rural Indian organizations to enter into contracts~~

~~pursuant to this title. Such criteria shall, among other factors take into consideration—~~

~~(1) the extent of the unmet health care needs of urban Indians in the urban center or of rural Indians in the rural community involved;~~

~~(2) the size of the urban Indian population or the rural Indian community to receive assistance;~~

~~(3) the relative accessibility of health care services to such population in such urban center or rural community;~~

~~(4) the extent, if any, to which the activities set forth in subsection (a) would duplicate any previous or current public or private health services project in such urban center or rural community that was or is funded in a manner other than pursuant to this title;~~

~~(5) the appropriateness and likely effectiveness of the activities set forth in subsection (a) in such urban center or rural community;~~

~~(6) the existence of an urban Indian organization or a rural Indian organization capable of performing the activities set forth in subsection (a) and entering into a contract with the Secretary pursuant to this title; and~~

~~(7) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health related Federal, State, local, and other agencies.~~

#### ~~OTHER CONTRACT REQUIREMENTS~~

~~Sec. 564. (a) Contracts with urban Indian organizations or rural Indian organizations pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (49 Stat. 793), as amended.~~

~~(b) Payments under any contracts pursuant to this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.~~

~~(c) Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization or a rural Indian organization, revise or amend any contract made by the Secretary with such organization under this title as necessary to carry out the purposes of this title. Provided, however, That whenever an urban Indian organization or a rural Indian organization requests retrocession of the Secretary for any contract entered into pursuant to this title, such retrocession shall become effective upon a date specified by the Secretary not more than one hundred and twenty days from the date of the request by the organization or at such later date as may be mutually agreed to by the Secretary and the organization.~~

~~(c) In connection with any contract made pursuant to this title, the Secretary may permit an urban Indian organization or a rural Indian organization to utilize, in carrying out such contract, existing facilities owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for the use and maintenance of such facilities.~~

~~(d) Contracts with urban or rural Indian organizations and regulations adopted pursuant to this title shall include provisions for the use of facilities owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for the use and maintenance of such facilities.~~

#### REPORTS AND RECORDS

~~Sec. 505. For each fiscal year during which an urban Indian organization or a rural Indian organization receives or expends funds pursuant to a contract under this title, such organization shall submit to the Secretary a report including information gathered pursuant to section 503(a) (7) and (8), information on activities conducted by the organization pursuant to the contract, an accounting of the amounts and purposes for which Federal funds were expended, and such other information as the Secretary may request. The reports and records of the urban Indian organization or the rural Indian organization with respect to such contract shall be subject to audit by the Secretary and the Comptroller General of the United States.~~

#### AUTHORIZATIONS

~~Sec. 506. (a) There are authorized to be appropriated for contracts with urban Indian organizations under this title \$18,750,000 for the fiscal year ending September 30, 1981, \$21,500,000 for the fiscal year ending September 30, 1982, \$24,725,000 for the fiscal year ending September 30, 1983, and \$28,500,000 for the fiscal year ending September 30, 1984.~~

~~(b) There are authorized to be appropriated for contracts with rural Indian organizations under this title \$2,000,000 for the fiscal year ending September 30, 1981, \$3,000,000 for the fiscal year ending September 30, 1982, \$3,000,000 for the fiscal year ending September 30, 1983, and \$3,000,000 for the fiscal year ending September 30, 1984.~~

#### REVIEW OF PROGRAM

~~Sec. 507. Not later than the date six months after September 30, 1983, the Secretary, acting through the Service and with the assistance of the urban and rural Indian organizations that have entered into contracts under this title, shall review the program established under this title and submit to the Congress an assessment thereof and recommendations for any further legislative efforts the Secretary deems necessary to meet the purpose of this title.~~

# TITLE V--HEALTH SERVICES FOR URBAN INDIANS

P.L. 100-713

## PURPOSE

Sec. 501. The purpose of this title is to establish programs in urban centers to make health services more accessible to urban Indians.

P.L. 100-713

## ~~CONTRACTS WITH URBAN INDIAN ORGANIZATIONS~~ CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS

P.L. 100-713

P.L. 102-573

Sec. 502. Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, shall enter into ~~contracts with~~ contracts with, or make grants to, urban Indian organizations to assist such organizations in the establishment and administration, within the urban centers in which such organizations are situated, of programs which meet the requirements set forth in this title. The Secretary, through the Service, shall include such conditions as the Secretary considers necessary to effect the purpose of this title in any contract which the Secretary enters into with, or in any grant the Secretary makes to, any urban Indian organization pursuant to this title.

## ~~CONTRACTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES~~ CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES

P.L. 100-713

P.L. 102-573

Sec. 503. (a) Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, shall enter into contracts with, make grants to, urban Indian organizations for the provision of health care and referral services for urban Indians residing in the urban centers in which such organizations are situated. Any such contract or grant shall include requirements that the urban Indian organization successfully undertake to--

(1) estimate the population of urban Indians residing in the urban center in which such organization is situated who are or could be recipients of health care or referral services;

(2) estimate the current health status of urban Indians residing in such urban center;

(3) estimate the current health care needs of urban Indians residing in such urban center;

(4) identify all public and private health services resources within such urban center which are or may be available to urban Indians;

(5) determine the use of public and private health services resources by the urban Indians residing in such urban center;

(6) assist such health services resources in providing services to urban Indians;

(7) assist urban Indians in becoming familiar with and utilizing such health services resources;

(8) provide basic health education, including health promotion and disease prevention education, to urban Indians;

(9) ~~establish and implement training programs to~~ accomplish the referral and education tasks set forth in paragraphs (6) through (8) of this subsection;

(10) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;

(11) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

(12) where necessary, provide, or enter into contracts for the provision of, health care services for urban Indians.

(b) The Secretary, through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations to enter into contracts or receive grants under this section. Such criteria shall, among other factors, include--

(1) the extent of unmet health care needs of urban Indians in the urban center involved;

(2) the size of the urban Indian population in the urban center involved;

(3) the accessibility to, and utilization of, health care services (other than services provided under this title) by urban Indians in the urban center involved;

(4) the extent, if any, to which the activities set forth in subsection (a) would duplicate--

(A) any previous or current public or private health services project in an urban center that was or is funded in a manner other than pursuant to this title; or

(B) any project funded under this title;

(5) the capability of an urban Indian organization to perform the activities set forth in subsection (a) and to enter into a contract with the Secretary or to meet the requirements for receiving a grant under this section;

(6) the satisfactory performance and successful completion by an urban Indian organization of other contracts with the Secretary under this title;

(7) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) in an urban center; and

(8) the extent of existing or likely, future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

(c)(1) The Secretary, acting through the Service, shall facilitate access to, or provide, health promotion and disease prevention services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a).

P.L. 101-630

P.L. 102-573

~~(2) There is authorized to be appropriated \$1,000,000 for fiscal year 1992 to carry out this subsection.~~

(d)(1) The Secretary, acting through the Service, shall facilitate access to, or provide, immunization services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a).

P.L. 101-630

P.L. 102-573

(2) In making any grant to carry out this subsection, the Secretary shall take into consideration--

(A) the size of the urban Indian population to be served;

(B) the immunization levels of the urban Indian population, particularly the immunization levels of infants, children, and the elderly;

(C) the utilization by the urban Indians of alternative resources from State and local governments for no-cost or low-cost immunization services to the general population; and

(D) the capability of the urban Indian organization to carry out services pursuant to this subsection.

(3) For purposes of this subsection, the term "immunization services" means services to provide without charge immunizations against vaccine-preventable diseases.

~~(4) There are authorized to be appropriated \$1,000,000 for fiscal year 1992 to carry out this subsection.~~

P.L. 102-573

(e)(1) The Secretary, acting through the Service, shall facilitate access to, or provide, mental health services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a).

P.L. 101-630

P.L. 102-573

(2) A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment of the mental health needs of the urban Indian population concerned, the mental health services and other related resources available to that population, the barriers to obtaining those services and resources, and the needs that are unmet by such services and resources.

(3) Grants may be made under this subsection--

(A) to prepare assessments required under paragraph (2);

(B) to provide outreach, educational, and referral services to urban Indians regarding the availability of direct mental health services, to educate urban Indians about mental health issues and services, and effect coordination with existing mental health providers in order to improve services to urban Indians;

(C) to provide outpatient mental health services to urban Indians, including the identification and assessment of illness, therapeutic treatments, case management, support groups, family treatment, and other treatment; and

(D) to develop innovative mental health service delivery models which incorporate Indian cultural support systems and resources.

~~(4) There is authorized to be appropriated \$500,000 for fiscal year 1991 and \$2,000,000 for fiscal year 1992 to carry out this subsection.~~

P.L. 102-573

(f) (1) The Secretary acting through the Service, shall facilitate access to, or provide, services for urban Indians through grants to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection a) to prevent and treat child abuse (including sexual abuse) among urban Indians.

P.L. 101-630

P.L. 102-573

(2) A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the service has approved, an assessment that documents the prevalence of child abuse in the urban Indian population concerned and specifies the services and programs (which may not duplicate existing services and programs) for which the grant is requested.

(3) Grants may be made under this subsection--

(A) to prepare assessments required under paragraph (2);

(B) for the development of prevention, training, and education programs for urban Indian populations, including child education, parent education, provider training on identification and intervention, education on reporting requirements, prevention campaigns, and establishing service networks of all those involved in Indian child protection; and

(C) to provide direct outpatient treatment services (including individual treatment, family treatment, group therapy, and support groups) to urban Indians who are child victims of abuse (including sexual abuse) or adult survivors of child sexual abuse, to the families of such child victims, and to urban Indian perpetrators of child abuse (including sexual abuse).

(4) In making grants to carry out this subsection, the secretary shall take into consideration--



(A) the support for the urban Indian organization demonstrated by the child protection authorities in the area, including committees or other services funded under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), if any;

(B) the capability and expertise demonstrated by the urban Indian organization to address the complex problem of child sexual abuse in the community; and

(C) the assessment required under paragraph (2).

~~(5) there is authorized to be appropriated \$500,000 for fiscal year 1991 and \$2,000,000 for fiscal year 1992 to carry out this subsection.~~

P.L. 102-573

~~CONTRACTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS~~  
CONTRACTS AND GRANTS FOR THE DETERMINATION  
OF UNMET HEALTH CARE NEEDS

P.L. 100-713  
P.L. 102-573

~~Sec. 504. (a) Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, may enter into contracts with urban Indian organizations situated in urban centers for which contracts have not been entered into under section 503. The purpose of a contract under this section shall be the determination of the matters described in subsection (b) (1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract under section 503 with the urban Indian organization with which the Secretary has entered into a contract under this section.~~

SEC. 504. (a) Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, may enter into contracts with, or make grants to, urban Indian organizations situated in urban centers for which contracts have not been entered into, or grants have not been made, under section 503. The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (b) (1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract or make a grant under section 503 with respect to the urban Indian organization which the Secretary has entered into a contract with, or made a grant to, under this section.

P.L. 102-573

(b) Any contract entered into, or grant made, by the Secretary under this section shall include requirements that--

P.L. 102-573

(1) the urban Indian organization successfully undertake to--

(A) document the health care status and unmet health care needs of urban Indians in the urban center involved; and

(2) ~~the urban Indian organization complete performance of the contract within one year after the date on which the Secretary and such organization enter into such contract, or carry out the requirements of the grant, within one year after the date on which the Secretary and such organization enter into such contract, or within one year after such organization receives such grant, whichever is applicable.~~

P.L. 102-573

(c) ~~The Secretary may not renew any contract entered into, or grant made, under this section.~~

P.L. 102-573

~~EVALUATIONS; CONTRACT RENEWALS~~

P.L. 100-713

EVALUATIONS; RENEWALS

P.L. 102-573

Sec. 505. (a) The Secretary, through the Service, shall develop procedures to evaluate compliance with grant requirements under this title and compliance with, and performance of contracts entered into by urban Indian organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section.

(b) The Secretary, through the Service shall conduct an annual onsite evaluation of each urban Indian organization which has entered into a contract or received a grant under section 503 for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract or the terms of such grant.

(c) If, as a result of the evaluations conducted under this section, the Secretary determines that an urban Indian organization has not complied with the requirements of a grant or complied with a contract unsatisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract or grant, attempt to resolve with such organization the areas of noncompliance or unsatisfactory performance and modify such contract or grant to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract or grant with such organization and is authorized to enter into a contract or make a grant under section 503 with another urban Indian organization which is situated in the same urban center as the urban Indian organization whose contract or grant is not renewed under this section.

(d) In determining whether to renew a contract or grant with an urban Indian organization under section 503 which has completed performance of a contract or grant under section 504, the Secretary shall review the records of the urban Indian organization, the reports submitted under section 507, and, in the case of a renewal of a contract or grant under section 503, shall consider the results of the onsite evaluations conducted under subsection (b).

~~OTHER CONTRACT REQUIREMENTS~~  
OTHER CONTRACT AND GRANT REQUIREMENTS

P.L. 100-713

P.L. 102-573

Sec. 506. (a) Contracts with urban Indian organizations entered into pursuant to this title shall be in accordance with all

Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (40 U.S.C. 270a, et seq.).

(b) Payments under any contracts or grants pursuant to this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.

(c) Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract entered into by the Secretary with such organization under this title as necessary to carry out the purposes of this title.

(d) In connection with any contract or grant entered into pursuant to this title, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract or grant, existing facilities owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for the use and maintenance of such facilities.

(e) Contracts with or grants to urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts or grants by such organizations.

(f) Urban Indians, as defined under section 4(f) of this Act, shall be eligible for health care or referral services provided pursuant to this title.

#### REPORTS AND RECORDS

P.L. 100-713

Sec. 507. (a) For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract entered into, or a grant received, pursuant to this title, such organization shall submit to the Secretary a quarterly report including--

P.L. 102-573

(1) in the case of a contract or grant under section 503, information gathered pursuant to clauses (10) and (11) of subsection (a) of such section;

P.L. 102-573

(2) information on activities conducted by the organization pursuant to the contract or grant;

P.L. 102-573

(3) an accounting of the amounts and purpose for which Federal funds were expended; and

(4) such other information as the Secretary may request.

(b) The reports and records of the urban Indian organization with respect to a contract or grant under this title shall be subject to audit by the Secretary and the Comptroller General of the United States.

P.L. 102-573

(c) The Secretary shall allow as a cost of any contract or grant entered into under section 503 the cost of an annual private audit conducted by a certified public accountant.

(d) (1) The Secretary, acting through the Service, shall submit a report to the Congress not later than March 31, 1992, evaluating-- P.L. 101-630

(A) the health status of urban Indians;

(B) the services provided to Indians through this title;

(C) areas of unmet needs in urban areas served under this title; and

(D) areas of unmet needs in urban areas not served under this title.

(2) In preparing the report under paragraph (1), the Secretary shall consult with urban Indian health providers and may contract with a national organization representing urban Indian health concerns to conduct any aspect of the report.

(3) The Secretary and the Secretary of the Interior shall--

(A) assess the status of the welfare of urban Indian children, including the volume of child protection cases, the prevalence of child sexual abuse, and the extent of urban Indian coordination with tribal authorities with respect to child sexual abuse; and

(B) submit a report on the assessment required under subparagraph (A), together with recommended legislation to improve Indian child protection in urban Indian populations, to the Congress no later than March 31, 1992.

#### LIMITATION ON CONTRACT AUTHORITY

P.L. 100-713

Sec. 508. The authority of the Secretary to enter into contracts under this title shall be to the extent, and in an amount, provided for in appropriation Acts.

~~(NOTE: P.L. 101-630, section 506(c) amended title V by adding at the end a new section numbered "409". Proper designation should have been section "509".~~

~~Sec. 409. FACILITIES RENOVATION.~~

P.L. 101-630

#### FACILITIES RENOVATION

P.L. 102-573

Sec. 509. The Secretary may make funds available to contractors or grant recipients under this title for minor renovations to facilities, including leased facilities, to assist such contractors or grant recipients in meeting or maintaining the Joint Commission for Accreditation of Health Care Organizations

(JCAHO) standards. ~~There is authorized to be appropriated \$1,000,000 for fiscal year 1992 to carry out this section.~~

~~Sec. 511. URBAN HEALTH PROGRAMS BRANCH~~

P.L. 101-630

URBAN HEALTH PROGRAMS BRANCH

P.L. 102-573

Sec. 510. (a) Establishment.—There is hereby established within the Service a Branch of Urban Health Programs which shall be responsible for carrying out the provisions of this title and for providing central oversight of the programs and services authorized under this title.

(b) Staff, Services, and Equipment.—The Secretary shall appoint such employees to work in the branch, including a program director, and shall provide such services and equipment, as may be necessary for it to carry out its responsibilities. The Secretary shall also analyze the need to provide at least one urban health program analyst for each area office of the Indian Health Service and shall submit his findings to the Congress as a part of the Department's fiscal year 1993 budget request.

GRANTS FOR ALCOHOL AND SUBSTANCE ABUSE RELATED SERVICES

P.L. 102-573

SEC. 511. (a) GRANTS.—The Secretary may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school and community-based education in, alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under this title or under section 201.

(b) GOALS OF GRANT.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

(c) CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the—

- (1) size of the urban Indian population;
- (2) accessibility to, and utilization of, other health resources available to such population;
- (3) duplication of existing Service or other Federal grants or contracts;
- (4) capability of the organization to adequately perform the activities required under the grant;
- (5) satisfactory performance standards for the organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and

(6) identification of need for services.

The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

(d) TREATMENT OF FUNDS RECEIVED BY URBAN INDIAN ORGANIZATIONS. -- Any funds received by an urban Indian organization under this Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).

TREATMENT OF CERTAIN DEMONSTRATION PROJECTS

P.L. 102-573

SEC. 512. (a) Notwithstanding any other provision of law, the Oklahoma City Clinic demonstration project and the Tulsa Clinic demonstration project shall be treated as service units in the allocation of resources and coordination of care and shall not be subject to the provisions of the Indian Self-Determination Act for the term of such projects. The Secretary shall provide assistance to such projects in the development of resources and equipment and facility needs.

(b) The Secretary shall submit to the President, for inclusion in the report required to be submitted to the Congress under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects specified in subsection (a).

URBAN NIAAA TRANSFERRED PROGRAMS

P.L. 102-573

SEC. 513. (a) The Secretary shall, within the Branch of Urban Health Programs of the Service, make grants or enter into contracts for the administration of urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (hereafter in this section referred to as "NIAAA") and transferred to the Service.

(b) Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section.

(c) Urban Indian organizations that operate Indian alcohol programs originally funded under NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section.

(d) For the purpose of carrying out this section, the Secretary may combine NIAAA alcohol funds with other substance abuse funds currently administered through the Branch of Urban Health Programs of the Service.

(e) The Secretary shall evaluate and report to the Congress on the activities of programs funded under this section at least every two years.

## AUTHORIZATION OF APPROPRIATIONS

SEC. 514. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.

[NOTE: Subsections 506(a) and (b) of P.L. 101-630, did not amend Title V but did establish certain one time requirements for the Title V program and are presented here for your convenience.

{Sec. 506. FACILITIES ASSESSMENT)

(a) Survey.--The Secretary shall conduct a survey of all facilities used by contractors under title V of the Indian Health Care Improvement Act and shall submit a report to the Congress on such survey not later than one year after the date of enactment of this Act. The report shall, at a minimum, contain the following information for each location:

- (1) the extent to which the facility meet the safety and building codes and, if direct care is provided, the extent of compliance with Joint Commission Accreditation of Health Care Organizations (JCAHO) standards.

- (2) The extent to which improvements, expansions, or relocation is necessary to meet program requirements, provide adequate services, or achieve building code compliance.

- (3) Any lease restriction that would hamper accomplishment of needed improvement, expansion, or relocation.

- (4) The term of the lease, if appropriate, the age of the structure, and the structure's life expectancy with and without improvement.

- (5) An assessment of the deficiencies of the facility:

(b) Report.--The report shall contain general recommendations for addressing the deficiencies of facilities in which programs funded under title V of the Indian Health Care Improvement Act are located and shall propose specific policies for accomplishing those recommendations.

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~~TITLE VI AMERICAN INDIAN SCHOOL  
OF MEDICINE, FEASIBILITY STUDY~~

P.L. 96-537  
P.L. 100-713

~~FEASIBILITY STUDY~~

~~Sec. 601. The Secretary, in consultation with Indian tribes and appropriate Indian organizations, shall conduct a study to determine the need for, and the feasibility of, establishing a school of medicine to train Indians to provide health services for Indians. Within one year of the date of the enactment of this Act the Secretary shall complete such study and shall report to the Congress findings and recommendations based on such study.~~

TITLE VI--ORGANIZATIONAL  
IMPROVEMENTS

P.L. 100-713

ESTABLISHMENT OF THE INDIAN HEALTH SERVICE  
AS AN AGENCY OF THE PUBLIC HEALTH SERVICE

Sec. 601. (a) In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as are or may be hereafter provided by the Federal statute or treaties, there is established within the Public Health Service of the Department of Health and Human Services the Indian Health Service. The Indian Health Service shall be administered by a Director, who shall be appointed by the Secretary President, by and with advice and consent of the Senate. The Director of the Indian Health Service shall report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Director shall be 4 years. A Director may serve more than 1 term.

P.L. 102-573

P.L. 102-573

(b) The Indian Health Service shall be an agency within the Public Health Service of the Department of Health and Human Services, and shall not be an office, component, or unit of any other agency of the Department.

(c) The Secretary shall carry out through the Director of the Indian Health Service—

(1) all functions which were, on the day before the date of enactment of the Indian Health Care Amendments of 1988, carried out by or under the direction of the individual serving as Director of the Indian Health Service on such day;

(2) all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians; and

(3) all health programs under which health care is provided to Indians based upon their status as Indians which

are administered by the Secretary, including (but not limited to programs under—

(A) this Act;

(B) the Act of November 2, 1921 (25 U.S.C.13);

(C) the Act of August 5, 1954 (42 U.S.C. 2001, et seq.);

~~(D) the Act of August 16, 1957 (25 U.S.C. 2005, et seq. 42 U.S.C. et seq.); and~~ P.L. 102-573

~~(E) the Indian Self-Determination Act (25 U.S.C. 450f, et seq.); and~~

(4) all scholarship and loan functions carried out under title I. P.L. 102-573

(d)(1) The Secretary, acting through the Director of the Indian Health Service, shall have the authority--

(A) except to the extent provided in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5, United States Code;

(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

(C) to manage, expend, and obligate all funds appropriated for the Service.

(2) Notwithstanding any other law, the provisions of section 2 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 472), shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

[NOTE: Sec. 602 of P.L. 102-573 has a number of free-standing provisions that affect but are not part of Sec. 601 of P.L. 94-437 (above). For your convenience these provisions follow.]

{Sec. 602. DIRECTOR OF INDIAN HEALTH SERVICE

P.L. 102-573

((a) CONFIRMATION BY SENATE

(....

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) [requiring President's appointment and Senate confirmation] shall take effect January 1, 1993.

((b) INTERIM APPOINTMENT.—The President may appoint an individual to serve as Interim Director of the Service from January 1, 1993, until such time as a Director is appointed and confirmed as provided in section 601(a) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) . . . .")

[NOTE: Sec. 601 of P.L. 100-713 has a number of free-standing provisions that affect but are not part of Section 601 of P.L. 94-427 (above). For your convenience these provisions follow.]

ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF  
THE PUBLIC HEALTH SERVICE

[ "Sec. 601.

{.....

{(b) All personnel, records, equipment, facilities, and interests in property that are administered by the Indian Health Service on the day before the date on which the amendments made by this section take effect shall be transferred to the Indian Health Service established by the amendment made by subsection (a) of this section. All transfers must be accomplished within 9 months of the date of enactment of this section. The Secretary is authorized to waive the Indian preference laws on a case-by-case basis for temporary transfers involved in implementing this section during such 9-month period.

{(c) (1) Except as provided in paragraph (2), section 601 of the Indian Health Care Improvement Act added by subsection (a) of this section shall take effect 9 months from the date of the enactment of this section.

(2) Notwithstanding subsections (b) and (c) (1), any action which carries out such section 601 that is taken by the Secretary before the effective date of such section 601 shall be effective beginning on the date such action was taken.

{(d) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director, Indian Health Service; Department of Health and Human Services.".)

AUTOMATED MANAGEMENT INFORMATION SYSTEM

P.L. 102-573

Sec. 602. (a) (1) The Secretary shall establish an automated management information system for the Service.

(2) The information system established under paragraph (1) shall include

(A) a financial management system,

(B) a patient care information system for each area served by the Service,

(C) a privacy component that protects the privacy of patient information held by, or on behalf of, the Service, and

(D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each area office of the Service.

~~(3) By no later than September 30, 1989, the Secretary shall submit a report to Congress setting forth--~~

~~(A) the activities which have been undertaken to establish an automated management information system,~~

~~(B) the activities, if any, which remain to be undertaken to complete the implementation of an automated management information system, and~~

~~(C) the amount of funds which will be needed to complete the implementation of a management information system in the succeeding fiscal year.~~

(b) (1) The Secretary shall provide each Indian tribe and tribal organization that provides health services under a contract entered into with the Service under the Indian Self-Determination Act automated management information systems which--

(A) meet the management information needs of such Indian tribe or tribal organization with respect to the treatment by the Indian tribe or tribal organization patients of the Service, and

(B) meet the management information needs of the Service.

(2) The Secretary shall provide systems under paragraph (1) to Indian tribes and tribal organizations providing health services in California by no later than September 30, 1990.

(c) Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.

#### AUTHORIZATION OF APPROPRIATIONS

Sec. 603. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.

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# TITLE VII--SUBSTANCE ABUSE PROGRAMS

P.L. 102-573

NOTE: All material fo  
in Title VII was moved  
Title VIII by P.L. 102

## INDIAN HEALTH SERVICE RESPONSIBILITIES

SEC. 701. The Memorandum of Agreement entered into pursuant to section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411) shall include specific provisions pursuant to which the Service shall assume responsibility for--

(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

## INDIAN HEALTH SERVICE PROGRAM

P.L. 102-573

SEC. 702. (a) COMPREHENSIVE PREVENTION AND TREATMENT PROGRAM.--

(1) The Secretary, acting through the Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include--

(A) prevention, through educational intervention, in Indian communities;

(B) acute detoxification and treatment;

(C) community-based rehabilitation;

(D) community education and involvement, including extensive training of health care, educational, and community-based personnel; and

(E) residential treatment programs for pregnant and post partum women and their children.

(2) The target population of such program shall be members of Indian tribes. Efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

(b) CONTRACT HEALTH SERVICES.--(1) The Secretary, acting through the Service, may enter into contracts with public or private providers of alcohol and substance abuse treatment services for the

purpose of assisting the Service in carrying out the program required under subsection (a).

(2) In carrying out this subsection, the Secretary shall provide assistance to Indian tribes to develop criteria for the certification of alcohol and substance abuse service providers and accreditation of service facilities which meet minimum standards for such services and facilities as may be determined pursuant to section 4205(a)(3) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1985 (25 U.S.C. 2411(a)(3)).

(c) GRANTS FOR MODEL PROGRAM.--(1) The Secretary, acting through the Service shall make a grant to the Standing Rock Sioux tribe to develop a community-based demonstration project to reduce drug and alcohol abuse on the Standing Rock Sioux Reservation and to rehabilitate Indian families afflicted by such abuse.

(2) Funds shall be used by the Tribe to--

(A) develop and coordinate community-based alcohol and substance abuse prevention and treatment services for Indian families;

(B) develop prevention and intervention models for Indian families;

(A) develop and coordinate community-based alcohol and substance abuse prevention and treatment services for Indian families;

(B) develop prevention and intervention models for Indian families;

(C) conduct community education on alcohol and substance abuse; and

(D) coordinate with existing Federal, State, and tribal services on the reservation to develop a comprehensive alcohol and substance abuse program that assists in the rehabilitation of Indian families that have been or are afflicted by alcoholism.

(3) The Secretary shall submit to the President for inclusion in the report to be transmitted to the Congress under section 801 or fiscal year 1995 an evaluation of the demonstration project established under paragraph (1).

#### INDIAN WOMEN TREATMENT PROGRAMS

P.L.102-573

SEC. 703. (a) The Secretary may make grants to Indian tribes and tribal organizations to develop and implement a comprehensive alcohol and substance abuse program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the cultural, historical, social, and child care needs of Indian women, regardless of age.

(b) Grants made pursuant to this section may be used to--

(1) develop and provide community training, education, and prevention programs for Indian women relating to alcohol

and substance abuse issues, including fetal alcohol syndrome and fetal alcohol effect;

(2) identify and provide appropriate counseling, advocacy, support, and relapse prevention to Indian women and their families; and

(3) develop prevention and intervention models for Indian women which incorporate traditional healers, cultural values, and community and family involvement.

(c) The Secretary shall establish criteria for the review and approval of applications for grants under this section.

(d)(1) There are authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(2) Twenty percent of the funds appropriated pursuant to this subsection shall be used to make grants to urban Indian organizations funded under title V.

#### INDIAN HEALTH SERVICE YOUTH PROGRAM

P.L.102-573

SEC. 704. (a) DETOXIFICATION AND REHABILITATION.--The Secretary shall develop and implement a program for acute detoxification and treatment for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

(b) TREATMENT CENTERS OR FACILITIES.--(1) The Secretary shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, a youth regional treatment center in each area under the jurisdiction of an area office. For the purposes of this subsection, the area offices of the Service in Tucson and Phoenix, Arizona, shall be considered one area office and the area office in California shall be considered to be two area offices, one office whose jurisdiction shall be considered to encompass the northern area of the State of California, and one office whose jurisdiction shall be considered to encompass the remainder of the State of California.

(2) For the purpose of staffing and operating such centers or facilities, funding shall be pursuant to the Act of November 2, 1921 (25 U.S.C. 13).

(3) A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) agreed upon (by appropriate tribal resolution) by a majority of the tribes to be served by such center.

(4) (A) Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to--

(i) the Tanana Chiefs Conference, Incorporated, for purpose of leasing, constructing, renovating, operating and maintaining a residential youth treatment facility in Fairbanks, Alaska; and

(ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 4(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1)).

(B) Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youth residing in such State.

(c) FEDERALLY OWNED STRUCTURES.--

(1) The Secretary, acting through the Service, shall, in consultation with Indian tribes--

(A) identify and use, where appropriate, federally owned structures suitable as local residential or regional alcohol and substance abuse treatment centers for Indian youth; and

(B) establish guidelines for determining the suitability of any such federally owned structure to be used as a local residential or regional alcohol and substance abuse treatment center for Indian youth.

(2) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure.

(d) REHABILITATION AND AFTERCARE SERVICES.--

(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each Service service unit community-based rehabilitation and follow-up services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

(e) INCLUSION OF FAMILY IN YOUTH TREATMENT PROGRAM.--In providing the treatment and other services to Indian youth authorized by this section, the Secretary shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection



(d) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

(f) MULTIDRUG ABUSE STUDY.--(1) The Secretary shall conduct a study to determine the incidence and prevalence of the abuse of multiple forms of drugs, including alcohol, among Indian youth residing on Indian reservations and in urban areas and the interrelationship of such abuse with the incidence of mental illness among such youth.

(2) The Secretary shall submit a report detailing the findings of such study, together with recommendations based on such findings, to the Congress no later than two years after the date of the enactment of this section.

#### TRAINING AND COMMUNITY EDUCATION

P.L.102-573

SEC. 705. (a) COMMUNITY EDUCATION.--The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education in alcohol and substance abuse to political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical members of each tribal community.

(b) TRAINING.--The Secretary shall, either directly or by contract, provide instruction in the area of alcohol and substance abuse, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol syndrome to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

(c) COMMUNITY-BASED TRAINING MODELS.--In carrying out the education and training programs required by this section, the Secretary, acting through the Service and in consultation with tribes and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address--

(1) the elevated risk of alcohol and substance abuse faced by children of alcoholics;

(2) the cultural and multigenerational aspects of alcohol and substance abuse prevention and recovery; and

(3) community-based and multidisciplinary strategies for preventing and treating alcohol and substance abuse.

#### GALLUP ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTER

P.L.102-573

SEC. 706. (a) GRANTS FOR RESIDENTIAL TREATMENT.--The Secretary shall make grants to the Navajo Nation for the purpose of providing residential treatment for alcohol and substance abuse for

adult and adolescent members of the Navajo Nation and neighboring tribes.

(b) PURPOSES OF GRANTS. -- Grants made pursuant to this section shall (to the extent appropriations are made available) be used to--

(1) provide at least 15 residential beds each year for adult long-term treatment, including beds for specialized services such as polydrug abusers, dual diagnosis, and specialized services for women with fetal alcohol syndrome children;

(2) establish clinical assessment teams consisting of a clinical psychologist, a part-time addictionologist, a master's level assessment counselor, and a certified medical records technician which shall be responsible for conducting individual assessments and matching Indian clients with the appropriate available treatment;

(3) provide at least 12 beds for an adolescent sheltered program in the city of Gallup, New Mexico, which shall serve as a satellite facility to the Acoma/Canoncito/Laguna Hospital and the adolescent center located in Shiprock, New Mexico, for emergency crisis services, assessment, and family intervention;

(4) develop a relapse program for the purposes of identifying sources of job training and job opportunity in the Gallup area and providing vocational training, job placement, and job retention services to recovering substance abusers; and

(5) provide continuing education and training of treatment staff in the areas of intensive outpatient services, development of family support systems, and case management in cooperation with regional colleges, community colleges, and universities.

(c) CONTRACT FOR RESIDENTIAL TREATMENT. -- The Navajo Nation, in carrying out the purposes of this section, shall enter into a contract with an institution in the Gallup, New Mexico, area which is accredited by the Joint Commission of the Accreditation of Health Care Organizations to provide comprehensive alcohol and drug treatment as authorized in subsection (b).

(d) AUTHORIZATION OF APPROPRIATIONS. -- There are authorized to be appropriated--

(1) to carry out the purposes of subsection (b)(1)--

(A) \$400,000 for fiscal year 1993;

(B) \$400,000 for fiscal year 1994; and

(C) \$500,000 for fiscal year 1995;

(2) to carry out the purposes of subsection (b)(2)--

(A) \$100,000 for fiscal year 1993;

(B) \$125,000 for fiscal year 1994; and

- (C) \$150,000 for fiscal year 1995;
- (3) to carry out the purposes of subsection (b)(3)--
- (A) \$75,000 for fiscal year 1993;
- (B) \$85,000 for fiscal year 1994; and
- (C) \$100,000 for fiscal year 1995;
- (4) to carry out the purposes of subsection (b)(4),  
\$150,000 for each of fiscal years 1993, 1994, and 1995; and
- (5) to carry out the purposes of subsection (b)(5)--
- (A) \$75,000 for fiscal year 1993;
- (B) \$90,000 for fiscal year 1994; and
- (C) \$100,000 for fiscal year 1995.

#### REPORTS

P.L.102-573

SEC. 707. (a) COMPILATION OF DATA.--The Secretary, with respect to the administration of any health program by a service unit, directly or through contract, including a contract under the Indian Self-Determination Act, shall require the compilation of data relating to the number of cases or incidents in which any Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.

(b) REFERRAL OF DATA.--The data compiled under subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan under section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2471 et seq.).

(c) COMPREHENSIVE REPORT.--Each service unit director shall be responsible for assembling the data compiled under this section and section 4214 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2434) into an annual tribal comprehensive report. Such report shall be provided to the affected tribe and to the Director of the Service who shall develop and publish a biennial national report based on such tribal comprehensive reports.

#### FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECT GRANTS

P.L.102-573

SEC. 708. (a) (1) The Secretary may make grants to Indian tribes and tribal organizations to establish fetal alcohol syndrome and fetal alcohol effect programs as provided in this section for the purposes of meeting the health status objectives specified in section 3(b).

(2) Grants made pursuant to this section shall be used to--

(A) develop and provide community and in-school training, education, and prevention programs relating to FAS and FAE;

(B) identify and provide alcohol and substance abuse treatment to high-risk women;

(C) identify and provide appropriate educational and vocational support, counseling, advocacy, and information to FAS and FAE affected persons and their families or caretakers;

(D) develop and implement counseling and support programs in schools for FAS and FAE affected children;

(E) develop prevention and intervention models which incorporate traditional healers, cultural values and community involvement;

(F) develop, print, and disseminate education and prevention materials on FAS and FAE; and

(G) develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools for use in tribal and urban Indian communities.

(3) The Secretary shall establish criteria for the review and approval of applications for grants under this section.

(b) The Secretary, acting through the Service, shall--

(1) develop an annual plan for the prevention, intervention, treatment, and aftercare for those affected by FAS and FAE in Indian communities;

(2) conduct a study, directly or by contract with any organization, entity, or institution of higher education with significant knowledge of FAS and FAE and Indian communities, of the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians and Alaska Natives with FAS or FAE; and

(3) establish a national clearinghouse for prevention and educational materials and other information on FAS and FAE effect in Indian and Alaska Native communities and ensure access to clearinghouse materials by any Indian tribe or urban Indian organization.

(c) The Secretary shall establish a task force to be known as the FAS/FAE Task Force to advise the Secretary in carrying out subsection (b). Such task force shall be composed of representatives from the National Institute on Drug Abuse, the National Institute on Alcohol and Alcoholism, the Office of Substance Abuse Prevention, the National Institute of Mental Health, the Service, the Office of Minority Health of the Department of Health and Human Services, the Administration for Native Americans, the Bureau of Indian Affairs, Indian tribes, tribal organizations, urban Indian communities, and Indian FAS/FAE experts.

(d) The Secretary, acting through the Substance Abuse and Mental Health Services Administration, shall make grants to Indian

tribes, tribal organizations, universities working with Indian tribes on cooperative projects, and urban Indian organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide aftercare for Indians and urban Indians affected by FAS or FAE.

(e)(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the status of FAS and FAE in the Indian population. Such report shall include, in addition to the information required under section (3)(d) with respect to the health status objective specified in section (3)(b)(27), the following:

(A) The progress of implementing a uniform assessment and diagnostic methodology in Service and tribally service delivery systems.

(B) The incidence of FAS and FAE babies born for all births by reservation and urban-based sites.

(C) The prevalence of FAS and FAE affected Indian persons in Indian communities, their primary means of support, and recommendations to improve the support system for these individuals and their families or caretakers.

(D) The level of support received from the entities specified in subsection (c) in the area of FAS and FAE.

(E) The number of inpatient and outpatient substance abuse treatment resources which are specifically designed to meet the unique needs of Indian women, and the volume of care provided to Indian women through these means.

(F) Recommendations regarding the prevention, intervention, and appropriate vocational, educational and other support services for FAS and FAE affected individuals in Indian communities.

(2) The Secretary may contract the production of this report to a national organization specifically addressing FAS and FAE in Indian communities.

(f)(1) There are authorized to be appropriated to carry out this section \$22,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(2) Ten percent of the funds appropriated pursuant to this section shall be used to make grants to urban Indian organizations funded under title V.

PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT FOR SAN JUAN  
PUEBLO, NEW MEXICO

P.L. 102-573

SEC. 709. The Secretary, acting through the Service, shall continue to make grants, through fiscal year 1995, to the 8 Northern Indian Pueblos Council, San Juan Pueblo, New Mexico, for the purpose

of providing substance abuse treatment services to Indians in need of such services.

THUNDER CHILD TREATMENT CENTER

P.L. 102-573

SEC. 710. (a) The Secretary, acting through the Service, shall make a grant to the Intertribal Addictions Recovery Organization, Inc. (commonly known as the Thunder Child Treatment Center) at Sheridan, Wyoming, for the completion of construction of a multiple approach substance abuse treatment center which specializes in the treatment of alcohol and drug abuse of Indians.

(b) For the purposes of carrying out subsection (a), there are authorized to be appropriated \$2,000,000 for fiscal years 1993 and 1994. No funding shall be available for staffing or operation of this facility. None of the funding appropriated to carry out subsection (a) shall be used for administrative purposes.

SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROJECT

P.L. 102-573

SEC. 711. (a) The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible community colleges to establish demonstration projects to develop educational curricula for substance abuse counseling.

(b) Funds provided under this section shall be used only for developing and providing educational curricula for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

(c) A contract entered into or a grant provided under this section shall be for a period of one year. Such contract or grant may be renewed for an additional one-year period upon the approval of the Secretary.

(d) Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with Indian tribes and administrators of accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications for renewals of funding) under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of such entities to educate substance abuse counselors.

(e) The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

(f) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section.

(g) For the purposes of this section, the following definitions apply:

(1) The term "educational curriculum" means one or more of the following:

(A) Classroom education.

(B) Clinical work experience.

(C) Continuing education workshops.

(2) The term "eligible community college" means an accredited community college that—

(i) is located on or near an Indian reservation;

(ii) has entered into a cooperative agreement with the governing body of such Indian reservation to carry out a demonstration project under this section; and

(iii) has a student enrollment of not less than 10 percent Indian.

(3) The term "tribally controlled community college" has the meaning given such term in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

(4) The term "tribally controlled postsecondary vocational institution" has the meaning given such term in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)).

(h) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997, such sums as may be necessary to carry out the purposes of this section. Such sums shall remain available until expended.

GILA RIVER ALCOHOL AND SUBSTANCE ABUSE TREATMENT FACILITY

P.L. 102-573

SEC. 712. (a) The Secretary, acting through the Service, shall establish a regional youth alcohol and substance abuse prevention and treatment center in Sacaton, Arizona, on the Gila River Indian Reservation. The center shall be established within facilities leased, with the consent of the Gila River Indian Community, by the Service from such Community.

(b) The center established pursuant to this section shall be known as the "Regional Youth Alcohol and Substance Abuse Prevention and Treatment Center".

(c) The Secretary, acting through the Service, shall establish, as a unit of the regional center, a youth alcohol and substance abuse prevention and treatment facility in Fallon, Nevada.

ALASKA NATIVE DRUG AND ALCOHOL ABUSE DEMONSTRATION PROJECT

SEC. 713. (a) The Secretary, acting through the Service, shall make grants to the Alaska Native Health Board for the conduct of a two-part community-based demonstration project to reduce drug and alcohol abuse in Alaska Native villages and to rehabilitate families afflicted by such abuse. Sixty percent of such grant funds shall be used by the Health Board to stimulate coordinated community development programs in villages seeking to organize to combat alcohol and drug use. Forty percent of such grant funds shall be transferred to a qualified nonprofit corporation providing alcohol recovery services in the village of St. Mary's, Alaska, to enlarge and strengthen a family life demonstration program of rehabilitation for families that have been or are afflicted by alcoholism.

(b) The Secretary shall submit to the President for inclusion in the report required to be submitted to the Congress under section 301 for fiscal year 1995 an evaluation of the demonstration project established under subsection (a).

AUTHORIZATION OF APPROPRIATIONS

P.L. 102-573

SEC. 714. Except as provided in sections 703, 706, 708, 710, and 711, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out the provisions of this title.

(NOTE: Sections 702(B) of P.L. 102-573 repealed Part 6 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act, P.L. 99-570 except for section 4224, which was redesignated as section 4208A, and moved to Part II, Title VII above now includes former Part 6 Provisions as amended by P.L. 102-573.)



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~~TITLE VII MISCELLANEOUS~~  
~~TITLE VIII--MISCELLANEOUS~~

P.L. 102-573

REPORTS

~~Sec. 701. The Secretary shall report annually to the President and the Congress on progress made in effecting the purposes of this Act. Within three months after the end of fiscal year 1976, the Secretary shall review expenditures and progress made under this Act and make recommendations to the Congress concerning any additional authorizations for fiscal years 1981 through 1984 for programs authorized under this Act which he deems appropriate. In the event the Congress enacts legislation authorizing appropriations for programs under this Act for fiscal years 1983 through 1984, within three months after the end of fiscal year 1984, the Secretary shall review programs established or assisted pursuant to this Act and shall submit to the Congress his assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which are at a parity with the health services available to, and the health status, of the general population.~~

P.L. 102-573

Sec. 801. The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress a report containing--

P.L. 102-573

(1) a report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which are at a parity with the health services available to and the health status of, the general population;

(2) a report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act and any steps that the Secretary may have taken to consult with Indian tribes to address such impact;

(3) a report on the use of health services by Indians--

(A) on a national and area or other relevant geographical basis;

(B) by gender and age;

(C) by source of payment and type of service; and

(D) comparing such rates of use with rates of use among comparable non-Indian populations.

(4) a separate statement which specifies the amount of funds requested to carry out the provisions of section 201;

(5) a separate statement of the total amount obligated or expended in the most recently completed fiscal year to

achieve each of the objectives described in section 814, relating to infant and maternal mortality and fetal alcohol syndrome:

(6) the reports required by sections 3(d), 108(n), 203(b), 209(f), 301(c), 302(g), 305(a)(3), 403, 708(e), and 817(a), and 822(f);

(7) for fiscal year 1995, the report required by sections 702(c)(3) and 713(b);

(8) for fiscal year 1997, the interim report required by section 307(h)(1), and

(9) for fiscal year 1999, the reports required by sections 307(h)(2), 512(b), 711(f), and 821(g).

#### REGULATIONS

~~Sec. 702. (a) (1) Within six months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national and regional Indian organizations to consider and formulate appropriate rules and regulations to implement the provisions of this Act.~~ P.L. 102-573

~~(2) Within eight months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.~~

~~(3) Within six months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act.~~

~~(4) The Secretary shall promulgate and amend any rules or regulations promulgated pursuant to this Act. Prior to the promulgation or amendment of such rules or regulations, the Secretary shall, to the extent practicable, consult with appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register at least sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.~~

Sec. 802. Prior to any revision of or amendment to rules or regulations promulgated pursuant to this Act, the Secretary shall consult with Indian tribes and appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties. P.L. 102-573

#### PLAN OF IMPLEMENTATION

~~Sec. 703.~~ Sec. 803. Within two hundred and forty days after enactment of this Act, a plan will be prepared by the Secretary and will be submitted to the Congress. The plan will explain the manner and schedule (including a schedule of P.L. 102-

appropriation requests), by title and section, by which the Secretary will implement the provisions of this Act.

#### LEASES WITH INDIAN TRIBES

P.L. 96-537

~~Sec. 704.~~ Sec. 804. ~~Notwithstanding (a)~~  
Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this Act, to enter into leases with Indian tribes for periods not to excess of twenty years. Property leased by the Secretary from an Indian tribe may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe.

P.L. 102-573

P.L. 100-713

P.L. 96-537

(b) The Secretary may enter into leases, contracts, and other legal agreements with Indian tribes or tribal organizations which hold--

P.L. 100-713

(1) title to;

(2) a leasehold interest in; or

(3) a beneficial interest in (where title is held by the United States in trust for the benefit of a tribe);

facilities used for the administration and delivery of health services by the Service or by programs operated by Indian tribes or tribal organizations to compensate such Indian tribes or tribal organizations for costs associated with the use of such facilities for such purposes. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable.

#### AVAILABILITY OF FUNDS

~~Sec. 705.~~ Sec. 805 The funds appropriated pursuant to this Act shall remain available until expended.

P.L. 102-573

#### ~~RESOURCE ALLOCATION PLAN~~

P.L. 100-713

~~Sec. 706. Within one year from the date of the enactment of this section, the Secretary shall submit to the Congress a resource allocation plan. Such plan shall explain the future allocation of services and funds among the service population of the Service and shall provide a schedule for reducing deficiencies in resources of tribes and nontribal specific entities.~~

#### LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN HEALTH SERVICE

P.L. 100-713

~~Sec. 706.~~ Sec. 806. Any limitation on the use of funds contained in an Act providing appropriations for the Department of Health and Human Services for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Indian Health Service.

P.L. 102-573

NUCLEAR RESOURCE DEVELOPMENT HEALTH HAZARDS

P.L. 96-537

~~Sec. 707.~~ Sec. 807. (a) The Secretary and the Service shall conduct, in conjunction with other appropriate Federal agencies and in consultation with interested Indian tribes and organizations, a study of the health hazards to Indian miners and Indians on or near Indian reservations and in Indian communities as a result of nuclear resource development. Such study shall include--  
~~(1) an evaluation of the nature and extent of nuclear resource development related health problems currently exhibited among Indians and the causes of such health problems;~~

P.L. 102-573

(2) an analysis of the potential effect of ongoing and future nuclear resource development on or near Indian reservations and communities;

(3) an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems including uranium mining and milling, uranium mine tailing deposits, nuclear power plant operation and construction, and nuclear waste disposal;

(4) a summary of any findings and recommendations provided in Federal and State studies, reports, investigations, and inspections during the five years prior to the date of the enactment of this section that directly or indirectly relate to the activities, practices, and conditions affecting the health or safety of such Indians; and

(5) the efforts that have been made by Federal and State agencies and mining and milling companies to effectively carry out an education program for such Indians regarding the health and safety hazards of such nuclear resource development.

(b) Upon completion of such study the Secretary and the Service shall take into account the results of such study and develop a health care plan to address the health problems studied under subsection (a). The plan shall include--

(1) methods for diagnosing and treating Indians currently exhibiting such health problems;

(2) preventive care for Indians who may be exposed to such health hazards, including the monitoring of the health of individuals who have or may have been exposed to excessive amounts of radiation, or affected by other nuclear development activities that have had or could have a serious impact upon the health of such individuals; and

(3) a program of education for Indians who, by reason of their work or geographic proximity to such nuclear development activities, may experience health problems.

(c) The Secretary and the Service shall submit to Congress the study prepared under subsection (a) no later than the date fifteen months after the date of enactment of this section. The health care plan prepared under subsection (b) shall be submitted in report no later than the date one year after the date that the study prepared under subsection (a) is submitted to Congress. Such

report shall include recommended activities for the implementation of the plan, as well as an evaluation of any activities previously undertaken by the Service to address such health problems.

(d) (1) There is established an Intergovernmental Task Force to be composed of the following individuals (or their designees): The Secretary of Energy, the Administrator of the Environmental Protection Agency, the Director of the Bureau of Mines, the Assistant Secretary for Occupational Safety and Health, and the Secretary of the Interior.

(2) The Task Force shall identify existing and potential operations related to nuclear resource development that affect or may affect the health of Indians on or near an Indian reservation or in an Indian community and enter into activities to correct existing health hazards and insure that current and future health problems resulting from nuclear resource development activities are minimized or reduced.

(3) The Secretary shall be Chairman of the Task Force. The Task Force shall meet at least twice each year. Each member of the Task Force shall furnish necessary assistance to the Task Force.

(e) In the case of any Indian who--

(1) as a result of employment in or near a uranium mine or mill, suffers from a work related illness or condition;

(2) is eligible to receive diagnosis and treatment services from a Service facility; and

(3) by reason of such Indian's employment, is entitled to medical care at the expense of such mine or mill operator,

the Service shall, at the request of such Indian, render appropriate medical care to such Indian for such illness or condition and may recover the costs of any medical care so rendered to which such Indian is entitled at the expense of such operator from such operator. Nothing in this subsection shall affect the rights of such Indian to recover damages other than such costs paid to the Service from the employer for such illness or condition.

~~(f) There is authorized to be appropriated \$300,000 to carry out the study as provided in subsection (a), such amount to be expended by the date eighteen months after the date of the enactment of this section.~~

P.L. 102-573

#### ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA

P.L. 96-537

~~Sec. 708~~ Sec. 808. (a) For fiscal years beginning with the fiscal year ending September 30, 1983, and ending with the fiscal year ending September 30, ~~1984~~ ~~1991~~ 2000, the State of Arizona shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to ~~Indians in such State~~ members of federally recognized Indian tribes of Arizona.

P.L. 102-573

P.L. 102-573

P.L. 100-713

(b) The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of Arizona if such curtailment is due to the provision of contract

services in such State pursuant to the designation of such State as contract health service delivery area pursuant to subsection (a).

~~Sec. 709. There are authorized to be appropriated to carry out this section \$2,000,000 for the fiscal year ending September 30, 1982, \$2,000,000 for the fiscal year ending September 30, 1983, and \$2,000,000 for the fiscal year ending September 30, 1984.~~

P.L. 100-713

~~INDIAN HEALTH SERVICES FOR INDIANS IN THE STATE OF CALIFORNIA~~

P.L. 96-537

P.L. 100-713

~~Sec. 709. Indians in the State of California who are members or descendants of members of former federally recognized tribes of the State of California shall be eligible for services for the duration of the fiscal year beginning with the fiscal year ending September 30, 1982, and ending with the fiscal year ending September 30, 1984.~~

ELIGIBILITY OF CALIFORNIA INDIANS

P.L. 100-713

~~Sec. 709~~ Sec. 809. (a) (1) In order to provide the Congress with sufficient data to determine which Indians in the State of California should be eligible for health services provided by the Service, the Secretary shall, by no later than the date that is 3 years after the date of enactment of the Indian Health Care Amendments of 1988, prepare and submit to the Congress a report which sets forth--

P.L. 102-573

(A) a determination by the Secretary of the number of Indians described in subsection (b) (2), and the number of Indians described in (b) (3), who are not members of an Indian tribe recognized by the Federal Government,

(B) the geographic location of such Indians,

(C) the Indian tribes of which such Indians are members,

(D) an assessment of the current health status, and health care needs, of such Indians, and

(E) an assessment of the actual availability and accessibility of alternative resources for the health care of such Indians that such Indians would have to rely on if the Service did not provide for the health care of such Indians.

(2) The report required under paragraph (1) shall be prepared by the Secretary--

(A) in consultation with the Secretary of the Interior, and

(B) with the assistance of the tribal health programs providing services to the Indians described in paragraph (2) or (3) of subsection (b) who are not members of any Indian tribe recognized by the Federal Government.



(b) Until such time as any subsequent law may otherwise provide, the following California Indians shall be eligible for health services provided by the Service;

(1) Any member of a federally-recognized Indian tribe,

(2) Any descendant of an Indian who was residing in California on June 1, 1952, but only if such descendant--

(A) is living in California,

(B) is a member of the Indian community served by a local program of the Service, and

(C) is regarded as an Indian by the community in which such descendant lives.

(3) Any Indian who holds trust interests in public domain, national forest, or Indian reservation allotments in California.

(4) Any Indian in California who is listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

(c) Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

~~PERSONNEL CEILING DEMONSTRATION PROJECT~~

P.L. 96-537

P.L. 100-713

~~Sec. 710. (a) In order to determine whether the Service can be better managed through fiscal controls without personnel ceilings, the Service shall, in conjunction with the Office of Personnel Management and the Secretary, conduct a demonstration project in which certain personnel ceilings in the Service are lifted. Such demonstration project shall be conducted in two of the Indian Health Service areas and shall be closely monitored by the Service.~~

~~(b) Not later than the date 2 years after the date of the enactment of this section, the Service shall submit a report to Congress regarding the demonstration project carried out under subsection (a). Such report shall include a discussion of whether the lifting of personnel ceilings would improve the Service's ability to deliver services, what potential negative impact the lifting of personnel ceilings might have on the control of Federal employment, and a determination as to whether the lifting of personnel ceilings should be expended to the entire Service.~~

CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA

P.L. 100-713

~~Sec. 710~~ Sec. 810. The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura shall be designated as a

P.L. 102-573

contract health service delivery area by the Service for the purpose of providing contract health services to Indians in such State.

#### CONTRACT HEALTH FACILITIES

P.L. 100-713

~~Sec. 711~~ Sec. 811. The Service shall provide funds for health care programs and facilities operated by tribes and tribal organizations under contracts with the Service entered into under the Indian Self-Determination Act.

P.L. 102-573

(1) for the maintenance and repair of clinics owned or leased by such tribes or tribal organizations,

(2) for employee training,

(3) for cost-of-living increases for employees, and

(4) for any other expenses relating to the provision of health services,

on the same basis as such funds are provided to programs and facilities operated directly by the Service.

#### NATIONAL HEALTH SERVICE CORPS

P.L. 100-713

~~Sec. 712~~ Sec. 812. The Secretary of Health and Human Services shall not--

P.L. 102-573

(1) remove a member of the National Health Services Corps from a health facility operated by the Indian Health Service or by a tribe or tribal organization under contract with the Indian Health Service under the Indian Self-Determination Act, or

(2) withdraw funding used to support such member,

unless the Secretary, acting through the Service, has ensured that the Indians receiving services from such member will experience no reduction in services.

#### HEALTH SERVICES FOR INELIGIBLE PERSONS

P.L. 100-713

~~Sec. 713~~ Sec. 813. (a)(1) Any individual who--

P.L. 102-573

(A) has not attained 19 years of age,

(B) is the natural or adopted child, step-child, foster-child, legal ward, or orphan of an eligible Indian, and

(C) is not otherwise eligible for health services provided by the Service,

shall be eligible for all health services provided by the Service on the same basis and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential health needs of all such individuals shall be taken

into consideration by the Service in determining the need for, or the allocation of, the health resources of the service. If such an individual has been determined to be legally incompetent prior to attaining 18 years of age, such individual shall remain eligible for such services until one year after the date of such disability has been removed.

(2) Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all of such spouses are made eligible, as a class, by an appropriate resolution of the governing body of the Indian tribe of the eligible Indian. The health needs of persons made eligible under this paragraph shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

(b)(1)(A) The Secretary is authorized to provide health services under this subsection through health facilities operated directly by the Service to individuals who reside within the service area of a service unit and who are not eligible for such health services under any other subsection of this section or under any other provision of law if--

(i) the Indian tribe (or, in the case of a multi-tribal service area, all the Indian tribes) served by such service unit requests such provision of health services to such individuals, and

(ii) the Secretary and the Indian tribe or tribes have jointly determined that--

(I) the provision of such health services will not result in a denial or diminution of health services to eligible Indians, and

(II) there is no reasonable alternative health facility or services, within or without the service area of such service unit, available to meet the health needs of such individuals.

(B) In the case of health facilities operated under a contract entered into under the Indian Self-Determination Act, the governing body of the Indian tribe or tribal organization providing health services under such contract is authorized to determine whether health services should be provided under such contract to individuals who are not eligible for such health services under any other subsection in this section or under any other provision of law. In making such determinations, the governing body of the Indian tribe or tribal organization shall take into account the considerations described in subparagraph (A)(ii).

(2)(a) Persons receiving health services provided by the Service by reason of this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Notwithstanding section 1880(c) of the Social Security Act, section ~~402(c)~~ 402(a) of this Act, or any other provision of law, amounts collected under this subsection, including medicare or medicaid reimbursements under titles XVIII and XIX of the Social Security Act, shall be credited to the account of

the facility providing the service and shall be used solely for the provision of health services within that facility. Amounts collected under this subsection shall be available for expenditure within such facility for not to exceed one fiscal year after the fiscal year in which collected.

(E) Health services may be provided by the Secretary through the Service under this subsection to an indigent person who would not be eligible for such health services but for the provisions of paragraph (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent person.

(3)(A) In the case of a service area which serves only one Indian tribe, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian tribe revokes its concurrence to the provision of such health services.

(B) In the case of a multi-tribal service area, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which at least 51 percent of the number of Indian tribes in the service area revoke their concurrence to the provisions of such health services.

(c) The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other subsection of this section or under any other provision of law in order to--

- (1) achieve stability in a medical emergency,
- (2) prevent the spread of a communicable disease or otherwise deal with a public health hazard,
- (3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through post partum, or
- (4) provide care to immediate family members of an eligible person if such care is directly related to the treatment of the eligible person.

(d) Hospital privileges in health facilities operated and maintained by the Service or operated under a contract entered into under the Indian Self-Determination Act may be extended to non-Service health care practitioners who provide services to persons described in subsection (a) or (b). Such non-Service health care practitioners may be regarded as employees of the Federal Government for purposes of section 1346(b) and chapter 171 of title 28, United States Code (relating to Federal tort claims) only with respect to acts or omissions which occur in the course of providing services to eligible persons as a part of the conditions under which such hospital privileges are extended.

(e) For purposes of this section, the term "eligible Indian" means any Indian who is eligible for health services provided by the Service without regard to the provisions of this section.

INFANT AND MATERNAL MORTALITY; FETAL ALCOHOL SYNDROME

P.L. 100-713

~~Sec. 714~~ Sec. 814. ~~44~~ By no later than January 1, 1990, the Secretary shall develop and begin implementation of a plan to achieve the following objectives by January 1, 1994:

P.L. 102-573

(1) reduction of the rate of Indian infant mortality in each area office of the Service to the lower of--

(A) twelve deaths per one thousand live births, or

(B) the rate of infant mortality applicable to the United States population as a whole;

(2) reduction of the rate of maternal mortality in each area office of the Service to the lower of--

(A) five deaths per one hundred thousand live births, or

(B) the rate of maternal mortality applicable to the United States population as a whole; and

(3) reduction of the rate of fetal alcohol syndrome among Indians served by, or on behalf of, the Service to one per one thousand live births.

~~(b) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each fiscal year a separate statement which specifies the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in subsection (a).~~

P.L. 102-573

CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA

P.L. 100-713

~~Sec. 715~~ Sec. 815. (a) The Secretary, acting through the Service, is directed to provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties in the State of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana.

(b) Nothing in this section may be construed as expanding the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

~~INDIAN HEALTH SERVICE AND VETERANS' ADMINISTRATION  
HEALTH FACILITIES AND SERVICES SHARING~~  
INDIAN HEALTH SERVICE AND DEPARTMENT OF VETERAN'S  
AFFAIRS HEALTH FACILITIES AND SERVICES SHARING

P.L. 100-713

P.L. 102-573

~~Sec. 716~~ Sec. 816. (a) The Secretary shall examine the feasibility of entering into an arrangement for the sharing of medical facilities and services between the Indian Health Service and the Veterans' Administration and shall, in accordance with subsection (b), prepare a report on the feasibility of such an

P.L. 102-573

arrangement and submit such report to the Congress by no later than September 30, 1990.

(b) The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38, United States Code, which would impair--

(1) the priority access of any Indian to health care services provided through the Indian Health Service;

(2) the quality of health care services provided to any Indian through the Indian Health Service;

(3) the priority access of any veteran to health care services provided by the Veterans' Administration;

(4) the quality of health care services provided to any veteran by the Veterans' Administration;

(5) the eligibility of any Indian to receive health services through the Indian Health Service; or

(6) the eligibility of any Indian who is a veteran to receive health services through the Veterans' Administration.

(c) (1) Within 30 days after the date of enactment of this section, the Director of the Indian Health Service and the Administrator of Veterans' Affairs are authorized and directed to implement an agreement which--

(A) individuals in the vicinity of Roosevelt, Utah, who are eligible for health care from the Veterans' Administration could obtain health care services at the facilities of the Indian Health Service located at Fort Duchesne, Utah; and

(B) individuals eligible for health care from the Indian Health Service at Fort Duchesne, Utah, could obtain health care services at the Veterans' Administration medical center located in Salt Lake City, Utah.

(2) Not later than 2 years after the date of enactment of this section, the Secretary and the Administrator of Veterans' Affairs shall jointly submit a report to the Congress on the health care services provided as a result of paragraph (1).

(d) Nothing in this section may be construed as creating any right of a veteran to obtain health services from the Indian Health Service except as provided in an agreement under subsection (c).

#### REALLOCATION OF BASE RESOURCES.

P.L. 100-713

~~Sec. 717~~ Sec. 817. (a) Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a service unit may be implemented only after the Secretary has submitted to the Congress Secretary has submitted to the President, for inclusion the report required to be transmitted to the Congress under

P.L. 102-573

P.L. 102-573

section 801, a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects.

(b) Subsection (a) shall not apply if the total amount appropriated to the Service for a fiscal year is less than the amount appropriated to the Service for previous fiscal year.

DEMONSTRATION PROJECTS FOR TRIBAL MANAGEMENT OF  
HEALTH CARE SERVICES

P.L. 100-713

~~Sec. 718~~ Sec. 818. (a) (1) The Secretary, acting through the Service, shall make grants to Indian tribes to establish demonstration projects under which the Indian tribe will develop and test a phased approach to assumption by the Indian tribe of the health care delivery system of the Service for members of the Indian tribe living on or near the reservations of the Indian tribe through the use of Service, tribal, and private sector resources.

P.L. 102-573

(2) A grant may be awarded to an Indian tribe under paragraph (1) only if the Secretary determines that the Indian tribe has the administrative and financial capabilities necessary to conduct a demonstration project described in paragraph (1).

(b) During the period in which a demonstration project established under subsection (a) is being conducted by an Indian tribe, the Secretary shall award all health care contracts, including community, behavioral, preventive health care contracts, to the Indian tribe, in the form of a single grant to which the regulations prescribed under part A of title XIX of the Public Health Service Act (as modified as necessary by any agreement entered into between the Secretary and the Indian tribe to achieve the purposes of the demonstration project established under subsection (a)) shall apply.

(c) The Secretary may waive such provisions of Federal procurement law as are necessary to enable any Indian tribe to develop and test administrative systems under the demonstration project established under subsection (a), but only if such waiver does not diminish or endanger the delivery of health care services to Indians.

(d) (1) The demonstration project established under subsection (a) shall terminate on September 30, 1993 or, in the case of a demonstration project for which a grant is made after September 30, 1990, three years after date on which such grant is made.

P.L. 102-573

(2) By no later than September 30, 1994 1996, the Secretary shall evaluate the performance of each Indian tribe that has participated in a demonstration project established under subsection (a) and shall submit to the Congress a report on such evaluations and demonstration projects.

P.L. 102-573

~~(e) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.~~

P.L. 102-573

(e) (1) The Secretary, acting through the Service, shall make arrangements with Indian tribes to establish joint venture demonstration projects under which a Indian tribe shall expend tribal, private, or other available nontribal funds, for the

P.L. 102-573

acquisition or construction of a health facility for a minimum of 20 years, under a no-cost lease, in exchange for agreement by the service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility. A tribe may utilize tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under this subsection.

(2) The Secretary shall make such an arrangement with an Indian tribe only if the Secretary first determines that the Indian tribe has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the health facility described in paragraph (1).

(3) An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this subsection, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the tribe, or paid to a third party on the tribe's behalf, under the agreement. The Secretary has the right to recover tangible property including supplies and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence does not apply to any funds expended for the delivery of health care services, or for personnel or staffing, shall be recoverable.

#### CHILD SEXUAL ABUSE TREATMENT PROGRAMS

P.L. 96-537

Sec. 719. (a) The Secretary and the Secretary of the Interior shall, for each of the fiscal years 1989, 1990, and 1991, continue to provide demonstration programs involving treatment for child sexual abuse through the Hopi Tribe and the Assiniboine and Sioux Tribes of the Fort Peck Reservation the demonstration programs involving treatment for child sexual abuse that were conducted during fiscal year 1988 through such tribes.

P.L. 102-573

(b) There are authorized to be appropriated for each of the fiscal years 1989, 1990, and 1991 such sums as may be necessary to carry out the provisions of this section.

Sec. 819. (a) The Secretary and the Secretary of the Interior shall, for each fiscal year through fiscal year 1995, continue the demonstration programs involving treatment for child sexual abuse provided through the Hopi Tribe and the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

P.L. 102-573

(b) Beginning October 1, 1995, the Secretary and the Secretary of the Interior may establish, in any service area, demonstration programs involving treatment for child sexual abuse, except that the Secretaries may not establish a greater number of such programs in one service area than in any other service area until there is an equal number of such programs established with respect to all service areas from which the Secretary receives qualified applications during the application period (as determined by the Secretary).



~~PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT  
FOR SAN JUAN PUEBLO, NEW MEXICO~~

P.L. 100-713

P.L. 102-573

~~Sec. 720. (a) The Secretary, through the Service, shall make grants to the Eight Northern Pueblos Council, San Juan Pueblo, New Mexico, for the purpose of providing substance abuse treatment services to Indians in need of such services.~~

~~(1) There are authorized to be appropriated to carry out this section \$250,000 for each of the fiscal years 1990 and 1991.~~

TRIBAL LEASING

P.L. 102-573

Sec. 820. Indian tribes providing health care services pursuant to a contract entered into under the Indian Self-Determination Act may lease permanent structures for the purpose of providing such health care services without obtaining advance approval in appropriation Acts.

HOME- AND COMMUNITY-BASED CARE DEMONSTRATION PROJECT

P.L. 102-573

Sec. 821. (a) The Secretary, acting through the Service, is authorized to enter into contracts with, or make grants to, Indian tribes or tribal organizations providing health care services pursuant to a contract entered into under the Indian Self-Determination Act, to establish demonstration projects for the delivery of home- and community-based services to functionally disabled Indians.

(b) (1) Funds provided for a demonstration project under this section shall be used only for the delivery of home- and community-based services (including transportation services) to functionally disabled Indians.

(2) Such funds may not be used—

(A) to make cash payments to functionally disabled Indians;

(B) to provide room and board for functionally disabled Indians;

(C) for the construction or renovation of facilities or the purchase of medical equipment; or

(D) for the provision of nursing facility services.

(c) Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with Indian tribes and tribal organizations, shall develop and issue criteria for the approval of applications submitted under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of tribes and tribal organizations to deliver, or arrange for the delivery of, high quality, culturally appropriate home- and community-based services to functionally disabled Indians.

(d) The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

(e) At the discretion of the tribe or tribal organization, services provided under a demonstration project established under this section may be provided (on a cost basis) to persons otherwise ineligible for the health care benefits of the Service.

(f) The Secretary shall establish not more than 24 demonstration projects under this section. The Secretary may not establish a greater number of demonstration projects under this section in one service area than in any other service area until there is an equal number of such demonstration projects established with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria issued pursuant to subsection (c).

(g) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section, together with legislative recommendations.

(h) For the purposes of this section, the following definitions shall apply:

(1) The term "home- and community-based services" means one or more of the following:

(A) Homemaker/home health aide services.

(B) Chore services.

(C) Personal care services.

(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

(E) Respite care.

(F) Training for family members in managing a functionally disabled individual.

(G) Adult day care.

(H) Such other home- and community-based services as the Secretary may approve.

(2) The term "functionally disabled" means an individual who is determined to require home- and community-based services based on an assessment that uses criteria (including, at the discretion of the tribe or tribal organization, activities of daily living) developed by the tribe or tribal organization.

(i) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as may be necessary to carry out this section. Such sums shall remain available until expended.

SHARED SERVICES DEMONSTRATION PROJECT

P.L. 102-573

Sec. 822. (a) The Secretary, acting through the Service and notwithstanding any other provision of law, is authorized to enter into contracts with Indian tribes or tribal organizations to establish not more than 6 shared services demonstration projects for the delivery of long-term care to Indians. Such projects shall provide for the sharing of staff or other services between a Service facility and a nursing facility owned and operated (directly or by contract) by such Indian tribe or tribal organization.

(b) A contract entered into pursuant to subsection (a) —

(1) may, at the request of the Indian tribe or tribal organization, delegate to such tribe or tribal organization such powers of supervision and control over Service employees as the Secretary deems necessary to carry out the purposes of this section;

(2) shall provide that expenses (including salaries) relating to services that are shared between the Service facility and the tribal facility be allocated proportionately between the Service and the tribe or tribal organization; and

(3) may authorize such tribe or tribal organization to construct, renovate, or expand a nursing facility (including the construction of a facility attached to a Service facility) except that no funds appropriated for the Service shall be obligated or expended for such purpose.

(c) To be eligible for a contract under this section, a tribe or tribal organization, shall, as of the date of the enactment of this Act —

(1) own and operate (directly or by contract) a nursing facility;

(2) have entered into an agreement with a consultant to develop a plan for meeting the long-term needs of the tribe or tribal organization; or

(3) have adopted a tribal resolution providing for the construction of a nursing facility.

(d) Any nursing facility for which a contract is entered into under this section shall meet the requirements for nursing facilities under section 1919 of the Social Security Act.

(e) The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

(f) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the findings and conclusions derived from the demonstration projects conducted under this section.



## FREE-STANDING PROVISIONS

Note: The Indian Health Care Amendments of 1988, P.L. 100-713 contained a number of free-standing provisions. Some of these were noted in the foregoing codification of P.L. 94-437. Others that may still have relevance are presented below for your convenience. Citations refer to P.L. 100-713 not P.L. 94-437.

### REFERENCES

Sec. 3. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Health Care Improvement Act (25 U.S.C. 1601, et seqq.).

### APPROPRIATIONS; AVAILABILITY

Sec. 4. Any new spending authority (described in subsection (c) (2) (A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

### PROVISION OF SERVICES IN MONTANA

Sec. 712. (a) The Secretary of Health and Human Services, acting through the Indian Health Service, shall provide services and benefits for Indians in Montana in a manner consistent with the decision of the United States Court of Appeals for the Ninth Circuit in *McNabb for McNabb v. Bowen*, 829 F.2d 787 (9th Cr. 1987).

(b) The provisions of subsection (a) shall not be construed to be an expression of the sense of the Congress on the application of the decision described in subsection (a) with respect to the provision of services or benefits for Indians living in any State other than Montana.

### [ELIGIBILITY MORATORIUM AND STUDY]

Sec. 719. (a) During the period of the moratorium imposed by Public Law 100-446 on implementation of the final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration of the Public Health Service, relating to eligibility for the health care services of the Indian Health Service, the Indian Health Service shall provide services pursuant to the criteria for eligibility for such services that were in effect on September 15, 1987, subject to the provisions of section 709 of the Indian Health Care Improvement Act, as amended by this Act.

(b) The Secretary of Health and Human Services, acting through the Indian Health Service, shall, by contract or any other means, conduct a study to determine the impact of the final rule described in subsection (a) and of any other proposed rules which would change the eligibility criteria for medical services provided by the Indian Health Service.

(c) The study conducted under subsection (b) shall include-

(1) full participation and consultation with Indian and Alaskan Native tribal governments and representatives of urban Indian health care programs;

(2) statistics for each of the service areas of the Indian Health Service on the number of Indians who are currently eligible for the services of the Indian Health Service;

(3) statistics for each of the service areas of the Indian Health Service on the number of Indians who would be eligible for such services if the final rule described in subsection (a), or any alternative rule changing eligibility, were implemented;

(4) consideration of the financial impact of such final rule or any other proposed rule on the contract health care budget and on the clinical services budget of the Indian Health Service;

(5) consideration of the health status, cultural, social, and economic impact on Indian reservations and urban Indian populations of such final rule or any other rule changing the eligibility criteria;

(6) consideration of the alternatives, if any, that would be available to those Indians who would not be eligible for such services by reason of any such final rule; and

(7) consideration of the program changes that the Indian Health Service would be required to make if the eligibility requirements for such services that were in effect on September 15, 1987, were modified.

(d) The Secretary of Health and Human Services shall submit to the Congress a report on the study required under subsection (b).

(e) Before submitting to Congress the report on the study required under subsection (b), the Secretary of Health and Human Services shall provide Indian tribes, Alaska Native villages and urban Indian health care programs an opportunity to comment on the report and shall incorporate the comments of such Indian groups into the report.

(f) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

## SEVERABILITY PROVISIONS

Sec. 801. If any provision of this Act, any amendment made by the Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this

Act, the remaining amendments made by this Act, and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Note: The Indian Health Amendments of 1992, P.L. 102-573 had a number of free-standing provisions. Some of these were noted in the foregoing codification of P.L. 94-437. Others that may still have relevance are presented below for your convenience. Citations refer to P.L. 102-573 not P.L. 94-437.

SEC. 2. AMENDMENTS TO INDIAN HEALTH CARE IMPROVEMENT ACT.  
Except as otherwise specifically provided, whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

SEC. 701. REDESIGNATION OF EXISTING TITLE VII.

....

(d) REFERENCES--Any reference in a provision of law other than the Indian Health Care Improvement Act to sections redesignated by subsection (b) shall be deemed to refer to the section as so redesignated.

[NOTE: P.L. 102-573, title VIII, also amended title III of the Indian Self-Determination and Education Assistance Act, P.L. 93-638. For your convenience, title III, Tribal Self-Governance Demonstration Project is printed below.]

TITLE III - TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECTS

Sec. 301. The Secretary of the Interior and the Secretary of Health and Human Services (hereinafter in this title referred to as "the Secretaries") each shall, for a period not to exceed eight years following enactment of this title, conduct a research and demonstration project to be known as the Tribal Self-Governance Project according to the provisions of this title. P.L. 102-573

Sec. 302. (a) The ~~Secretary~~ Secretaries shall select thirty tribes to participate in the demonstration project, as follows: P.L. 102-573

(1) a tribe that successfully completes a Self-Governance Planning Grant authorized by Conference Report 100-498 to accompany H.J.Res. 395, One Hundredth Congress, first session, shall be selected to participate in the demonstration project; and

(2) the ~~Secretary~~ Secretaries shall select, in such a manner as to achieve geographic representation, the remaining tribal participants from the pool of qualified applicants. In order to be in the pool of qualified applicants-- P.L. 102-573

(A) the governing body of the tribe shall request participation in the demonstration project;

(B) such tribe shall have operated two or more mature contracts; and

(C) such tribe shall have demonstrated, for the previous three fiscal years, financial stability and financial management capability as evidence by such tribe having no

significant and material audit exceptions in the required annual audit of such tribe's self-determination contracts.

Sec. 303. (a) The ~~Secretary~~ Secretaries is directed to negotiate, and to enter into, an annual written funding agreement with the governing body of a participating tribal government that successfully completes its Self-Governance Planning Grant. Such annual written funding agreement--

P.L. 102-573

(1) shall authorize the tribe to plan, conduct, consolidate, and administer programs, services and functions of the Department of Health ~~the Interior and the Indian Health Service of the Department of Health~~ and Human Services that are otherwise available to Indian ~~tribes or~~ Indians, including but not limited to, the Act of April 16, 1934 (48 Stat. 596) [25 U.S.C.S. @ 455 et seq.], as amended, and the Act of November 2, 1921 (42 Stat. 208) [25 U.S.C.S. @ 13 and former 52a];

P.L. 102-573

(2) subject to the terms of the written agreement authorized by this title shall authorize the tribe to redesign programs, activities, functions or services and to reallocate funds for such programs, activities, functions or services;

(3) shall not include funds provided pursuant to the Tribally-Controlled Community College Assistance Act (Public Law 95-471 [25 U.S.C.S. @ 1801 et seq.], generally; for full classification, consult U.S.C.S. Tables volumes), for elementary and secondary schools under the Indian School Equalization Formula pursuant to title XI of the Education Amendments of 1978 (Public Law 95-561 [Act November 1, 1978, P.L. 95-561, title XI, 92 Stat. 2313; for full classification, consult U.S.C.S. Tables volumes], as amended), or for either the Flathead Agency Irrigation Division or the Flathead Agency Power Division; Provided, That nothing in this section shall affect the contractibility of such divisions under section 102 of this Act [25 U.S.C.S. @ 450f];

(4) shall specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the ~~Secretary~~ Secretaries pursuant to this agreement;

P.L. 102-573

(5) shall specify the authority of the tribe and the ~~Secretary~~ Secretaries, and the procedures to be used, to reallocate funds or modify budget allocations within any project year;

P.L. 102-573

(6) shall, except as provided in paragraphs (1) and (2), provide for payment by the ~~Secretary~~ Secretaries to the tribe of funds from one or more programs, services, functions, or activities in an amount equal to that which the tribe would have been eligible to receive under contracts and grants under this Act, including direct program costs, and for any funds which are specifically related to the provision by the ~~Secretary~~ Secretaries of services and benefits to the tribe and its members; Provided, however, that funds for trust services to individual Indians are available under this written agreement only to the extent that the same services which would have been provided by the ~~Secretary~~ Secretaries are provided to individual Indians by the tribe;

P.L. 102-573

P.L. 102-573

P.L. 102-573

(7) shall not allow the ~~Secretary~~ Secretaries to waive, modify or diminish in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians which exists under treaties, Executive orders, and Acts of Congress;

P.L. 102-573

(8) shall allow for retrocession of programs or portions thereof pursuant to section 105(e) of this Act [25 U.S.C.S. @ 450j(e)]; and

(9) shall be submitted by the ~~Secretary~~ Secretaries ninety days in advance of the proposed effective date of the agreement to each tribe which is served by the agency which is serving the tribe which is a party to the funding agreement and to the Congress for review by the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

P.L. 102-573

(b) For the year for which, and to the extent to which, funding is provided to a tribe pursuant to this title, such tribe--

(1) shall not be entitled to contract with the ~~Secretary~~



Secretaries for such funds under section 102 (25 U.S.C.S. @ 450f), except that such tribe shall be eligible for new programs on the same basis as other tribes; and P.L. 102-573

(2) shall be responsible for the administration of programs, services and activities pursuant to agreements under this title.

(c) At the request of the governing body of the tribe and under the terms of an agreement pursuant to subsection (a), the Secretary Secretaries shall provide funding to such tribe to implement the agreement. P.L. 102-573

(d) For the purpose of section 110 of this Act (25 U.S.C.S. @ 450m-1) the term "contract" shall also include agreements to authorized by this title except that for the term of the authorized agreements under this title, the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81), and section 16 of the Act of June 18, 1934 (25 U.S.C. 476), shall not apply to attorney and other professional contracts by participating Indian tribal governments operating under the provisions of this title.

(e) To the extent feasible, the Secretary Secretaries shall interpret Federal laws and regulations in a manner that will facilitate the agreements authorized by this title. P.L. 102-573

(f) To the extent feasible, the Secretary Secretaries shall interpret Federal laws and regulations in a manner that will facilitate the inclusion of activities, programs, services, and functions in the agreements authorized by this title. P.L. 102-573

Sec. 304. The Secretary Secretaries shall identify, in the President's annual budget request to the Congress, any funds proposed to be included in the Tribal Self-Governance Project. The use of funds pursuant to this title shall be subject to specific directives or limitations as may be included in applicable appropriations Acts. P.L. 102-573

Sec 305. The Secretary Secretaries shall submit to the Congress a written report on July 1 and January 1 of each of the five years following the date of enactment of this title on the relative costs and benefits of the Tribal Self-Governance Project. Such report shall be based on mutually determined baseline measurements jointly developed by the Secretary Secretaries and participating tribes, and shall separately include the views of the tribes. P.L. 102-573

Sec. 306. Nothing in this title shall be construed to limit or reduce in any way the services, contracts or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 (25 U.S.C.S. @ 450f) or any other applicable Federal law and the provisions of section 110 of this Act (25 U.S.C.S. @ 450m-1) shall be available to any tribe or Indian organization which alleges that a funding agreement is in violation of this section.

Sec. 307. For the purpose of providing planning and negotiation grants to the ten tribes added by section 3 of the Tribal Self-Governance Demonstration Project Act (Act of December 4, 1991, P.L. 102-184 @ 3, 105 Stat. 1278) to the number of tribes set forth by section 302 of this Act (as in effect before the date of enactment of this section), there is authorized to be appropriated \$700,000. P.L. 102-184

Sec. 308. (a) The Secretary of Health and Human Services, in consultation with the Secretary of the Interior and Indian tribal governments participating in the demonstration project under this title, shall conduct a study for the purpose of determining the feasibility of extending the demonstration project under this title to the activities, programs, functions, and services of the Indian Health Service. The Secretary shall report the results of such study, together with his recommendations, to the Congress within the 12 month period following the date of the enactment of the Tribal Self-Governance Demonstration Project (enacted December 4, 1991). P.L. 102-184

(b) The Secretary of Health and Human Services may establish within the Indian Health Service an office of self-governance to be responsible for coordinating the activities necessary to carry out the study required under subsection (a).

Sec. 309. The Secretary of the Interior shall conduct a study for the purpose of determining the feasibility of including in the demonstration project under this title those programs and activities excluded under section 303(a)(3). The Secretary of the Interior shall report the results of such study, together with his recommendations, to the Congress within the 12-month period following the date of the enactment of the Tribal Self-Governance Demonstration Project Act (enacted December 4, 1991).

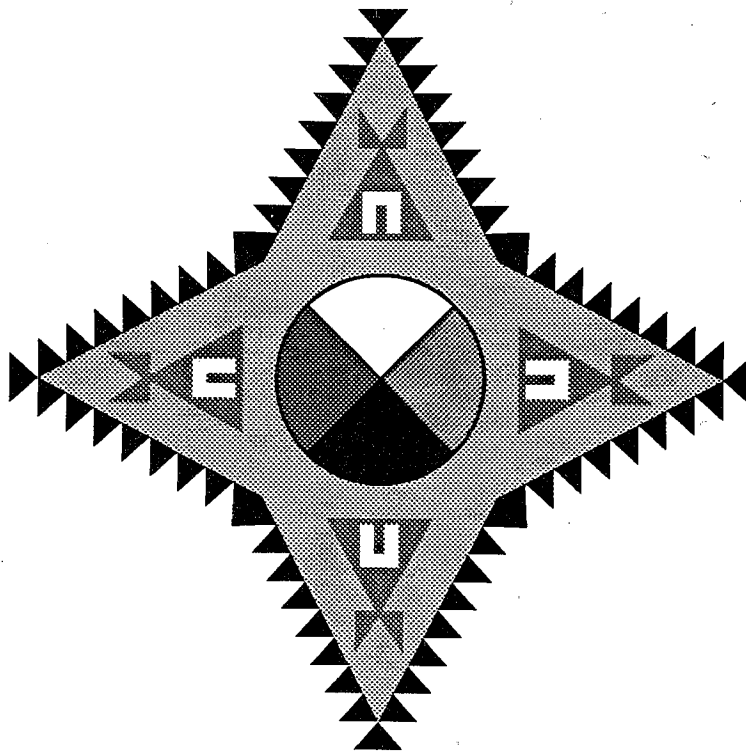
P.L. 102-184

Sec. 310. For the purposes of providing one year planning and negotiations grants to the Indian tribes identified by section 302, with respect to the programs, activities, functions, or services of the Indian Health Service, there are authorized to be appropriated such sums as may be necessary to carry out such purposes. Upon completion of an authorized planning activity or a comparable planning activity by a tribe, the Secretary is authorized to negotiate and implement a Compact of Self-Governance and a Funding Agreement with such tribe.

P.L. 102-573

# Appendix C

## *Sample Documents of the XYZ Tribe*



*COMPACT OF SELF-GOVERNANCE*

*BETWEEN*

*THE UNITED STATES OF AMERICA*

*AND*

[REDACTED]

*Article I – Authority and Purpose*

Section 1 – Authority.

This agreement, denotes a Compact of Self-Governance (hereinafter referred to as the "Compact"), is entered into by the Secretary of the Department of Health and Human Services or her Designated Official (hereinafter referred to as the "Secretary or her Designee") for and on behalf of the United States of America pursuant to the authority granted by Title III of P.L. 93-638, as amended and by the [REDACTED] for and on behalf of the [REDACTED] by the authority of the Constitution (hereinafter referred to as the "Tribe").

Section 2 – Purpose.

This Compact shall be liberally construed to achieve the following purposes:

(a) to carry out an unprecedented Self-Governance Demonstration Project, authorized by Title III of P.L. 93-638, as amended which is intended as a demonstration in the areas of health planning, funding and program operations within the Government-to-Government relationship between Indian tribes and the United States. In fulfilling her responsibilities under the Compact, the Secretary hereby pledges that the Department will conduct all relations with the Tribe on a Government-to-Government basis. The Demonstration Project encourages experimentation in order to determine how to improve this Government-to-Government relationship and promote the perpetuation of the Tribe. The outcome of the Tribe's demonstration cannot be known in advance and each demonstration as reflected in each specific Compact, binds no party beyond the terms of each specific Compact;

(b) to enable the [REDACTED] to redesign services of the Indian Health Service under the terms set forth in the Compact; to reallocate funding for such services, according to its tribal priorities; to provide such services, as determined by its tribal priorities; to enhance the effectiveness and long-term financial stability of its tribal government; and to reduce the Federal bureaucracy; and

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(c) to enable the United States to maintain its unique and continuing relationship with responsibility to the [REDACTED] through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from the Federal domination of services to an effective and meaningful participation by the Indian people in the planning, conduct and administration of those services.

### Section 3 – Applicable Law and Forums.

The duly enacted laws of the Tribe shall be applied in the performance of this Compact and the powers and decisions of the Tribe's Court shall be respected, to the extent that federal law, construed in accordance with the applicable rules of construction and Title III of P.L. 93-638, as amended is not inconsistent. This shall not be construed as a waiver of federal sovereign immunity, but shall govern disputes between tribal members, or other persons, and the Tribe regarding service delivery, personnel management, or compliance with applicable tribal or federal rules regarding compact operations.

## *Article II – Obligations of the Tribe*

### Section 1 – Consolidation.

With the exception of the specific responsibilities of the Secretary identified and retained in Article III, Section 3, and specified in Section 4 and footnoted in Section 2 and 3 of the attached Annual Funding Agreement, the Tribe hereby consolidates and will perform and otherwise be responsible for the services within the General Budget Categories as provided in Section 2 and 3 of the Annual Funding Agreement incorporated herein in Article V, Section 1 of this Compact. To the extent a program, functions, service and activity transferred to the Tribe in the Annual Funding Agreement is included within a contract or grant, entered into pursuant to Title I of the Act, or is subject to any obligation arising from such contract or grant, that contract or grant shall be terminated by execution of the appropriate document(s) and the parties' obligations shall be governed by this Compact and the associated Annual Funding Agreement. All funds remaining in such contracts or grants shall be de-obligated and re-obligated to the Annual Funding Agreement, as necessary to maintain carryover or other funds.

### Section 2 – Amount of Funds.

The total amount of funds associated with the consolidation and redesign provided for in Section 1 of this Article which the Secretary shall make available to the Tribe shall be established in the Annual Funding Agreement and amendments to the Annual Funding Agreement, between the Secretary and the Tribe, which is incorporated in its entirety in this Compact and attached hereto as provided in Article V, Section 1.

### Section 3 – Tribal Programs.

The Tribe agrees to provide and otherwise assumes responsibility for the services identified within the General Budget Categories in Section 2 and 3 of the Annual Funding Agreement. Pursuant to

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section 303 (b)(2) of Title III, for the year for which, and to the extent to which, funding is provided to the Tribe pursuant to this Compact and the associated Annual Funding Agreement, the Tribe shall be responsible for the administration of programs, services and activities included in the Annual Funding Agreement.

#### Section 4 – Reallocation.

Reallocation of funds to other health programs, activities, functions or services shall not require Secretarial consent, except that the use of funds pursuant to this Compact and associated Annual Funding Agreement shall be subject to specific directives or limitations as may be included in applicable appropriations Acts or other applicable Law.

### *Article III – Obligations of the United States*

#### Section 1 – Solemn Obligation.

Nothing in this Compact waives, modifies, or diminishes in any way the trust responsibility of the United States with respect to the Tribe or its members which exists under treaty, executive orders and Acts of Congress.

#### Section 2 – Programs Retained.

As specified in Section 4 of the Annual Funding Agreement, the United States hereby retains the services with respect to the Tribe that are not specifically assumed by the Tribe in the Annual Funding Agreement.

#### Section 3 – Eligibility for New Services, Service Increases, and Non-recurring Resources.

The Tribe shall be eligible for new services, service increases, mandates, population growth, health services priority system, contract support costs and others and non-recurring resources on the same basis as other tribes and the Secretary shall advise the Tribe of the funding available for such services. To the extent that such services are subject to consolidation under Title III of P.L. 93-638, as amended they may be included within the Compact and Annual Funding Agreement by mutual agreement of the parties under Article IV, Section 22 and 27.

#### Section 4 – Extraordinary or Unforeseen Events.

This Compact and any associated Annual Funding Agreement is intended to obligate the Tribe to carry out all usual and ordinary functions respecting the programs, activities, functions and services that it is undertaking to assume responsibility for, pursuant to the successive Annual Funding Agreements. In the event major unforeseen or extraordinary events occur, as jointly identified by the Tribe and the Secretary, with consequences beyond the control of the Tribe, the Tribe shall have access to additional services and resources to the same extent as such services and resources are available to non-compacting tribes in similar circumstances.

#### *Article IV -- General Provisions*

##### **Section 1 -- Duration.**

The term of this Compact begins October 1, 1999 and shall extend thereafter throughout the time period authorized by Title III of P.L. 93-638, as amended and any subsequent amendments thereto.

##### **Section 2 -- Effective Date.**

The Compact and attached Annual Funding Agreement are effective on October 1, 1999. In accordance with Title III of P.L. 93-638, as amended the Compact and Annual Funding Agreement, with signatures, shall be submitted by the Secretary to the Committee on Indian Affairs of the United States Senate, to the Committee on Natural Resources of the United States House of Representatives and other tribes served by the [REDACTED] Area Office at least ninety days before the effective date prescribed in Section 1. Successor Annual Funding Agreements shall be likewise submitted and made effective prior to the beginning of each funding year.

##### **Section 3 -- Funding Amount.**

Subject only to the appropriation of funds by the Congress of the United States; and to adjustments pursuant to section 106(b) of Title I of P.L. 93-638; as amended, the Secretary shall provide to the Tribe the total amount of funds specified in the Annual Funding Agreement incorporated by reference in Article V, Section 1. In accordance with Section 304 of Title III of P.L. 93-638, as amended, the use of any and all funds under this Compact shall be subject to specific directives or limitations as may be included in applicable appropriations acts.

##### **Section 4 -- Payment Schedule.**

(a) Payments shall be made as expeditiously as possible in compliance with applicable Law and Treasury Department regulations and shall include financial arrangements to cover funding periods under continuing resolutions to the extent permitted by such resolutions. For each fiscal year covered by this Compact, the Secretary shall make available the funds by paying the total amount specified in the Annual Funding Agreement in advance, as permitted by law, or such other payments as are provided in the schedule set forth in the Annual Funding Agreement. The first payment shall be made on or before thirty calendar days after the date on which the Office of Management and Budget apportions the appropriations for the fiscal year for the programs, functions, services and activities transferred to the Tribe under the Annual Funding Agreement.

(b) Interest. The Tribe shall be allowed to retain and shall not be held accountable for interest earned on funds advanced pending disbursements as permitted by law, Section 105(b) of the Act. (25 U.S.C. S 450)(b)). Interest earned on advances shall not diminish the amount of funds the Tribe is authorized to receive in any subsequent fiscal year.

## Section 5 -- Reports to Congress.

In order to implement Section 305 of Title III of P.L. 93-638, as amended on January 1 and July 1, throughout the period of the Compact, the United States shall make a written report to the Congress which shall separately include the views of the Tribe and describe the relative costs and benefits of carrying out this Compact, based upon mutually determined baseline measurements jointly developed by the parties pursuant to Section 17 of this Article.

## Section 6 -- Audits.

(a) The Tribe shall provide to the Designated Official of the Secretary an annual single organization-wide audit as prescribed by the Single Audit Act as amended, P.L. 104-156 and P.L. 98-502, the Tribe shall adhere to generally accepted accounting principles and the applicable Circulars of the Office of Management and Budget (hereinafter "OMB") and any exemption granted by OMB. A copy of this audit will be sent simultaneous to the Secretary and the cognizant agency.

(b) No other audit or accounting standards shall be required by the Secretary.

(c) Any claim by the Federal Government against the Tribe for funds received under an Annual Funding Agreement based on an audit under this section shall be subject to the provisions of section 106(f) of the Indian Self Determination and Education Assistance Act, as amended.

## Section 7 -- Records.

In addition to whatever provisions may apply under the Tribe's law on document disclosure and govern record-keeping, the Tribe shall maintain a record-keeping system and provide the Secretary reasonable access to records which permits the Department to meet its minimum legal record-keeping program requirements under the Federal Records Act, 44 U.S.C. 3101, et. seq., will allow for retrocession of this Compact in whole or in part pursuant to Section 12 of this Article and satisfy all audit requirements under this Compact. As provided in Section (I)(B)(7) of the Model Agreement, the records of the tribal government or tribal organization specified in such section shall not be considered federal records for purposes of Chapter 5 of Title 5, 25 U.S.C., Section 450(I)(b).

## Section 8 -- Property.

The following provisions supplement the Tribe's law on property procurement and management and govern such activity associated with this Compact.

(a) Departmental Property. At the request of the Tribe, the Secretary or her Designee shall make available to the Tribe, to the extent permitted by federal law and regulation, reasonably divisible real property, facilities, equipment and personal property that the Department previously utilized to provide the services now consolidated by the Tribe pursuant to Article III of this Compact and Section 2 and 3 of the Annual Funding Agreement. A mutually agreed upon list specifying the property, facilities, and equipment shall also be prepared before the effective date of this Compact, and periodically revised thereafter.



(b) Excess Personal Property. Subject to the agreement of the General Services Administration, the Tribe may acquire and take title to such "excess" property as may be appropriate in the judgment of the Tribe to support the services designated under Article II of this Compact and Section 2 and 3 of the Annual Funding Agreement. The Secretary agrees to make best efforts to assist the Tribe in obtaining such confiscated or excess property as may become generally available to tribes or local governments. Subject to the agreement of the General Services Administration, a Screener Identification Card (General Services Administration Form 2946) shall be issued to the Tribe no later than the effective date of this Compact. Upon request, the Secretary's Designated Official shall assist the Tribe in securing and using this Card.

(c) Capital Equipment. The Tribe shall determine what capital equipment, leases, rentals, property or services it shall require to perform its obligations under Article II of this Compact, and shall acquire and maintain records of such capital equipment, leases, rentals, property or services through tribal procurement procedures.

#### Section 9 – Savings.

Any funds not expended during the term of any of the compact fiscal years may be carried over and spent in the succeeding years and that carryover shall not diminish the amount of funds the Tribe is authorized to receive in any succeeding compact year.

#### Section 10 – Use of Motor Vehicles.

Subject to the agreement of the General Services Administration, the Tribe may obtain Interagency Motor Pool vehicles and related services, if available, for performance of any activities under this Compact. Upon request, the Secretary or her Designee shall assist the Tribe.

#### Section 11 – GSA Rates, Schedules and Agreements.

Subject to the agreement of the General Services Administration, the Tribe may obtain access to all Rates, Schedules, and Agreements, if available, for performance of any activities under this Compact. Upon request the Secretary or her Designee shall assist the Tribe.

#### Section 12 – Disputes.

(a) All disputes between the Secretary and the Tribe under this Compact or associated Annual Funding Agreement shall be subject to the provisions of Section 110 of the Indian Self-Determination and Education Assistance Act, as amended, and all remedies provided for therein shall be available to the Tribe. Actions and proceedings to enforce the Tribe's rights and the Secretary's obligations under this Compact and the associated Annual Funding Agreement shall be subject to Equal Access to Justice Act, Public Law 96-481, as amended, to the same extent as are actions and proceedings involving contracts or grants under the Indian Self-Determination Act.

(b) In the alternative, or in addition to the remedies and procedures in Section 110, the parties shall use the processes authorized and encouraged in the Alternative Dispute Resolution Act, 5 U.S.C. Section 581, for informal resolution of disputes arising under this Compact and associated Annual Funding Agreement.

#### Section 13 – Retroceding this Compact.

(a) Any retrocession under this Compact shall be governed by the provisions of Section 105(e) of the Indian Self Determination and Education Assistance Act, as amended.

(b) The parties agree that the funds which the Tribe has remaining unexpended at the time of a retrocession shall be made available to the Secretary to provide services for those programs retroceded to the Secretary pursuant to this clause.

(c) Nothing in this Compact shall be construed as preventing the Tribe from submitting a proposal for a grant or contract under Title I of P.L. 93-638, as amended, to operate any of the programs, functions or services governed by this Compact and Annual Funding Agreement, or otherwise, if this Compact and the associated Annual Funding Agreement is retroceded under this provision.

(d) At the Tribe's option, it may elect to retrocede only a portion of the programs, functions, services or activities undertaken under this Compact and the associated Annual Funding Agreement. In that instance, the amount of funds and the property remaining in the Tribe's possession for purposes of carrying out the programs, functions, services or activities retroceded shall be returned to the Secretary under this retrocession procedure.

(e) In addition to a retrocession to the Secretary, upon request by the Tribe, the Tribe may convert any or all of the programs, functions, services or activities undertaken pursuant to this Compact and the associated Annual Funding Agreement to a contract under Title I of this Act, and shall maintain its mature contractor status.

#### Section 14 – Tribal Administrative Procedures.

With respect to persons eligible to receive services under this Compact and the associated Annual Funding Agreement, tribal law and tribal forums shall provide administrative due process rights required by the Indian Civil Rights Act of 1968, 25 U.S.C. Section 1301, et. seq.

#### Section 15 – Successor Annual Funding Agreement.

Negotiations for a successor Annual Funding Agreement as provided for in Article V, Section 1, shall begin no later than 120 days in advance of the conclusion of the preceding Annual Funding Agreement. Pursuant to Section 301 and Section 303(a) Title III of P.L. 93-638, as amended, the Secretary shall make best efforts to continue and to promote this demonstration project in preparing her budgets for subsequent years. The Tribe is hereby assured that future funding of

successor Annual Funding Agreements may be reduced only pursuant to the provisions of Section 106(b) of the P.L. 93-638 as amended. The Secretary agrees to prepare and supply relevant information, and promptly to comply with the Tribe's requests for information reasonably needed to determine the funds that may be available for a successor Annual Funding Agreement as provided for in Article V, Section 1 of this Compact.

If the Tribe and the Secretary cannot come to an agreement, the terms of the prior AFA shall be effective and funds thereof shall be distributed in 90 day increments, until a successor agreement is signed.

#### Section 16 -- Regulatory Authority.

The Secretary or her Designated Official and the Tribe agree to utilize the following procedures governing the establishment and application of regulations under this Compact:

(a) Program Rules. The Tribe agrees to comply with all applicable Federal Regulations, which have been published in the Federal Register, in carrying out the programs, services and functions under the annual funding agreement. The Tribe is not required to comply with Federal program guidelines, manuals, or policy directives other than those identified in the Compact or Annual Funding Agreement in carrying out the programs, services, activities and functions under the Annual Funding Agreement. (25 U.S.C., Section 450(b)(11))

(b) Waiver of Federal Regulations.

(1) Prior to the effective date of the Annual Funding Agreement, the Secretary and the Tribe will seek to identify any Federal regulations which may require a waiver in order to effectively carry out the Annual Funding Agreement.

(2) The Secretary agrees to assist the Tribe in obtaining, from the appropriate office within or outside the Department of Health and Human Services, waivers or regulations in accord with the following process:

If the Tribe decides that a regulation should be waived, such request must be submitted in writing to the Director, Office of Tribal Self-Governance (OTSG). The request shall indicate that the Tribe has researched the request for waiver carefully and made its best determination concerning what exactly needs to be waived. The request should also contain alternative methods of dealing with the matter, if applicable, or justify why no alternative methods will be sufficient. If legal research has been done on the matter, this should be included in the waiver request to expedite the review process. The Tribe is encouraged to discuss the matter with the Director, OTSG, and other federal officials, as appropriate, prior to filling the request in order to explore options under existing law and regulation and to aid in expediting the request. The request shall contain the following:

- (i) What department, agency or component thereof, if any has authority to grant the waiver?
- (ii) What are the policy implications of the request for the Secretary?

The Director, OTSG, will provide a response to the request in the affirmative or negative within 90 days.

#### Section 17 -- Establishment of Baseline Measures.

In accordance with Title III, Section 305 of P.L. 93-638, as amended, the Secretary and the Tribe will jointly develop baseline measures within 60 days of signature of this compact which shall be submitted as Attachment 3.

#### Section 18 -- Inspector General Authority.

Nothing in this Compact shall limit the authority of the Inspector General in carrying out her statutory duties and responsibilities.

#### Section 19 - Designated Officials.

On or before the effective date of this Compact, both the United States and the Tribe shall provide each other with a written designation of a senior official as its representative/liaison official for notices, proposed amendments to the Compact and other purposes arising under this Compact.

#### Section 20 -- Indian Preference in Employment, Contracting and Subcontracting.

Tribal law shall govern the provision of Indian preference in employment, contracting, and subcontracting pursuant to this Compact. Section 104 (j) of P.L. 93-638, as amended shall apply to individuals who leave federal employment for tribal employment.

#### Section 21 -- Federal Tort Claims Act coverage; Insurance.

(a) Applies to the Tribe to the fullest extent of the law.

#### Section 22 -- Compact Modifications.

Subject to applicable laws, modifications to this compact shall be in the form of a written amendment to the compact, and shall require the written consent of the Tribe and the United States.

#### Section 23 -- Construction.

In the implementation of this Compact, the Secretary, to the extent feasible, shall interpret Federal Laws and Regulations in a manner that facilitates this Compact in accordance with Section 303(e) Title III of P.L. 93-638, as amended.

#### Section 24 -- Officials Not to Benefit.

No member of or delegate to Congress, or appropriate agency official, shall be admitted to any share or part of any contract executed pursuant to this Compact, or to any benefit that may arise

therefrom; but this provision shall not be construed to extend any contract under this Compact if made with a corporation for its general benefit.

#### Section 25 – Covenant Against Contingent Fees.

The parties warrant that no person or selling agency has been employed or retained to solicit or ~~secure any contract executed pursuant to this Compact upon an agreement or understanding for a~~ commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul any contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

#### Section 26 – Penalties.

The parties agree that the criminal penalties set forth in 25 U.S.C. 450d apply to all activities conducted pursuant to this Compact.

#### Section 27 – Severability.

(a) This Agreement shall not be considered invalid, void or voidable if any section or provision of the Agreement is found to be invalid, unlawful or unenforceable by court of competent jurisdiction.

(b) In the event of such court finding, and the brief by either party that will work a hardship upon them, the parties may negotiate an amendment to this agreement.

### *Article V – Attachments*

#### Section 1 – Annual Funding Agreement.

The first Annual Funding Agreement incorporating those services to be performed, within the General Budget Category assigned, the funds to be provided, and the budget year to which it applies, is hereby incorporated in its entirety in this Compact and attached hereto as Attachment 1. Each Successor Annual Funding Agreement shall be likewise incorporated, attached, and identified as Attachment 1 for the relevant budget year to which it applies.

#### Section 2 – Authorization of Compact.

This Compact is authorized to be executed by the Chief, of the [REDACTED] pursuant to the authority of the [REDACTED]  
[REDACTED]

Section 3 -- Baseline Measures.

Baseline Measures will be negotiated within 60 days of signature of this compact and will be incorporated into this compact as Attachment 3.

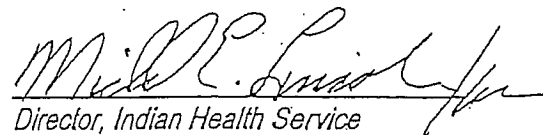
Section 4 -- Inconsistent Terms.

To the extent that any attachment is inconsistent with the terms of this Compact other than the Annual Funding Agreement, the Compact shall govern.

DATED THIS [REDACTED] DAY OF [REDACTED], [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

UNITED STATES OF AMERICA

  
Director, Indian Health Service  
Department of Health and Human Services

[REDACTED]

FISCAL YEAR [REDACTED]  
ANNUAL FUNDING AGREEMENT  
BETWEEN THE  
UNITED STATES OF AMERICA  
AND  
[REDACTED]

SECTION ONE  
PREAMBLE

This Annual Funding Agreement (AFA) is executed by and between the United States of America and the [REDACTED] (Tribe) pursuant to P.L. 93-638, as amended. This AFA is incorporated into and governed by the Compact of Self-Governance entered into between the [REDACTED] and the Secretary of the Department of Health and Human Services on [REDACTED]

SECTION TWO  
GENERAL PROGRAM CATEGORIES

The Tribe is authorized to plan, conduct, consolidate, administer and, subject to the terms of the Compact and applicable law, redesign the services and funding identified within the General Budget Categories as a consolidated tribal government budget. A portion of funding identified in the following General Budget Categories, in this Section, will be known as the Stable Base Budget and will remain the same unless changed by Congressional Action.

(a) **Stable Base Funding.** The Secretary and the Tribe agree that the basis for the funds available in FY-2003, will be the total of the final reconciled FY-2002 amount available of Headquarters Tribal Shares, [REDACTED] Area Office [REDACTED] Tribal Shares, Service Unit Program Base Funds, and Contract Support Funds. The parties recognize that the distribution methodologies for some resources managed by Indian Health Service (IHS) Headquarters and Areas have not been finalized.

Therefore, the parties agree that any subsequent revision of or distribution methodology that would result in an increase or decrease to the above defined Stable Base Funding will not effect the base during the Term of this agreement as defined in this Section, Terms and Conditions of Recurring Stable Base Budget Funding.

(b) **Other Headquarters Managed Funds.** The Tribe will remain eligible for distribution of its Tribal Share of all other funds managed by Headquarters that are not available for the Stable Base Budget.

(c) **Other Area Office Managed Funds.** The Tribe will remain eligible for distribution of its Tribal Share of all other funds managed by the Area Office that are not available for the Stable Base Budget ([REDACTED] Tribal Shares) including but not limited to Retained Tribal Shares, funds identified

for terminated personnel, and other non-recurring resources.

(d) **Terms and Conditions of Recurring Stable Base Funding.** Under the authority of the Title V, P.L. 93-638 as amended, the Tribe will participate in stable base funding. The Stable Base funding amounts identified herein shall be the final reconciled funding amounts identified for FY 2002. Adjustments to the stable base budget are as follows:

For FY-2003 the Stable Base Budget amount will include mandatory or inflationary adjustments contained within the annual proposed IHS Budget Justification and subsequent Congressional Appropriation. For each annual fiscal year adjustment throughout the term of the FA, the base funding levels will be adjusted in direct proportion to the general increases or decreases in PFSA levels of Congressional funding for each sub-sub activity, excluding Congressional earmarks. The establishment of the Stable Base Budget amount as defined herein, does not preclude the Tribe from including PFSA, which had not been previously assumed by the Tribe.

(e) **REPORTING.** In accordance with Section 507 of Title V and its implementing regulations, the Tribe agrees to provide data substantial enough to establish user count for the service area.

(f) **NEGOTIATION PRINCIPLE.** Pursuant to Title V and its implementing regulations, Section 512 (f) "Each provision of this Title and each provision of the compact or funding agreement shall be liberally construed for the benefit of the Indian Tribe participating in self-governance and any ambiguity shall be resolved in favor of the Indian Tribe".

#### **STABLE BASE BUDGET CATEGORIES**

##### **Standard Indian Health Service Programs**

Emergency Medical Service  
Public Health Nursing  
Community Health Reps  
**TOTAL STANDARD IHS PROGRAMS**

Headquarters Tribal Shares/Formula  
Area Office Tribal Shares  
**SUB-TOTAL TRIBAL SHARES**

Direct Contract Support  
**TOTAL RECURRING FUNDS**

##### **OTHER FUNDS**

Environmental Health Support (HDQTS)  
Area Environmental Support

\$ [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]



S.U. Environmental Support

SUB-TOTAL EHS

Indirect Contract Support Costs

TOTAL BASE BUDGET

### SECTION THREE EARMARKED FUNDS

The Nation is not authorized under this Annual Funding Agreement to redesign, shift nor transfer any funding for services identified within the General Budget Categories which are subject to special restriction imposed by congressional directives.

Sanitation Facilities

\$(Per Project Scope(s) Total)

SUB-TOTAL CONGRESSIONAL EARMARKS

GRAND TOTAL OF FY-2001 FA/IHS FUNDS

### THE FOLLOWING SPECIAL PROVISIONS ARE APPLICABLE

1. These programs are subject to the reallocation provision of Article II, Section 4, of the Compact, and Section 2 funding levels will be adjusted to reflect resources consistent with item numbers 18 and 19 in the Special Provision Section of this Funding Agreement.
2. Fiscal year 2001 projections contain mandates for fiscal year 2001. Funding will be adjusted when the actual fiscal year 2001 appropriation becomes available with an amendment to the FA.
3. The [REDACTED] will identify their total required Contract Support Funds which includes both Direct Contract Support and Indirect Contract Support requirements and provide a shortfall report when requested by IHS.
4. Public Law 86-121, Sanitation Facilities Construction Funds for the [REDACTED] for regular, housing and special projects will be modified into the Funding Agreement by way of a letter of agreement when such funds become available, and shall be expended in accordance with the provisions of said letter of agreement and the project scope documents. The letter of agreement shall be signed by the Chief or designee and the IHS Official designated by the Director of IHS. One hundred percent of project money identified in the letter of agreement shall be added to this section of the Funding Agreement and shall be

made available to the [REDACTED] within 60 days after the IHS Area Office receives the completed project documents.

5. The [REDACTED] will receive as its Tribal Share of the IHS [REDACTED] Area Office and Headquarters Office, the sum of \$ [REDACTED]. The parties specifically agree that the [REDACTED] may accept the amounts identified in this Funding Agreement and that the Tribe may, by dispute resolution or processes authorized by Title V and its implementing regulations, Section 507 (b) of the Act, at the sole option of the Tribe, seek to increase disputed amounts of funds.
6. As stipulated in the Indian Self-Determination Act, the Federal Tort Claims Act (FTCA) applies to injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any [REDACTED] employee while acting within the scope of his office or employment. Any award or settlement of \$2,500 or less shall be paid by the Tribe, out of available compact appropriations. An amount in excess of \$2,500 shall be paid by federal funds. (See 28 USC Sec. 2672 titled Administrative Adjustment of Claims). The IHS and [REDACTED] agree that Tribal Officials are a substantial part of carrying out the FA and further agree that a claim against Tribal Officials in their official capacity as the legal representative of the Nation, which arises from the Tribe's administrative duties with respect to the FA, should be an action against the Tribe (P.L. 101-512, Title III, 314).
7. The [REDACTED] has an investment in the [REDACTED] Area Office through the IHS residual trust responsibility and the Tribe's Retained Tribal Shares. The Tribe requests quality services from the [REDACTED] Area Office staff in the area of notification in a timely manner, when they become aware of any pending changes in resource allocation methodologies, organizational policy restructuring, or I/T/U sponsored legislation.
8. The [REDACTED] reserves the right to share in "Act of God" resources as they may be required relative to the [REDACTED] Indian health facilities.
9. Reserved.
10. The Indian Health Service will be responsible for all costs associated with severance pay relative to all Special Purpose IPA staff and MOAs assigned to the Tribe. Resources required to fund these costs will in no way reduce the negotiated Funding Agreement amount.
11. Within thirty (30) days of IHS apportionment, 100 percent (%) of direct funding and 100 percent (%) of Headquarters and Area Office tribal shares will be made available to the [REDACTED].
12. The [REDACTED] will be provided the opportunity to share in year-end resources received by the [REDACTED] Office or are distributed by the Headquarters. Resources referred to herein are those that were not otherwise available for Tribal Shares distribution from the [REDACTED] Office Residual or Retained Tribal Shares or from Headquarters.

**AREA**

13. Reserved.
14. Reserved.
15. All FA Amendments will be signed or responded to in writing by Headquarters to the [REDACTED] within thirty days of submission by the [REDACTED]
16. Reserved.
17. Written consent of the [REDACTED] shall not be required for issuing amendments, which result from increases in funding for PFSA's identified in this FA. Such increases include but are not limited to: Service Unit/Area/HQ level mandatories; Service Unit/Area/HDQT level end of year distributions; and other increases. Within two weeks after any such increase, the Modoc Tribe shall be provided with written documentation of the Sub-Sub activity source and distribution formula for the funding. Such amendments shall be without prejudice to the rights of the [REDACTED] to seek IHS, IBCA, or judicial review to resolve any disagreements or disputes respecting any such amendments, pursuant to otherwise applicable law.
18. The Tribe is entitled to a share of equipment located in the [REDACTED] and the [REDACTED] Hospital, for programs under this agreement. This equipment will be left for the operation of the IHS programs.
19. The Tribe shall not be held accountable for interest earned on such funds pending disbursement, as provided in section 105(B) of the Act. (25 U.S.C. S 450j(b)).
20. As authorized by P.L. 103-413, the Tribe hereby exercises its option to include the following provisions of Title I and V and its implementing regulations of the Indian Self-Determination Act (ISDA) as part of this FA:
  - a) 25 U.S.C., Section 450(j)(k) Access to federal sources of supply
  - b) 25 U.S.C., Section 450(l)(b) As provided in Section (l)(B)(7) of the Model Agreement, the records of the tribal government or tribal organization specified in such section shall not be considered federal records for purposes of Chapter 5 of Title V and its implementing regulations.
  - c) 25 U.S.C., Section 450(b)(11) Federal programs guidelines, manuals or policy directives except as specifically provided in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et. Seq.). The Contractor is not required to abide by program guidelines, manuals, or policy directives of the Secretary, unless otherwise agreed to by the Contractor and the Secretary or required by law.
  - d) Section 106(j)(k)(l) of the ISDA.
  - e) Section 506 (d) of the ISDA.
  - f) The Nation shall not be held accountable for interest earned on such funds pending disbursement, as provided in Section 508 (h) of the Act. (25 U.S.C. S 450j(b)).
  - g) Section 508 (g), Subsection 1(b)(6)(B)iii, Prompt payment Act will apply.

21. Potential conflicts of interest that may arise in the administration of the FA will be handled through internal measures established by the Nation (in accordance with Section 506 (b) of Title V and its implementing regulations, P.L. 93-638 as amended).
22. The Nation will send copies of their annual audit to the following Government Offices: Single Audit Clearinghouse, 121 E. 10<sup>th</sup> ST., Jeffersonville, IN 47132 and National External Audit Review Center, Lucas Place, Room 514, 323 W. 8<sup>th</sup> St., Kansas City, MO 64105.
23. The Nation's records are not subject to the Freedom of Information Act or the Federal Privacy Act (in accordance with Section 506 (b) of Title V and its implementing regulations, P.L. 93-638 as amended).
24. The Nation may store patient records at the Federal Records Centers (in accordance with Section 105 (o) of Title I, P.L. 93-638 as amended).
25. Funds provided under this FA and or Grants made pursuant to Title V and its implementing regulations, will be treated as non-Federal Funds for purposes of meeting, matching or cost participation requirements under any other Federal or non-Federal program in accordance with Section 512 (d) of Title V and its implementing regulations, P.L. 93-638 as amended.
26. The Nation may request a Regulation Waiver in accordance with section 517 of the Act [25 U.S.C. 458aaa-16] or section 505(b) of the Act {25 U.S.C. 458aaa-4(b)}.
27. Retrocession will be accordance with section 506(f), Title V.P.L. 93-638, as Amended.
28. Re-assumption will be accordance with section 507(a)(2), Title V and its implementing regulations, P.L. 93-638 as Amended.
29. The Nation will participate in Title VI, Tribal Self-Governance Demonstration Project with Department of Health and Human Services as soon as authorized.

#### **SECTION FOUR SERVICES NOT COVERED BY THIS AGREEMENT**

The following services are not included within this Annual Funding Agreement:

Headquarters East and West - All programs that provide direct and contract medical and dental ambulatory and inpatient services, catastrophic services, and any services that are funded as the federal residual.

[REDACTED] Area - All direct and contract ambulatory and inpatient services and any services that are funded as the federal residual.

The Nation retains the right to negotiate with the Secretary under the provisions of P.L. 93-638, as amended to include such services in the Annual Funding Agreement at a later date.

#### **SECTION FIVE DISPUTES**

Unresolved issues will be settled 30 days prior to the effective date of the Funding Agreement. If items remain unresolved after this date they will be handled under the Final Offer procedures identified in Title V and its implementing regulations, Section 507 (b), P.L. I, Section 110 of the Act.

## **SECTION SIX INDIRECT COST FUNDING**

For the purposes of this Funding Agreement, the IHS will pay Contract Support Costs in accordance with ~~Section 106 of the Indian Self-Determination Act as amended~~ and IHS circular 2001-05, subject to any statutory requirements imposed by Congress. The parties agree that IHS circular 2001-05 is IHS policy. The Tribe reserves the right to dispute any provisions of IHS circular 2001-05.

The Tribe has opted to participate in the IHS CSC Pilot Project Program for FYs 2003-2005. To that end, the Tribe and the IHS have negotiated a fixed fee/lump sum amount of \$ [REDACTED] which the Tribe acknowledges is its total need for contract support costs under 25 U.S.C. § 450j1(a)(2). IHS will pay CSC toward this need as an ongoing contract support cost under pool 2 on the same basis as all other tribes, as provided in IHS Circular 2001-05, subject to the availability of appropriations. This pool 2 amount is \$ [REDACTED]. To the extent that the Tribe's share of existing pool 2 funding is not sufficient to fully fund the negotiated fixed fee/lump sum amount, then the tribe remains eligible for shortfall funds on the same basis as all other tribes. Any amounts for new and expanded PFSA's will be negotiated pursuant to IHS Circular 2001-05 or its successor and added to the fixed fee/lump sum amount when funded.

The fixed fee/lump sum amount will be adjusted annually based on the OMB non-medical inflation index. Funding of the increased need is subject to the availability of appropriations and provided on the same basis as CSC shortfall funds are provided to other tribes.

Should the IHS director choose to terminate or modify the CSC Pilot Project Program prior to the end of FY 2007, the Tribe will have the option of continuing its participation in the Pilot Project Program until the end of FY 2008; amending this agreement to reflect any modifications to the Pilot Project Program; or withdrawing from the Pilot Project Program and receiving CSC on the same basis as other tribes.

## **SECTION SEVEN ADJUSTMENTS DUE TO CONGRESSIONAL ACTIONS**

The parties agree that adjustments may be made due to Congressional action. Upon enactment of relevant Appropriations Act or Acts, the amount will be adjusted as necessary and the Nation notified of such actions. It is recognized there may be variances which may need to be renegotiated. Each party agrees to correct such variances as they are identified and notify the other party. The funding for each successor FA will be subject only to changes permitted by Section 106(b) of the Indian Self-Determination Act.

## **SECTION EIGHT PREVIOUS P.L. 93-638 CONTRACTS AND GRANT FUNDS**

Under the terms of this agreement, funds remaining from previous P.L. 93-638 contracts/grants, at

the effective date of this agreement, are to be expended according to the terms of this compact and are not subject to the previous contracts/grants, to extent permitted by law.


**SECTION NINE**  
**NO LIMITS OR REDUCTIONS IN SERVICE TO OTHER TRIBES.**

Consistent with P.L. 93-638, it is the intent of the parties that nothing in this agreement is to be construed to limit or reduce in any way the services, contracts, or funds that any other Indian Tribe or Tribal organization is eligible to receive under Section 102, or any other applicable law.

SECTION TEN  
AUTHORIZED SIGNATURES

DATED THIS 15 DAY OF APRIL 2008

UNITED STATES OF AMERICA

  
Director, Indian Health Service  
Department of Health and Human Services

COMPACT

BETWEEN

THE

AND THE

UNITED STATES OF AMERICA

JANUARY 1, 2006

**COMPACT**  
**TABLE OF CONTENTS**

TABLE OF CONTENTS .....	i
TITLE .....	1
PREAMBLE .....	1
ARTICLE I - Authority and Purpose .....	1
Section 1 Authority .....	1
Section 2 Purpose .....	2
Section 3 Tribal Law and Forums .....	2
Section 4 Access to Training and Technical Assistance .....	3
ARTICLE II - Terms, Provisions and Conditions .....	3
Section 1 Term .....	3
Section 2 Effective Date .....	3
Section 3 Funding Amount .....	3
Section 4 Payment .....	4
Section 5 Reports to Congress .....	4
Section 6 Audits .....	4
Section 7 Records .....	5
Section 8 Property .....	5
Section 9 Regulatory Authority .....	6
Section 10 Disputes .....	6
Section 11 Retrocession .....	7
Section 12 Subsequent Funding Agreements .....	7
Section 13 Health Status Reports .....	7
Section 14 Secretarial Approval .....	7
Section 15 Transportation and Other Supply Sources .....	8
Section 16 Limitation of Costs .....	8
Section 17 Consolidation with Other Programs .....	8
ARTICLE III - Obligations of The Tribe .....	8
Section 1 Consolidation .....	8
Section 2 Amount of Funds .....	9
Section 3 Compact Programs .....	9
Section 4 Eligibility for Services .....	9
Section 5 Reallocation, Redesign and Consolidation .....	9



Section 6	Program Income, Including Medicare/Medicaid .....	9
Section 7	Carry-Over .....	9
Section 8	Administrative Procedures .....	9
Section 9	Matching Funds .....	9
ARTICLE IV - Obligations of the United States .....		10
Section 1	Trust Responsibility .....	10
Section 2	Programs Retained .....	10
Section 3	Financial and Other Information .....	10
Section 4	Savings .....	11
ARTICLE V - Other Provisions .....		11
Section 1	Designated Officials .....	11
Section 2	Indian Preference in Employment, Contracting and Sub-Contracting .....	11
Section 3	Federal Tort Claims Act Coverage; Insurance .....	11
Section 4	Compact Modifications or Amendments .....	12
Section 5	Construction Activities .....	12
Section 6	Officials Not To Benefit .....	12
Section 7	Covenant Against Contingent Fees .....	12
Section 8	Penalties .....	12
Section 9	Use of Federal Employees .....	12
Section 10	Extraordinary or Unforeseen Events .....	12
Section 11	Mature Contract Status Upon Compact Termination .....	13
Section 12	Contracting Rights .....	13
Section 13	Sovereign Immunity .....	13
Section 14	Interpretation of Federal Law .....	13
Section 15	Inadequacy of Program Funding .....	13
Section 16	Effect on Non-Participating Tribes .....	13
Section 17	Severability .....	13
Section 18	Applicability of Title I Provisions .....	14
Section 19	Purchases from the Indian Health Service .....	14
Section 20	Inclusion of Grants .....	14
ARTICLE VI - Attachments .....		14
Section 1	Approval of Compact .....	14
Section 2	Funding Agreements .....	14
ARTICLE VII - Counterpart Signatures .....		15

COMPACT OF SELF-GOVERNANCE

BETWEEN

THE [REDACTED]

AND

THE UNITED STATES OF AMERICA

PREAMBLE

WHEREAS, The [REDACTED] ("Tribe") is a federally recognized American Indian Tribe and the [REDACTED] is the duly recognized governing body of the Tribe, and

WHEREAS, it is the policy of the United States to support tribal Self-Governance and it is the desire and intent of the Tribe to administer the resources and programs provided by the Indian Health Service ("IHS") as authorized under P.L. 106-260, Title V of the Indian Self-Determination and Education Assistance Act, as amended, ("Act" or "Title V"), and other applicable federal laws and regulations, and

NOW THEREFORE, The IHS, acting for the Secretary of the Department of Health and Human Services, and the Tribe hereby mutually agree to enter into a government-to-government Agreement for the conduct and delivery of Health Services.

ARTICLE I

AUTHORITY AND PURPOSE

**Section 1 – Authority.** This Compact, which is authorized by the Act, is hereby entered into by the Secretary of the Department of Health and Human Services of the United States of America ("Secretary"), represented by the Director of the IHS, and the Tribe hereinafter. The Director of the IHS by signing this Compact commits the Secretary to the extent and within the scope of the Secretary's delegation of authority to enter into Compacts and Funding Agreements ("FA") pursuant to Title V or as otherwise authorized.

**Section 2 – Purpose.** This Compact shall be liberally construed to achieve its purposes:

(a) This Compact is to carry out the Self-Governance Program authorized by Title V, and is intended to transfer to tribal governments, at tribal request, the power to decide how federal programs, services, functions and activities (“PSFAs”) (or portions thereof) shall be funded and carried out. Title V is meant to strengthen the government-to-government relationship and to uphold the United States’ trust responsibility. This Compact encourages innovation in order to determine how to improve this government-to-government relationship and promote the autonomy of the Tribe in the realm of health care.

(b) This Compact is to enable the Tribe to re-design health PSFAs of the IHS; to reallocate funds for such PSFAs according to the priorities of the Tribe; to provide such reallocated funds for such PSFAs according to the Tribe’s priorities; to provide such PSFAs as determined by the Tribe’s priorities; to enhance the effectiveness and long-term financial stability of the Tribe; and to streamline the federal IHS bureaucracy.

(c) This Compact is to enable the United States to maintain and improve its unique and continuing relationship with and responsibility to the Tribe through tribal Self-Governance and to permit an orderly transition from federal domination of programs and services. This Compact and all FAs negotiated thereunder shall transfer to the Tribe the responsibility for providing the PSFAs of the IHS specified in the FA. This Compact allows the Tribe to exercise meaningful authority to plan, conduct, and administer PSFAs to meet the health care needs of eligible individuals in the Tribe’s service area. In fulfilling its responsibilities under the Compact and consistent with the President’s November 6, 2000 Executive Order No. 13175 on Consultation and Coordination with Indian Tribal Governments, and Section 3(2) of P.L. 106-260, the Secretary hereby pledges that the IHS will conduct all relations with the Tribes on a government-to-government basis.

**Section 3 – Tribal Law and Forums.** To the extent that applicable Federal law, construed in accordance with the applicable canons of construction and Title V of the ISDEAA, as amended, is not inconsistent, the duly enacted laws of the Tribe shall be applied in the performance of this Compact and any FA negotiated thereunder and the powers and decisions of the Tribal Council shall be respected.

This provision shall not be construed as a waiver of sovereign immunity of the United States or the Tribe and shall not apply to, nor shall it in any way be interpreted to provide application of Tribal law or Tribal Council jurisdiction over: (1) disputes between the Secretary and the Tribe regarding interpretation or implementation of this Compact and any FAs; (2) declination or other appeals or litigation brought against the Secretary under the ISDEAA, as amended; (3) claims for equitable relief or damages (including claims under the Contract Disputes Act) brought against the Secretary under Section 110 of the ISDEAA, as amended; or (4) tort claims brought against the United States under the Federal Tort Claims Act.

This provision shall govern disputes between Tribal members, or other persons, and the Tribe regarding services delivery, personnel management or compliance with applicable Tribal

and Federal rules regarding Compact operations. Such disputes shall be heard and decided in the Tribe's Tribal Council after exhaustion of Tribal administrative remedies, provided that all tort claims against the Tribe or any tribal employee paid under or working under this Compact arising from actions taken during the course and scope of his/her employment shall be handled pursuant to the Federal Tort Claims Act, as more fully addressed at Article V, Section 3 of this Compact.

**Section 4 – Access to Training and Technical Assistance.** To the extent DHHS retains, as part of its PSFAs, the provision of training and technical assistance to P.L. 93-638 Contractors, to other Compact Indian tribes or to IHS service providers, the Tribe shall have access to and the right to benefit from those services on the same basis as those other Indian tribes or IHS service providers. Nothing in this Compact or the FA shall be construed to prevent the Tribe or its staff from attending IHS-sponsored seminars, workshops or continuing medical education (CME) programs on the same terms as other non-Compact Indian tribes or IHS service providers, provided, if the categories of IHS funds used to pay for non-Compact Indian tribes' travel and lodging costs for such attendance is included in the funds received by the Tribe under the FA, the Tribe will pay those costs and other costs sustained by IHS as a result of the Tribe's attendance at such IHS-sponsored seminars, workshops or CME programs with Compact or other non-IHS funds.

## ARTICLE II

### TERMS, PROVISIONS AND CONDITIONS

**Section 1 - Term** The term of this Compact shall begin when it is signed by the Tribe and the Secretary and shall extend thereafter throughout the period authorized by Title V of the Act, and any subsequent amendment thereto, and shall remain in effect for so long as is permitted by Federal law or until terminated by mutual written agreement, retrocession, or reassumption pursuant to Section 504(d) of Title V.

#### **Section 2 - Effective Date.**

(a) Once this Compact and the FA, attached hereto as Exhibit B, are approved and signed by the Tribe and the Secretary, they shall be effective as of January 1, 2006.

(b) Each FA and any subsequent FA of the Tribe is deemed to be incorporated, as negotiated, by reference into this Compact and shall be attached as Exhibit B to this Compact. In the event of inconsistency between the Compact and any FA, the provisions of the Compact shall prevail.

**Section 3 - Funding Amount.** Subject only to the appropriation of funds by the Congress of the United States and in accordance with § 508 of Title V, the Secretary shall provide the total amounts specified in the Tribe's FAs.

#### **Section 4 - Payment.**

(a) **Payment Schedule.** Payments shall be made expeditiously and shall include financial arrangements to cover funding during periods under continuing resolutions to the extent permitted by such resolutions. For each calendar year covered by the Compact, the Secretary shall make available the funds specified for that calendar year under the FA by paying the respective total amount as provided for in the FA in advance lump sum, as permitted by law. The first payment shall be made on or before ten (10) days after the beginning of the calendar year, or if full appropriations are not enacted prior to the beginning of the calendar year, on or before ten (10) days after the date on which the Office of Management and Budget apportions the appropriations to DHHS for that fiscal year for the PSFAs subject to the Compact. The Prompt Payment Act, Chapter 39 of Title 31, United States Code, shall apply to the payment of funds due under this Compact and to any FA negotiated thereunder.

(b) **Interest on Advances.** The Tribe shall be permitted to retain interest earned on funds advanced in accordance with Section (a) above pending disbursement as authorized by law. Interest earned on advances shall not diminish the amount of funds the Tribe is authorized to receive under its FA in the year earned or in any subsequent fiscal year. All funds transferred under FAs pursuant to this Compact shall be managed using the prudent investment standard pursuant to Section 508(h) of Title V, and its implementing regulations.

**Section 5 - Reports to Congress.** In accordance with Section 514 of Title V, the Secretary shall submit to the Senate Committee on Indian Affairs and the House Resources Committee a written report on the administration of Title V. Each report shall include a detailed analysis on the level of need being presently funded or unfunded for the Tribe. The contents of each report shall comply with Section 514(b). In compiling the report, the Secretary may not impose any reporting requirements on the Tribe not otherwise provided in Title V. The Secretary shall provide the Tribe with a draft of each report required to be submitted to Congress under this provision for a thirty (30) day comment period prior to the submission of the report to Congress so that the Tribe may comment on the report. The Secretary shall include the Tribe's comments in the final report to Congress.

#### **Section 6 - Audits.**

(a) In accordance with 42 CFR §137.165 the Tribe shall send the annual single organization-wide audit as prescribed by the Single Audit Act of 1984, 31 U.S.C. § 7501, *et seq.*, to the Single Audit Clearinghouse in Jefferson, IN, and shall adhere to generally accepted accounting principles and the applicable Circulars of the Office of Management and Budget ("OMB"). A copy of this audit will be sent simultaneously to the DHHS National External Audit Review Center in Kansas City, MO.

(b) The Tribe shall apply cost principles under the applicable OMB Circular, except as modified by Section 106(k) of the Act, which section is hereby incorporated into this Compact, or by any exemptions subsequently granted by OMB. To the extent that OMB Circular A-87 or its successor, or other applicable circulars, permit agency pre-approval of allowable

costs, the Secretary hereby grants that pre-approval. The Secretary will assist the Tribe in obtaining such additional waivers from OMB as are requested by the Tribe. The Secretary shall require no other audit or accounting standards. Any claim by the Federal Government against the Tribe receiving funds under an FA based on any audit under this Section shall be subject to the provisions of Section 106(f) of the Act. Section 106(d) and (e) will also apply to any such claim.

#### **Section 7 - Records.**

(a) The Tribe's records are not to be considered federal agency records for purposes of the Freedom of Information Act, 5 U.S.C. §552, but the Tribe will comply with the procedures related to confidentiality of medical and financial records set forth in the Privacy Act of 1974, 5 U.S.C. §552a.

(b) At the Tribe's option in accordance with Section 105(o) of Title I medical records generated by the Tribe shall be deemed federal records for the limited purpose of making them eligible for storage in Federal Records Centers.

#### **Section 8 - Property.**

(a) **In General.** Section 512(c) and Section 1(b)(8) of the model Agreement set forth in Section 108(c) of the Indian Self-Determination and Education Assistance Act, as amended, are hereby incorporated into this Compact. The Secretary hereby authorizes the Tribe to use all federally owned "real property," including lands, buildings, facilities and structures and other personal property within the Secretary's jurisdiction for uses in connection with this Agreement. A mutually agreed upon list specifying the property, facilities, and equipment so furnished shall also be prepared by the Secretary, with the concurrence of the Tribe.

(b) **Records.** The Tribe shall maintain a record of all property referred to in subparagraph (a) or other property acquired by the Tribe under this section for purposes of replacement.

(c) **Joint Use Agreements.** Upon the request of the Tribe, the Secretary and the Tribe shall enter into a separate joint use agreement to address the shared use by the parties of real or personal property that is not reasonably divisible.

(d) **Acquisition Of Property.** In accordance with Section 512(c)(3) of Title V, the Tribe is granted the authority to acquire such excess property as the Tribe may determine to be appropriate to support the PSFAs operated pursuant to this Compact, if the Secretary also determines the property is appropriate for use by the Tribe.

(e) **Confiscated Or Excess Property.** The Secretary shall assist the Tribe to obtain such confiscated or excess property as may become available to tribes, tribal organizations, or local governments.

(f) **Screening Identification Card.** Within 30 days after the Tribe identifies a designated representative for purposes of this section, the Tribe shall be issued a sponsorship letter by the IHS or other necessary document to screen excess property for the GSA or other federal agencies.

(g) **Capital Equipment.** The Tribe shall determine the capital equipment, leases, rentals, property, or services it requires to perform the obligations under this Compact, and shall acquire and maintain records of such capital equipment, property rentals, leases, property, or services through applicable procurement procedures of the Tribe.

(h) **Leases.** Upon the request of the Tribe, the Secretary shall enter into a lease with the Tribe for facilities for which the Tribe holds title to, a leasehold interest in or a trust interest in accordance with Section 105(l) of the Act.

**Section 9 - Regulatory Authority.** The Secretary and the Tribe agree to utilize the following procedures governing the establishment and application of program rules and regulations under this Compact:

(a) **Program Rules.** In accordance with section 517(e) of Title V, the Tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the IHS, unless expressly agreed to by the Tribe in the Compact or Funding Agreement, except for the eligibility provisions of section 105(g) of the ISDEAA and regulations promulgated under section 517.

**(b) Federal Regulations.**

(1) **Applicable Federal Regulations.** The Tribe, in carrying out the provisions of this Compact and applicable FAs, will be required to comply only with applicable federal regulations, which include regulations promulgated under Section 517 of Title V unless specifically waived as provided in Section 512 of Title V.

**(2) Waiver of Federal Regulations.**

(A) Upon request by the Tribe, the Secretary and the Tribe will seek to identify federal regulations promulgated under Section 517 or under the authorities specified in Section 512(b) of Title V that may require waiver in order to effectively carry out this Compact or any FAs.

(B) Waivers of regulations shall be submitted and addressed in accordance with the procedures set forth in Section 512(b) of Title V.

**Section 10 - Disputes.**

(a) In the event the IHS and the Tribe are unable to agree, in whole or in part, on the terms of the compact or funding agreement (including funding levels), the Tribe shall notify

the IHS in writing of its final offer. The final offer shall be processed in accordance with Sections 507(b)-(d) of Title V.

(b) All disputes between the IHS and the Tribe under this Compact shall be subject to Title V and the provisions of Section 110 of the ISDEAA, and all remedies provided for therein shall be available to the Tribe of this Compact. Actions and proceedings to enforce the Tribe's rights and the Secretary's obligations under this Compact shall be subject to the Equal Access to Justice Act, Public Law 96-481, as amended, to the same extent as are actions and proceedings involving P.L. 93-638 contracts.

(c) In the alternative, the IHS and the Tribe may use the processes authorized and encouraged in the Administrative Dispute Resolution Act, 5 U.S.C. § 581, for more informal resolution of disputes arising under this Compact and applicable FAs.

**Section 11 - Retrocession.** The retrocession provisions of Section 506(f) of Title V shall apply if the Tribe decides to retrocede a portion or all of the PSFAs contained in an FA.

#### **Section 12 - Subsequent Funding Agreements.**

(a) Negotiations for subsequent respective FAs, as provided for in Article VI, Section 2, shall begin no later than 120 days in advance of the conclusion of the preceding Funding Agreement. The Tribe is hereby assured that future funding of its subsequent FAs shall only be reduced pursuant to the provisions of Section 508(d) of Title V. The Secretary agrees to prepare and supply relevant information, and promptly to comply with requests from the Tribe for information reasonably needed to determine the funds that may be available for a subsequent FA as provided for in Article VI, Section 2 of this Compact.

(b) If the parties are unable to conclude negotiation of a subsequent FA, and absent notification from the Tribe that it is retroceding the operation of one or more PSFAs (or portions thereof) the terms of this Compact and the existing FA shall remain in effect until a subsequent FA is agreed to. Subsequent FAs will be effective on the date signed by the Tribe and the Secretary, or on another date mutually agreed upon. As provided in Section 505(e) of Title V, subsequent FAs will become retroactive to the end of the term of the preceding FA. Any increases in funding to which the Tribe is entitled by statute, or increases which the Tribe subsequently negotiate, shall be included in the subsequent FA.

**Section 13 - Health Status Reports.** In accordance with Section 507(a)(1), the Tribe shall provide the Secretary a health status and service delivery report to the extent that relevant data is not otherwise available to the Secretary and specific funds for this purpose are provided to the Tribe in its FA. Such reporting may impose only minimal burdens on the Tribe and shall be consistent with regulations promulgated under Section 517 of Title V.

**Section 14 - Secretarial Approval.** For the term of the Compact, the provisions of 25 U.S.C. §§ 81 and 476 shall not apply to attorney and other professional contracts of the Tribe pursuant to Section 511(b).



## **Section 15 – Transportation And Other Supply Sources.**

In accordance with Sections 508(e) and 516(a), the Tribe and its employees carrying out this Compact, shall have access to Federal Supplies (including supplies from federal warehouse facilities), Federal supply sources (including lodging, airline transportation, and other means of transportation, including the use of interagency motor pool vehicles) or other Federal resources (including supplies, services, and resources available to the Secretary under any procurement contracts in which the Department is eligible to participate). The Tribe shall have access to such supplies and services on the same basis as the Department and the Secretary agrees to acquire and transfer such supplies or resources to the Tribe upon request.

**Section 16 - Limitation of Costs.** The Tribe shall not be obligated to continue performance that requires an expenditure of funds in excess of funds transferred under the FA. In accordance with Section 508(k), if, at any time, the Tribe has reason to believe that the total amount required for performance of responsibilities set out in an FA, or a specific activity conducted under the FA, would be greater than the amount of funds awarded under the FA, the Tribe shall provide reasonable notice to the IHS. If the IHS does not take such action as may be necessary to increase the amount of funds transferred under the FA, the Tribe may suspend performance of the FA until such time as additional funds are transferred.

**Section 17 – Consolidation with Other Programs.** The Tribe may consolidate PSFAs and associated funds identified in an FA with other PSFAs provided with its own funds or funds from other sources, provided that the PSFAs are allowable for inclusion in an FA under Section 505 of Title V. In such cases, the Tribe shall not be required to separate dollars or PSFAs so long as the Tribe can provide sufficient data to permit an acceptable program and financial audit to be conducted. When PSFAs are consolidated in an FA by the Tribe in accordance with the terms of the FA and Sections 505 and 506(e) of Title V, the Tribe and its employees carrying out those PSFAs may receive FTCA coverage in accordance with the statutory provisions and regulations cited in Article V, Section 3 of this Compact. Whether the FTCA applies in any particular case is decided on an individual case-by-case basis by the United States Department of Justice and subsequently by the Federal courts.

## **ARTICLE III**

### **OBLIGATIONS OF THE TRIBE**

**Section 1 - Consolidation.** The Tribe will be responsible for performing the PSFAs as specified in Section 3 of this Article III and in applicable FAs, as provided for in Article VI, Section 2 of this Compact. To the extent a PSFA and funds included within a contract or grant entered into pursuant to Sections 102 or 103 of the Act is included within an FA, that contract or grant shall be modified or terminated as appropriate. This Compact shall govern the parties' obligations and all funds previously obligated under contracts or grants (including carry-over funds) will be re-obligated to the Tribe under an FA negotiated under this Compact.

**Section 2 - Amount of Funds.** The total amount of funds covered by the consolidation and redesign provided for in Section 1 of this Article that the Secretary shall make available to the Tribe shall be determined in accordance with Section 508(c) of Title V and shall be set forth in the FA negotiated under this Compact.

**Section 3 - Compact Programs.** The PSFAs that will be the responsibility of the Tribe under this Compact shall be identified in the Tribe's Funding Agreement.

**Section 4 - Eligibility for Services.** In determining eligibility for services the Tribe shall comply with applicable eligibility provisions in Section 105(g) of the IDEAA, as amended, applicable regulations, and other statutory law.

**Section 5 - Reallocation, Redesign and Consolidation.** In accordance with Section 506(e) of Title V, the Tribe may redesign or consolidate programs, services, functions, and activities (or portions thereof) included in a Funding Agreement and reallocate or redirect funds for such programs, services, functions, and activities (or portions thereof) in any manner which the Tribe deems to be in the best interest of the health and welfare of the Indian community being served, only if the redesign or consolidation does not have the effect of denying eligibility for services to population groups otherwise eligible to be served under applicable federal law.

**Section 6 - Program Income, Including Medicare/ Medicaid.** All Medicare, Medicaid or other program income earned by the Tribe shall be treated as additional supplemental funding to that negotiated in the FA and the Tribe may retain all such income, including Medicare/Medicaid, and expend such funds in the current year or in future years. Earnings of such funds described in the previous sentence shall not result in any off-set or reduction in the negotiated amount of the FA. Medicare/Medicaid collections of the Tribe under Title IV of Public Law 94-437, as amended, shall be used by the Tribe in accordance with any applicable statutory restrictions on the use of such funds. The Tribe is obligated to seek third party reimbursements as provided by federal law.

**Section 7 - Carry-over.** Congressionally appropriated funds allocated in accordance with an FA under this Compact are no year funds and may be expended by the Tribe in accordance with its budget for the year for which the funds are appropriated or carried over and expended in any subsequent fiscal year, and such carry-over shall not diminish the amount of funds the Tribe is authorized to receive under its FA for any such subsequent fiscal year.

**Section 8 - Administrative Procedures.** To the extent required by law the Tribe shall provide administrative due process rights to individuals that receive services provided under this Compact.

**Section 9 - Matching Funds.** Funds may be used to meet matching and other cost participation requirements under any other federal or non-federal programs pursuant to Section 512(d) of Title V.

## ARTICLE IV

### OBLIGATIONS OF THE UNITED STATES

**Section 1 - Trust Responsibility.** In accordance with Sections 507(g) and 515(b) of Title V, nothing in this Compact waives, modifies, or diminishes in any way the trust responsibility of the United States with respect to the Tribe or individual American Indians which exists under treaties, executive orders, and Acts of Congress.

#### **Section 2 - Programs Retained.**

(a) The Secretary hereby retains the responsibility for the PSFAs with respect to the Tribe that are not specifically assumed by the Tribe through an FA and the Tribe shall continue to be entitled to the full benefit of those PSFAs retained by the IHS. In accordance with Section 506(h), the Tribe shall be eligible for new PSFAs of the Secretary and the IHS on the same basis as other Tribes and Tribal Organizations. The IHS, in consultation with the Tribe, may reorganize to sustain its ability to provide, in the most effective and efficient manner, all PSFAs that have not been included in the FA.

(b) No later than 120 days prior to the end of each fiscal year, the IHS shall provide the Tribe with a written list of the retained PSFAs relevant to health care in the Tribe's service area for the upcoming fiscal year. To the fullest extent permitted by law, the Secretary shall provide the Tribe access to, and copies of, all documents and other information relevant to any ongoing retained PSFAs and shall cooperate with any evaluation, which the Tribe may wish to conduct. The Secretary will cooperate with the Tribe to facilitate the inclusion of PSFAs in future FAs of the Tribe.

**Section 3 - Financial and Other Information.** The tribe shall be eligible for new PSFAs and other new funds on the same basis as other tribes and the Secretary or an authorized representative shall advise the Tribe of the funding available for such programs. To assist the Tribe in monitoring compliance with Section 508(c) of Title V the Secretary shall annually provide the Tribe:

- (a) Table #1: Congressional Changes to IHS Appropriations;
- (b) Table #2: Breakdown of Appropriations, Allowances to Area and through HQ;
- (c) Table #3: Breakdown of HQ Allowances, Detailed HQ Accounts and Categories for Tribal Shares; and
- (d) HQ PSFAs available to the Kalispel Tribe.

Other information requested by the Tribe shall be provided as expeditiously as possible. If the Secretary cannot provide the information within thirty (30) days of receipt of the request, he/she shall, within, thirty (30) days, acknowledge the request in writing and agree with the Tribe

on a timeframe for production of the information. In no event shall such information be provided later than sixty (60) days of the initial request.

**Section 4 - Savings.** If the PSFAs carried out by the Tribe under Title V FAs and this Compact result in a reduction to the administrative or other responsibilities of the Secretary, with respect to the operation of Indian programs, and thereby result in savings that have not otherwise been included in the amount of tribal shares and other funds determined under Section 508(c) of Title V, the Secretary shall make such savings available to the Tribe for the provision of additional services in accordance with Section 507(f) of Title V or in accordance with other federal law.

## ARTICLE V

### OTHER PROVISIONS

**Section 1 - Designated Officials.** On or before the effective date of this Compact, both the Secretary and the Tribe shall provide a written designation of an individual as their representative/liaison. The Secretary shall direct all communications about the Compact, and relevant FA to the Tribe's designee.

**Section 2 - Indian Preference in Employment, Contracting and Sub-Contracting and Wage and Labor Standards.** The Tribe's tribal law shall govern the provisions of Indian preference in employment, contracting and subcontracting subject to 25 U.S.C. § 450e. Further, the provisions of sections 7(b) and 7(c) of the Act shall apply to the Tribe to the full extent permitted by applicable federal law. Finally, Section 7(a) of the ISDEAA, as amended, shall apply to any construction activities transferred to the Tribe under this Compact.

### **Section 3 Federal Tort Claims Act Coverage; Insurance.**

(a) The Tribe is deemed by statute to be part of the Public Health Service (PHS), and the employees of the Tribe are deemed by statute to be part of or employed by the PHS, for purposes of coverage under the Federal Tort Claims Act, while performing PSFA under this Compact and any FA, including coverage for claims of medical malpractice, as required by Section 516(a) of Title V and as more fully described in section 102(d) of the Indian Self-Determination Act, as amended, and 25 C.F.R. § 900.180-210.

(b) The above status of the Tribe, or an employee's status as an employee of the Tribe, is not affected by the source of the funds used by the Tribe to pay the employee's salary and benefits as long as the employee does not receive any additional compensation for the performance of covered services from anyone other than the Tribe.

(c) The Tribe's employees may, while performing under this Compact and any FA and as a condition of employment, be required by the Tribe to provide services to non-IHS beneficiaries in order to meet the obligations under this Compact, either in facilities of the Tribe or in facilities other than those of the Tribe.

(d) Funds provided under an FA may be used to purchase such additional liability and other insurance as is prudent in the judgment of the Tribe performing under this Compact and FA for its protection and the protection of its employees.

(e) Personal services contracts shall be covered under this provision to the extent provided under Section 102(d) of the Act.

**Section 4 - Compact Modifications or Amendments.** To be effective, any modifications of this Compact shall be in the form of a written amendment, and shall require written consent of the Tribe and the Secretary.

**Section 5 - Construction Activities.** The Tribe may assume construction projects or programs in accordance with Title I, Title V or P.L. 86-121.

**Section 6 - Officials Not To Benefit.** No member of or delegate to Congress or resident Commissioner shall be admitted to any share or part of any Contract executed pursuant to this Compact, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to any contract under this Compact if made with a corporation for its general benefit.

**Section 7 - Covenant Against Contingent Fees.** The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Compact upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business.

**Section 8 - Penalties.** The parties agree that the criminal penalties set forth in 25 U.S.C. §450d apply to all activities conducted pursuant to this Compact.

**Section 9 - Use of Federal Employees.** Section 104 of the Act shall apply to this Compact and to any individuals assigned or detailed to the Tribe performing functions under this Compact or leaving federal employment to perform services under this Compact, including assignments either on detail or on leave without pay and with or without reimbursement by the Tribe for the travel and transportation expenses to or from the place of assignment and for the pay, or supplemental pay, or a part thereof, of the employee during assignment.

**Section 10 - Extraordinary or Unforeseen Events.** This Compact is intended to obligate the Tribe to carry out all usual and ordinary functions respecting the PSFAs that it is undertaking to assume responsibility for under its FA. In the event major unforeseen or extraordinary events occur, as jointly identified by the Tribe and the Secretary, with consequences beyond the control of the Tribe, the Secretary and the Tribe agree that the Tribe shall have access to additional services and funding amounts for its FA, to the extent such resources are available. The parties will seek to ensure that funds available to the Tribe to deal with the unforeseen circumstance will not be less than would have been available to non-Compact Tribes or the IHS had they encountered a similar circumstance.

**Section 11 - Mature Contract Status upon Compact Termination.** In accordance with Section 506(g)(3) of Title V, should the Tribe elect to convert all or some of the programs operated under the Compact back to contract status under Title I of the Act, as amended, such conversion shall not affect the Tribe's status as having operated a mature contract within the meaning of section 4(h) of the Act. Such conversion would occur only at the end of the Compact term, or on another date mutually acceptable to the Tribe and the Secretary, or as otherwise provided in this Compact, and will be implemented in a manner which avoids any interruption of services to individual tribal members. If the Compact is terminated or the Tribe determines that it will retrocede any PSFA operated under the Compact, the Tribe's contract(s) shall not lose mature contract status under section 4(h) as provided above.

**Section 12 - Contracting Rights.** Nothing in this Compact or any FA shall be construed to preclude the Tribe from contracting with the Secretary to perform a PSFA under Title I of the Act, as amended, subject, however, to constraints against duplication pursuant to Section 506(h) of Title V.

**Section 13 - Sovereign Immunity.** Nothing in this Compact or in any FA shall be construed to affect or waive the sovereign immunity of the Tribe.

**Section 14 - Interpretation Of Federal Law.** In the implementation of this Compact, the Secretary, to the extent feasible, shall interpret all federal laws, executive orders, regulations and this Compact in a manner that effectuates and facilitates the purposes of this Compact and achievement of the Tribe's health goals and objectives in accordance with Section 512(a) of Title V. In accordance with Section 512(f) of Title V, each provision of this compact or FA shall be liberally construed for the benefit of the Tribe and any ambiguity shall be resolved in favor of the Tribe.

**Section 15 - Program Funding.** The Secretary commits to advocate for increases in the IHS budget to further the ability of the Tribe to provide the full range of services that are the responsibility and obligation of the United States to make available to American Indian and Alaska Native people and to meet the goals of the Indian Health Care Improvement Act.

**Section 16 - Effect on Non-Participating Tribes.** Nothing in this Compact or associated FAs shall be construed to limit or reduce in any way the service, contracts or funds that any Indian Tribe or tribal organization is eligible to receive.

**Section 17 - Severability.**

(a) Except as provided in this section, this Compact shall not be considered invalid, void or voidable if any section or provision of this Compact is found to be invalid, unlawful or unenforceable by a court of competent jurisdiction.

(b) If any section or provision of this compact is found to be invalid, unlawful or unenforceable by a court of competent jurisdiction the parties will make every effort to reach

agreement to amend, revise or delete any such invalid, unlawful or unenforceable section or provision.

**Section 18 - Applicability of Title I Provisions.** At the request of the Tribe, any provision of Title I, except those referred to in Section 516 of Title V, to the extent such provision does not conflict with a provision in Title V, shall be made a part of a Funding Agreement or this Compact. The Secretary is obligated to include such provision at the option of the Tribe. The Tribe may identify in writing, by citation or verbatim statement, any provision of Title I that it elects to incorporate into this Compact and submit such provision to the OTSG, with a copy to the [REDACTED] Area Office Director. Within 15 days of receipt of a written request the Secretary shall acknowledge receipt therefor. If no acknowledgement is sent within 15 days the request shall be deemed approved and incorporated into the Compact or Funding Agreement, and shall have the same force and effect as if it were set out in full in Title V. In the event the Tribe requests such incorporation at the negotiation stage of this Compact or a Funding Agreement, such incorporation shall be deemed effective immediately and shall control the negotiation and resulting Compact and Funding Agreement.

**Section 19 - Purchases from the Indian Health Service.** With respect to functions transferred by the IHS to the Tribe under this Compact or an applicable FA, the IHS shall provide goods and services to the Tribe, on a reimbursable basis, including payment in advance with subsequent adjustment. The reimbursements received from those goods and services, along with the funds received from the Tribe pursuant to this section, may be credited to the same or subsequent appropriation account which provided the funding, such amounts to remain available until expended.

**Section 20 - Inclusion of Grants.** The parties agree that Section 505(b)(2) of Title V provides, among other things, that statutorily mandated grants administered by the DHHS through the IHS may be added to the Tribe's FAs after award of such grants.

## ARTICLE VI

### ATTACHMENTS

**Section 1 - Approval of Compact.** The resolution of the Tribe approving this Compact and successor FAs is attached hereto as Exhibit A.

**Section 2 - Funding Agreement.** The Tribe's Funding Agreement shall be attached hereto as Exhibit B.

ARTICLE VII

COUNTERPART SIGNATURES

This Compact may be signed in counterparts.

IN WITNESS WHEREOF, the parties have executed, delivered and formed this Compact.

[REDACTED]

By: [REDACTED]

12-20-05  
Date

UNITED STATES OF AMERICA

By: Mary Ann Stanton  
Charles W. Grim, D.D.S., M.H.S.A., Director, IHS

12/30/05  
Date

[REDACTED]



## FUNDING AGREEMENT

BETWEEN THE

AND THE

SECRETARY OF THE DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

January 1, 2006 through December 31, 2008

This Funding Agreement ("FA" or "Agreement") is entered into by and between the [REDACTED] ("Tribe") and the Secretary of the Department of Health and Human Services of the United States of America ("Secretary"), represented by the Director of the Indian Health Service ("IHS"). This FA shall be liberally construed to implement the Title V Compact of Self-Governance between the parties.

**Section 1 - Obligations of the IHS.** This FA obligates the IHS to provide funding and services identified herein and as provided in the [REDACTED] ("Compact") between the Tribe and the Secretary in Calendar Years 2006-2008 (January 1, 2006 through December 31, 2008). This FA is a multiple year (three year) FA negotiated in accordance with Section 508(b) of Title V.

**Section 2 - Obligations of the Tribe.** This FA obligates the Tribe to be responsible for and to provide health programs, services, functions and activities ("PSFAs") set forth below and identified in the attached Tribal Self-Governance FA tables for Calendar Years 2006-2008 utilizing the resources transferred under this FA:

(A) **Administrative and Organizational Systems:** The purpose of this program is to provide the administrative oversight for all health PSFAs; to ensure the Health Program's mission, policies and other responsibilities are carried out; and to assure compliance with the Tribe's IHS Compact.

(B) **Program Services**

(i) **Reporting:** The purpose of this program is to provide data and other information to IHS for subsequent reporting in the Tribe's service area to the Congress.

(ii) **Substance Abuse:** The purpose of this program is to reduce the incidence of substance abuse on the Reservation. Services include, but are not limited to,

screening and diagnosis; referral to inpatient treatment; outpatient aftercare and follow-up; intervention and prevention services.

(iii) Community Health Representative (CHR): The purpose of this program is to provide community health and outreach services to eligible individuals. Services include, but are not limited to, patient transportation; medical support services; patient case management; monitoring of elderly and chronically ill patients; and patient and community health education.

(iv) Social Work/Mental Health: The purpose of this program is to provide mental health services to eligible individuals. Services include, but are not limited to, diagnostic assessments; ongoing counseling; treatment planning; referrals to other services; and the development and facilitation of support groups.

(v) Business Office: The purpose of this program is to maintain the billing of services for patients of the [REDACTED] Clinic.

(vi) Health Education. The purpose of this program is to provide services to inform and educate patients in support of improving their lifestyles and health status.

(C) Subject to section 505(b) of Title V, any new health care program funded by the Indian Health Service during the term of this funding agreement, including but not limited to programs identified in the Indian Health Care Improvement Act, as amended, and authorized for inclusion by section 505(b) of Title V, codified at 25 USC § 458aaa-4(b).

(D) Any new health care program resulting from the reallocation of funds and redesign of programs during the term of this agreement, which will be in accordance with the terms of the Compact and Section 505. This FA includes PFSA's resulting from tribal redesign, or reallocation or redirection of funds, under subsection 506(e) of Title V, provided that such redesign, reallocation or redirection of funds results in carrying out PFSA's that may be included in the FA pursuant to Section 505.

### **Section 3 – Inclusion of Statutorily Mandated Grants.**

(A) **General.** In accordance with Section 505(b)(2) of Title V and its implementing regulations, the parties agree that the Secretary will add statutorily mandated grants to this FA after such grant has been awarded. Grant funds will be paid to the Tribe as a lump sum advance payment through the payment management system as soon as practicable after the award of the grant. The Tribe will use interest earned on such funds to enhance the grant program, including allowable administrative costs. The Tribe will comply with all terms and conditions of the grant award, including reporting requirements, and will not reallocate grant funds nor redesign the grant program.

Self-Governance tribes and their employees carrying out statutorily mandated grants added to a funding agreement are covered by the Federal Tort Claims Act (FTCA). Regulations governing coverage under the FTCA are published at 25 CFR Part 900 Subpart M.

#### Section 4 - Amounts available in Calendar Year 2006 through Calendar Year 2008.

(A) The amounts available to the Tribe pursuant to this FA are shown on the CY 2006 (January 1, 2006 through December 31, 2006) Self-Governance FA Table, Attachment #1, and CY 2006 Retained Services Plan, Attachment #2, are hereby incorporated into this FA. Subsequent Self-Governance FA tables and Retained Services Plans for CY 2007 through CY 2008 will be revised each year by the Tribe and the IHS and will supersede the former tables.

(B) The Tribe retains the right to negotiate further during the term of this FA to assume responsibility for additional PSFA.

(C) Any funding not identified as tribal shares will be made available to the Tribe when the IHS subsequently identifies those funds as Tribal Shares.

(D) All new and previously undistributed non-recurring and recurring funds available for distribution shall be added to this FA within 10 days after distribution methodologies and other decisions regarding payment of those funds have been made by the IHS.

(E) If the expenses to the Tribe for a medical problem exceed the threshold amount established by the IHS, the Tribe may apply for Indian Catastrophic Health Emergency Funds (CHEF) and funds will be made available to the Tribe in accordance with CHEF policy and procedures.

(F) The Tribe is eligible for distribution of Tribal Share Management Initiatives and Emergency funds. Tribal shares of the Management Initiatives and Emergency funds shall be based on the TSA formula for any remaining balance in a fund at the end of the fiscal year, should there be any.

**Section 5 - Contract Support Costs.** For the period of this FA, the Tribe will be provided funds in advance for contract support costs. The amount to be paid in CY 2006 shall be set forth in the attached Self-Governance FA Table which is hereby incorporated into this FA. See Attachment "A." In CYs 2007 through 2008 the Tribe and IHS will negotiate and agree on revisions to the Self-Governance FA Table prior to January 1. Upon agreement these Self-Governance FA Tables will supersede the previous year Self-Governance FA Table. IHS will pay 100% of the funds identified and agreed upon in the Self-Governance tables to the Tribe on or before ten (10) days after January 1 of each calendar year, or if full appropriations are not enacted by January 1, ten (10) days after the date on which the Office of Management and Budget apportions the appropriations for each fiscal year to the DHHS. If the parties have not agreed on terms for Self-Governance FA Tables for CYs 2007 through 2008 prior to January 1, the IHS shall pay the Tribe the amounts identified in the previous year Self-Governance FA

Table, and, after the parties reach final agreement over the terms of the subsequent year Self-Governance FA Table, the Tribe will be entitled to be paid any additional funds identified in such Tables within ten (10) days after agreement by the parties is reached.

IHS will comply with Section 508(c), 519(b) and 106 of the ISDEAA, as amended, and any statutory restrictions imposed by Congress. IHS will annually calculate and pay the Tribe contract support costs in accordance with IHS Circular 2004-03 or its successor. If the amount appropriated by Congress for CSC for the year covered by this FA is equal to the amount appropriated for the prior year, IHS will pay the Tribe CSC in the amount paid in the prior year, provided that such amount may not exceed 100% of the amount due under Section 106. If Congress appropriates a greater amount for the year covered by this FA IHS will provide the Tribe additional CSC funds pursuant to Sections 508(c), 519(b) and 106 of the ISDEAA. Nothing in this provision shall be interpreted to waive the Tribe's right to be paid contract support costs to which it is entitled in accordance with Sections 508(c), 519(b) and 106 of the ISDEAA. The IHS will annually report to Congress any deficiency of funds needed to provide required contract support costs to all contractors for the current fiscal year, in accordance with Section 106(c) of the ISDEAA.

**Section 6 - Payment Amount and Schedule for Tribal Shares.** Payment shall be by electronic funds transfer pursuant to Article II, Section 4, of the Compact. IHS will pay 100% of agreed funds identified on the attached Self-Governance FA table on or before ten (10) days after the beginning of each calendar year, or if full appropriations are not enacted by the beginning of the calendar year, ten (10) days after the date on which the Office of Management and Budget apportions the appropriations to the DHHS. The amount of funds identified for OEHE is estimated and will be recalculated on an annual basis each fiscal year based on existing resource requirements methodology and final appropriation. Additionally, the Secretary must transfer any funds subsequently due under the FA that were not paid in the initial lump sum payment within ten (10) days after distribution methodologies and other decisions regarding payment of those funds have been made by the IHS. The Prompt Payment Act shall apply until all amounts due are paid in full.

In the event of continuing resolutions, the IHS and Tribe agree that the amounts to be paid will be calculated pursuant with the terms of the language contained in the continuing resolution and in accordance with the Compact, Article II, Section 4(a).

**Section 7 - Buyback or Retained Services, Resources, Supplies, Functions and Programs.** The Tribe may wish to carry out its responsibility to provide certain PSFAs included in this FA utilizing services, personnel, supplies or other resources ("Resources") of the federal government. Such Resources shall be provided in accordance with Article V, Section 19 of the Compact. If the Tribe becomes aware of any such Resources it shall contact the ALN and shall request a breakdown of the cost of the Resources. The ALN shall provide the breakdown of costs within 16 working days from receipt of the request, and shall notify the Tribe at that time whether the requested Resources are currently available. If such Resources are currently available and if the Tribe decides to utilize the Resources, it shall send the ALN a written request

identifying the Resources the Tribe wishes to utilize. The ALN as well as the Tribe shall thereafter make arrangements for the provision to the Tribe of such Resources and the method by which the IHS will be reimbursed by the Tribe for the cost of such Resources. The cost of such resources shall either be deducted from any funding to be subsequently modified into this Agreement or paid by the Tribe directly to the IHS by check, inclusive of the full cost recovery fee.

**Section 8 - Adjustment of Funds Due to Congressional Actions.** The total amount of funding identified in this FA is subject to adjustment due to Congressional action in Appropriations Acts or other law affecting availability of funds to the IHS and the U.S. Department of Health and Human Services. Upon enactment of any such Act or law, the amount of funding provided to the Tribe in this FA shall be adjusted as necessary on a sub-sub activity basis excluding earmarks, after the Tribe has been notified of such pending action and subject to any rights which the Tribe may have under this FA, the Compact, or the law.

**Section 9 - IHS Responsibilities.** Unless funds are specifically provided from IHS to the tribe through this FA, IHS retains all PSFAs and the Tribe will not be denied access to, or services from IHS. Except as otherwise provided in the Attachments or written buyback arrangement, any PFSA not listed in the Attachment B funding table or Section 2 of this FA shall be presumed to be a responsibility of the Secretary, unless additional funds are provided to the Tribe by amendment to this agreement for such PFSA.

**Section 10 - Access to Training and Technical Assistance.** To the extent funds for the following purposes are retained by the IHS, the Tribe shall have access to training, continuing education, and technical assistance in the same manner and to the same extent the Tribe would have received such services if it were not a Self-Governance Tribe.

**Section 11 - Memorializing Disputes.** The parties to this FA may have failed to reach agreement on certain matters which remain unresolved and in dispute. Such matters may be addressed through the process set forth in Sections 507(b)-(d) of Title V, or at the Tribe's option, may be set forth in an addendum to this FA, which shall be identified as "Memorialization of Matters Remaining in Dispute." This Addendum shall not be considered a part of this FA, but is attached for the purpose of recording matters in dispute for future reference, discussion and resolution as appropriate. The Tribe does not waive any remedy the Tribe may have under the law with regard to these issues and any others not listing herein.

**Section 12 - Amendment or Modification of this FA.**

(A) Except as otherwise provided by this FA, the Compact, or by law, any modifications of this Agreement shall be in the form of a written amendment and shall require written consent of the Tribe and the Secretary. Written consent of the Tribe shall not be required for issuing amendments that result from changes in actual appropriation levels or which represent an increase in funding for PSFAs identified in this FA. Such increases include, but are not limited to: Program/Area Office/Headquarters Mandatories; Program/Area Office/Headquarters

End-of-year Distributions; and CHEF. Within two weeks after any such increase, the Tribe shall be provided with written documentation of the sub-sub activity source and distribution formula for the funding. Such amendments shall be without prejudice to the rights of the Tribe to seek IHS administrative, Interior Board of Contract Appeals, or judicial review to resolve any disagreements or disputes respecting any such amendments, pursuant to otherwise applicable Federal law.

(B) Should the Tribe determine that it wishes the IHS to provide PSFAs included in this FA for which funding has been identified, the parties shall negotiate an amendment to the FA to reflect the transfer of responsibilities from the Tribe back to the IHS and the pro-rata share of funding for that PSFA shall be retained by the IHS.

(C) Should the Tribe determine that it wishes to provide a PSFA of the IHS not included in this FA, the Tribe shall submit a proposal in writing to the Director of OTSG, with a copy sent to the Director, [REDACTED] Area Office. The parties shall negotiate the terms of such a proposal. If approved by the IHS, the Area Office shall prepare within 30 days an amendment to this Agreement and the amendment shall be executed through the Area Office and added to the Agreement. In the event the parties do not reach agreement over the proposal, the Tribe shall notify the IHS in writing of its final offer. The final offer shall be processed in accordance with Sections 507(b)-(d) of Title V.

### Section 13 - Severability.

(A) Except as provided in this section, this FA shall not be considered invalid, void or voidable if any section or provision of this Agreement is found to be invalid, unlawful or unenforceable by a court or competent jurisdiction.

(B) If any section or provision of this FA is found to be invalid, unlawful or unenforceable by a court of competent jurisdiction the parties will make every effort to reach agreement to amend, revise or delete any such invalid, unlawful or unenforceable section or provision.

### Section 14 - Administrative Notifications.

(A) Name/Address of tribe:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

(B) Federal Payment Office: [REDACTED] Area Office/PSC, Rockville, MD

(C) Catalog of Federal Domestic Assistance No.: [REDACTED]

(D) HHS Administrative Code: [REDACTED]

**Section 15 - Effective Date and Duration:** This FA will be effective January 1, 2006, and will remain in effect through December 31, 2008, or until a subsequent FA is negotiated and becomes effective pursuant to Article II, Section 12 of the Compact.

[REDACTED]  
By: [REDACTED]

12-20-05

Date

UNITED STATES OF AMERICA

By: Maylan Stortz

Charles W. Grim, D.D.S., M.H.S.A., Director, IHS

12/30/05

Date

# **Model Compact of Self-Governance Between The XYZ Tribe and the Department of the Interior**

## **ARTICLE I: AUTHORITY AND PURPOSE**

### **Section 1—Authority**

This agreement, denoted a compact of Self-Governance (hereinafter referred to as the "compact"), is entered into by the Secretary of the Interior (hereinafter referred to as the "Secretary"), for and on behalf of the United States of America under the authority granted by Title IV of the Indian Self Determination and Education Assistance Act, Pub. L. 93-638, as amended, and by the Tribe, under the authority of the Constitution and By-Laws of the Tribe (hereinafter referred to as the "Tribe").

### **Section 2—Purpose**

This compact shall be liberally construed to achieve its purposes:

(a) This compact is to carry out Self-Governance as authorized by Title IV of Pub. L. 93-638, as amended, that built upon the Self Governance Demonstration Project, and transfer control to Tribal governments, upon Tribal request and through negotiation with the United States government, over funding and decision-making of certain Federal programs as an effective way to implement the Federal policy of government-to-government relations with Indian Tribes.

(b) This compact is to enable the United States to maintain and improve its unique and continuing relationship with and responsibility to the Tribe through Tribal self-governance, so that the Tribe may take its rightful place in the family of governments; remove Federal obstacles to effective self-governance; reorganize Tribal government programs and services; achieve efficiencies in service delivery; and provide a documented example for the development of future Federal Indian policy. This policy of Tribal self-governance shall permit an orderly transition from Federal domination of Indian programs and services to allow Indian Tribes meaningful authority to plan, conduct, and administer those programs and services to meet the needs of their people. In implementing Self-Governance, the Bureau of Indian Affairs is expected to provide the same level of service to other Tribal governments and to demonstrate new policies and methods to improve service delivery and address Tribal needs. In fulfilling its responsibilities under the compact, the Secretary hereby pledges that the Department will conduct all relations with the Tribe on a government-to-government basis.



## **ARTICLE II: TERMS, PROVISIONS AND CONDITIONS**

### **Section 1—Term**

This compact shall be effective when signed by the Secretary or an authorized representative and the authorized representative of the Tribe. The term of this compact shall commence [negotiated effective date] and must remain in effect as provided by Federal law or agreement of the parties.

### **Section 2—Funding Amount**

In accordance with Section 403(g) of Title IV of Pub. L. 93-638, as amended, and subject to the availability of appropriations, the Secretary shall provide to the Tribe the total amount specified in each annual funding agreement.

### **Section 3—Reports to Congress**

To implement Section 405 of Pub. L. 93-638, as amended, on each January 1 throughout the period of the compact, the Secretary shall make a written report to the Congress that shall include the views of the Tribe concerning the matters encompassed by Section 405(b) and (d).

### **Section 4—Regulatory Authority**

The Tribe shall abide by all Federal regulations as published in the *Federal Register* unless waived in accordance with Section 403(i)(2) of Pub. L. 93-638, as amended.

### **Section 5—Tribal Administrative Procedure**

The Tribe shall provide administrative due process right under the Indian Civil Rights Act of 1968, 25 U.S.C. 1301, *et seq.*, to protect all rights and interests that Indians, or groups of Indians, may have with respect to services, activities, programs, and functions that are provided under the compact.

## **ARTICLE III: OBLIGATIONS OF THE TRIBE**

### **Section 1—AFA Programs**

The Tribe will perform the programs as provided in the specific AFA negotiated under the Act. The Tribe pledges to practice utmost good faith in upholding its responsibility to provide such programs, under the Act.

### **Section 2—Trust Services for Individual Indians**

To the extent that the AFAs have provisions for trust services to individual Indians that were formerly provided by the Secretary, the Tribe will maintain at least the same level

of service as was previously provided by the Secretary. The Tribe pledges to practice utmost good faith in upholding their responsibility to provide such service.

#### **ARTICLE IV: OBLIGATIONS OF THE UNITED STATES**

##### **Section 1—Trust Responsibility**

The United States reaffirms the trust responsibility of the United States to the XYZ Tribe(s) to protect and conserve the trust resources of the Tribe(s) and the trust resources of individual Indians associated with this compact and any annual funding agreement negotiated under the Tribal Self-Governance Act.

##### **Section 2—Trust Evaluations**

Under Section 403(d) of Pub. L. 93-638, as amended, annual funding agreements negotiated between the Secretary and an Indian Tribe shall include provisions to monitor the performance of trust functions by the Tribe through the annual trust evaluation.

#### **ARTICLE V: OTHER PROVISIONS**

##### **Section 1—Facilitation**

Nothing in this compact may be construed to terminate, waive, modify, or reduce the trust responsibility of the United States to the Tribe(s) or individual Indians. The Secretary shall act in good faith in upholding such trust responsibility.

##### **Section 2—Officials Not To Benefit**

No Member of Congress, or resident commissioner, shall be admitted to any share or part of any annual funding agreement or contract there under executed under this compact, or to any benefit that may arise from such compact. This paragraph may not be construed to apply to any contract with a third party entered into under an annual funding agreement under this compact if such contract is made with a corporation for the general benefit of the corporation.

##### **Section 3—Covenant Against Contingent Fees**

The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed under this compact upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business.

**Section 4—Sovereign Immunity**

Nothing in this compact or any AFA shall be construed as—

(1) affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by the Tribe; or

(2) authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people.

In witness whereof, the parties have executed, delivered and formed this compact, effective the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

THE XYZ Tribe

By: \_\_\_\_\_

The Department of the Interior.

By: \_\_\_\_\_

By: \_\_\_\_\_

## RESOLUTION #00-000 of the XYZ INDIAN COUNCIL

**WHEREAS**, the XYZ Indian Council is the duly constituted governing body of the XYZ Indian Reservation by the authority of the Constitution and By-Laws of the XYZ Nation of the XYZ Reservation, as approved on , by the Assistant Commissioner of Indian Affairs; and

**WHEREAS**, advancing the health, safety, welfare, and education of the people of the XYZ Indian Tribe are responsibilities of the XYZ Indian Council; and

**WHEREAS**, the XYZ Indian Tribe is a participating Tribe in the historic initiative of the Tribal Self-Governance Demonstration Project; and

**WHEREAS**, the XYZ Indian Council desires to more effectively and efficiently manage its governmental and tribal affairs without unnecessary bureaucratic regulatory requirements and oversight activities of the Bureau of Indian Affairs; and

**WHEREAS**, the provisions of Title III of P.L. 100-472 authorizes the transfer of Programs, Services, Activities, and Functions of the BIA to participating Tribal governments; and

**WHEREAS**, the XYZ Indian Council entered into and signed the Compact of Self-Governance between the XYZ Indian Tribe and the United States establishing terms, conditions, procedures for participation in the Tribal **Self-Governance** Demonstration Project, which includes the negotiation of Annual Funding Agreements **and** identification of the programs, services, activities which are to be assumed by the XYZ Indian Tribe; and

**WHEREAS**, the XYZ Indian Council reaffirms the government-to-government relationship with the United States through participation in this project and recognizes the long-term benefits to tribal members, to tribal control, tribal management, and tribal accountability and responsibility from the Tribal Self-Governance Demonstration Project; and

**WHEREAS**, P.L. 100-472 requires that XYZ Indian Tribe's participation in the Self-Governance Project not negatively impact neighboring Tribal government and Indian organization; and

**WHEREAS**, the XYZ Indian Council retains the right to decline or retrocede part or all of the compact in the Annual Funding Agreement in the event the adequate funding for the project is not provided; and

**WHEREAS**, the XYZ Indian Council has negotiated a stable Tribal Base Budget for Fiscal Year 1994, as delineated in the FY 1994 Bureau of Indian Affairs Budget Justification to the President;

NOW ILLREFORE BE IT RESOLVED, that the XYZ Indian Council authorizes the Chairman to sign the Compact of Self-Governance Amendments between the XYZ Tribe and the United States of America and the Annual Funding Agreement for Fiscal Year 1994 signifying that approval of the Nation of said Compact and said Annual Funding Agreement.

BE IT FURTHER RESOLVED, that the Chairman (or the Vice- Chairman in his absence) is hereby authorized and directed to execute this resolution and any documents connected therewith, and the Secretary (or the Recording Secretary in his absence) is authorized and directed to execute the following certification.

**XYZ INDIAN TRIBE**

\_\_\_\_\_  
XYZ, Chairman XYZ  
Indian Council

**CERTIFICATION**

As Secretary of the XYZ Indian Council, I hereby certify that the above resolution no.00000 was adopted at a Regular meeting of the Council held on the \_\_\_\_\_ of \_\_\_\_\_, 1993, at which time a quorum of \_\_\_\_\_ was present, and was adopted by a vote of \_\_\_\_\_ For, Against, and \_\_\_\_\_ Absentation (s).

\_\_\_\_\_  
XYZ, Tribal Secretary  
XYZ Indian Council

BUDGET ORDINANCE  
of the  
XYZ TRIBAL COUNCIL

RESOLUTION #00-00 OF THE XYZ TRIBAL COUNCIL

WHEREAS the XYZ Council is the duly constituted governing body of the XYZ Reservation by the authority of the Constitution and By-Laws of the XYZ Tribe of the XYZ Reservation, XYZ State, as approved on (date), by the Assistant Commissioner of Indian Affairs; and

WHEREAS Article , Section of the Constitution of the XYZ Tribe authorizes the XYZ Business Council "To Collect and expend any XYZ tribal funds within the exclusive control of the tribe, and to recommend the expenditure of any other tribal funds within the exclusive control of the tribe, and to recommend the expenditure of any other tribal funds"; and

WHEREAS the XYZ Indian Council has deemed it necessary to establish this Tribal Budget Ordinance to ensure fiscal accountability by the Council and its programs, projects, and entities; and

WHEREAS this ordinance shall govern any and all funds under the control or authority of the XYZ Tribe, the XYZ Council, and all of its programs, projects, and entities, as well as any and all funds controlled by any official or employee of the XYZ Tribe or XYZ Council, if such funds are subject to his/her control as a result of his/her employment with the XYZ Tribe. These funds shall be deemed to be "within the exclusive control of the XYZ Tribe" as the phrase is used in Article, Section of the XYZ Constitution.

NOW THEREFORE BE IT RESOLVED that the XYZ Council hereby enacts the following Budget Ordinance consisting of 13 sections and such Ordinance shall have full force and effect beginning upon the date approved by the XYZ Council:

BUDGET ORDINANCE

Section 1 - PURPOSE

The purpose of this Ordinance is twofold. First, it is the control the use and expenditure of any and all XYZ Tribal funds, including but not limited to: funds generated from tribal ventures, utilities, and assets, and funds received through contracts, grants, and gifts from other governments and entities, whether public or private. Thus, the XYZ Council and its officers and employees and all tribal programs and entities and their officers and employees are prohibited from expending funds except as authorized under the provisions of this Ordinance. The XYZ Council Chairman shall be obligated to oversee the preparation of an annual budget for the XYZ Tribe and the XYZ Council, after first hearing the concerns and suggestions of the XYZ community, shall be obligated to approve a balanced budget authorizing all tribal expenditures for the coming year.

The second purpose of this ordinance is to increase the opportunities for members of the XYZ Tribe to participate in the budgeting process and to help set the XYZ Tribe's priorities for the coming year. The XYZ Council recognizes the importance of the involvement and support of the

XYZ Community in tribal government and desires to improve the opportunities for tribal members to effectively participate in the most crucial of government processes, the fiscal budget.

## Section 2 - OVERVIEW OF THE BUDGET PROCESS

The annual budgeting process will require approximately seven months to prepare and adopt a budget for the coming fiscal year. The budget cycle will begin in January with a report to members of the XYZ Tribe of how the XYZ Tribes' funds were used in the previous year. This initial public hearing will provide the community with an opportunity to express support or dissatisfaction with existing tribal programs and activities. Approximately one month later, after the community has been informed of the XYZ Council's best estimate of funds expected to be available for appropriation in the coming year, the XYZ Council will conduct a second public hearing to discuss the community's priorities for use of these funds. The Council will then retreat to consider the community input and tribal needs to develop the Council's appropriation priorities that will guide the Chairman and the Budget Committee in their preparation of a draft budget. Once the Business Council has considered and approved a Draft Budget, a third public hearing will be held to explain the expenditure plan to the community and to solicit additional budget comments and recommendations from the XYZ membership. The Chairman and budget Committee will then consider these comments and, where appropriate, amend the Draft Budget and develop a proposed final budget. The XYZ Council shall consider the Budget Committee's proposed final budget and adopt a Final Budget by November. The approved Budget shall not obligate more funds than are reasonably expected to become available for expenditure in the coming year (a "balanced budget" is required) and will guide all tribal spending throughout the coming year.

The approved Budget will be reviewed by the Budget Committee at least three times during the year to monitor budget compliance and to measure actual revenues with the forecasts. The Committee will recommend modifications to the Council when needed to avoid expending more money than is actually available. The Council will be required to amend the Budget when necessary to maintain a balanced annual budget.

## Section 3 - DEFINITIONS

3.1 Fiscal Year - The fiscal year of the tribe shall be from January 1 to December 31.

3.2 Budget Committee - The budget committee shall consist of the XYZ Business Council's Treasurer or other designated Council member, the Administrative Manager, the General Manager, and an at-large representative of the XYZ tribal membership or a designee. The Council may appoint another Council member as an alternate to the Treasurer or other designated Council appointee. The alternate designee may attend all Budget Committee meetings but shall vote or otherwise officially participate only in the absence of the Treasurer or other primary Council designee. The Treasurer or Council designee will serve as Chairman.

3.3 Unrestricted Tribal Revenues - Unrestricted tribal revenues are those moneys received or reasonably expected to be received by the XYZ Business Council or any of its subsidiary entities that are not encumbered by any legal requirements for their expenditure by the Business Council, or have only extremely broad expenditure guidelines

associated with their use such as a requirement to report to the General Council or any other party the manner and purpose for which the funds were expended.

**3.4 Restricted Tribal Revenues** - Restricted tribal revenues are those moneys received or reasonably expected to be received by the XYZ Indian Business Council or any of its subsidiary entities that by law, the terms of a grant or contract award, or other binding commitment made by the Business Council must be expended, obligated, or reserved for specific programs, services, or good, or for identifiable functional purposes. The term "restricted" applies to limitations on the use of funds, not to the source of the funds. For example, XYZ Indian Tribe's tax dollars are "restricted" if XYZ Indian Tribe is required by resolution or ordinance to commit the revenues to a specific purpose. Revenues from the same tax measure are "unrestricted" if they are not formally committed to a specific use.

#### Section 4 - REVIEW OF PAST EFFORTS

**4.1 Program Manager Reports** - Not later than December 1st, each department head, program manager, venture manager, and director or manager of every tribal entity utilizing any funds requiring the approval or authority of the XYZ Business Council shall submit a report to either the General Manager or Council Manager as is appropriate. These reports shall summarize the department's goal and objectives for the previous 12 months and cite its achievements. Department revenues and expenditures from all sources will be included. The General or Council Manager as appropriate shall take necessary actions to ensure that these reports are received on time and are complete and accurate.

**4.2 Reports From Program Manager and Administrative to XYZ Indian Community** - The General Manager and Council Manager shall review, summarize, and compile the individual department reports into annual General Manager and Council Manager reports to the XYZ Indian community. These reports shall be published and made available to the XYZ Indian community no later than the first week of January.

**4.3 Community Review of Past Efforts** - A public hearing shall be held on the first Saturday following the 13th of January, or as near to that day as possible, to discuss the performance of the Business Council and its programs during the previous year. The members of the XYZ Business Council, the Council Manager, and the General Manager are each required to attend this meeting to present their reports and to answer questions posed by members of the XYZ Indian community. The focus of this meeting shall be to examine the past year's activities.

#### Section 5 - ESTABLISHMENT OF BUDGET AUTHORITY

**5.1 Identification of Expected Available Funds** - No later than January 1, the XYZ General and Council Managers shall provide a report to the Budget Committee describing the extent and nature of all tribal revenues anticipated to be received in the following fiscal year from every source, including but not limited to: grants and contracts from governmental or private sources; tribal taxes and fees; income from the lease of tribal assets; earned interest; collection of court judgments in favor of the tribe; tuition and other education related fee; tribal utility revenues; tribal venture sales; and all other tribal revenues.



5.2 Identification of Obligations on these Funds - The XYZ Council and General Managers shall also identify known obligations or restrictions on the use of each of the revenues identified in Section 5.1 and include this information in the report required in that Section.

5.3 Cooperation of All Tribal Entity Managers Required - The XYZ manager, director, president, chief executive, or other head of a tribal entity shall offer his or her complete cooperation in providing in a timely manner the revenue and obligations information needed by the Council and General Managers to prepare the reports required in this Section.

5.4 Identification of Unrestricted Funds - No later than February 1, the XYZ Budget Committee shall prepare a report to the Business Council identifying the source and extent of funds anticipated to be available for unrestricted obligation by the Business Council in the following fiscal year.

5.5 Reserve Requirements for Prior Obligations - The Budget Committee shall by February 1, also provide a report to the Council identifying the extend of any funds that are recommended to be held in reserve to meet obligations previously incurred by the XYZ tribe that will or are likely to come due during the coming fiscal year. This report shall also identify all expected revues or existing funds that would ordinarily be unrestricted but the use of which are likely to be restricted for one reason or another and therefore not available for unrestricted appropriation by the XYZ Business Council. The XYZ Budget Committee shall report to the Council the need for reserving unrestricted tribal funds to meet these obligations and the Council shall not budget these funds for any other purpose.

5.6 Establishment by Tribal Resolution - At its first regular meeting in February, the XYZ Business Council shall review all materials submitted under this Section, and formally adopt a resolution setting out the total authorized expenditure of tribal funds. This resolution shall specifically identify the source of all funds included in the budget authorization and shall also identify whether or not there are restrictions ion their use and, if they are restricted, the resolution shall identify those restrictions. Authority for the actual expenditure of the budgeted funds shall not become valid, however, until the projected revenues have been, or are reasonably certain to be realized. The resolution enacted under this section shall be called the Budget Authority Resolution.

5.7 Allowance for Prior Obligations - The amount and nature of otherwise unrestricted tribal funds required to meet previous tribal obligations or requirements that are expected to come due during the coming fiscal year shall be noted in the Budget Authority Resolution and reserved from appropriation for any other purpose.

5.8 Permanent Fiscal Year Budget Package; Exceeding this Authority Prohibited - Once enacted, the Budget Authority Resolution shall be come a permanent part of the XYZ tribe's Budget and the Business Council, its officers, staff, and all other persons authorized to budget, spend, or otherwise obligate tribal funds are prohibited from budgeting, obligating, or disbursing any funds not authorized under this Budget Authority or any duly approved amendments to this authority.

5.9 Publication of the Budget Authority - Within seven days of its approval by the XYZ Business Council, the Chairman shall publish the Budget Authority Resolution and make it available to members of the XYZ tribal community. The XYZ Chairman is authorized to include a summary of the Budget Authority Resolution if he/she feels it would help explain to members of the XYZ community the implications of the Budget Authority on the current budgeting process.

## Section 6 - COLLECTION AND PRIORITIZATION OF BUDGET REQUESTS

6.1 Community Input to the Needs Identification Process - The XYZ Business Council shall hold a second public hearing on or about February 15, to hear community concerns related to the approved Budget Authority, requests for additional or different services from the XYZ tribal government, tribal policies that might require funds to implement and/or enforce, or other matters having an affect on the use of tribal moneys or the need to increase tribal revenues.

6.2 Current Programs; Continuing and Additional Needs - The manager of each current XYZ tribal program, department, venture, utility, or other tribal entity shall by February 1, prepare a work plan, dollar budget, budget narrative and cost justification, list of anticipated sources and amounts of restricted use funds (e.g. grants, utility user fees, etc.), all anticipated venture or program revenues, and if needed, a request for unrestricted tribal funds to support the proposed level of activity for that entity. These proposed budgets shall be presented to either the Council Manager and General Manager shall review these budget requests, and submit their budget proposal package to the Budget Committee by February 15.

6.3 Executive Level Funding Needs - The XYZ General Manager and Council Manager shall also prepare budgets, work plans, justifications of these plans, and proposed sources of funding for needs that have not been addressed by existing programs. These executive level funding proposals shall be included with the budget proposal package required in section 6.2 and must also be completed and submitted to XYZ Budget Committee by February 15.

6.4 Prioritization of Community Needs and Use of Resources - The XYZ Business Council shall convene a special meeting or meetings to discuss problems or issues facing the tribal community and shall, prior to March 15, rank these issues and the proposed actions to resolve the issues. This ranking of issues and actions shall be used by the XYZ Business Council and its Budget Committee to prioritize the budgeting of financial, human, and other tribal resources for the coming fiscal year.

## Section 7 - PREPARATION AND CONSIDERATION OF A DRAFT BUDGET

7.1 Draft Budget Prepared by the Budget Committee - The Budget Committee shall by May 1 prepare and recommend for approval by the Business Council budgets for the expenditure or reserve of all restricted and unrestricted funds expected to become available to the tribe in the coming fiscal year. The XYZ Budget Committee shall give full consideration to the priorities established by the Business Council and shall attempt to fully utilize all available grants and other non-tribal resources to maximize the effectiveness of tribal resources. The Draft Budget must not obligate more money than is reasonably expected to become available for obligation by the XYZ Tribe in the coming fiscal

year and must identify the source of the revenue that will support each expenditure.

7.2 Draft Budget Reviewed and Approved by Business Council - The Business Council shall review, amend, and approve the Budget Committee's recommendations as a Draft Budget at a duly called regular or special meeting during the first week of May. The approved Draft Budget must not obligate more funds than are expected to become available and must identify the source of revenues that will support each budgeted expenditure.

7.3 Draft Budget Published - The XYZ Chairman shall have the approved Draft Budget published and made available for review by the XYZ community within seven days of its approval by the Business Council.

7.4 Public Hearing Required - The XYZ Chairman shall schedule a public hearing for the third week of May, or as near to that time as possible, to provide members of the XYZ Indian Nation an opportunity to comment on the Business Council's Draft Budget.

#### Section 8 - PREPARATION AND APPROVAL OF A FINAL BUDGET

8.1 Budget Committee Prepares Final Budget - The Budget Committee shall meet following the public hearing for the Draft Budget to incorporate public comments and adjustments where appropriate into a revised budget. The XYZ Budget Committee shall prepare a recommended Final Budget for presentation to the Business Council at its first meeting in October.

8.2 Approval of Final Budget by Business Council - The Business Council shall review the Budget Committee's recommended Final Budget and, if necessary, schedule a special meeting(s) with the Budget Committee to discuss desired changes, additions, or deletions to the recommended Final Budget. The Business Council shall approve a Final Budget no later than at its first regularly scheduled meeting in November.

8.3 Balanced Budget Required - The Budget Committee is prohibited from submitting and the Business Council is prohibited from approving a tribal budget that proposes to spend more tribal funds than are reasonably expected to become available to the tribe during that fiscal year.

8.4 Periodic Budget Reviews and Adjustments Required - The XYZ Budget Committee shall review and, when necessary, make recommendations to the Business Council to maintain a balanced budget throughout the year. The Budget Committee shall meet as often as may be necessary, but shall in any case meet in the November prior to the start of the new fiscal year and in March and July during the fiscal year to re-evaluate the revenue and expenditure forecasts. The Budget Committee shall compare the budgeted tribal revenues and expenses against the actual figures and re-forecast the anticipated end of year tribal funds balance. If it appears at that time that expenses will exceed revenues the Budget Committee shall report the cause of the revenue shortfall or expenditure over-run to the Business Council together with recommended actions needed to balance the budget. The XYZ Business Council shall within 30 days adopt an amendment to the budget to correct the budget short fall and the Chairman shall be directed to implement the actions necessary avoid the deficit.

8.5 Expenditure of Unrealized Funds Prohibited - No tribal funds, including funds identified in an approved Budget, may be obligated or expended until the funds have been actually received by the tribe or for which have a valid and enforceable contract for delivery of the funds has been made and the funds are reasonably expected to be received (e.g. a U.S. government cost reimbursement contract).

## Section 9 - ASSIGNMENT OF AUTHORITY AND RESPONSIBILITY

9.1 Authority and Responsibility of the Council - Except as otherwise provided in this Ordinance, neither the Business Council, nor any individual member of the Business Council, has the authority to deviate from this Ordinance, its procedures or any budgets adopted under this Ordinance. Once the fiscal year budget is adopted, the authority of the Council is limited to budget oversight, except as otherwise provided herein. However, these limitations shall not prevent the Council from taking corrective action, when necessary, to ensure compliance with this Ordinance.

9.2 Authority and Responsibility of the Chairman - The Tribal Chairman shall be responsible for meeting the requirements of this Ordinance and any budgets adopted under it. The Chairman shall report to the Council on behalf of the Budget Committee all requested or proposed changes or modifications to the approved Budget as well as any matters which might justify such changes or modifications. The Chairman shall be responsible for assuring that the Council Manager and General Manager are at all times in compliance with the approved Budget and he shall not approve any expenditures not approved in the Budget or amendments to the Budget, except in the limited exercise of his emergency expenditure authority as described in section 10.2.

9.3 Authority and Responsibility of the Treasurer - Once the total Budget is properly approved, the Treasurer of the tribe, acting as *Chairman* of the Budget Committee, shall ensure that all authority and responsibility granted to the Budget Committee by this ordinance are fully executed.

9.4 Authority and Responsibility of the Budget Committee - The Budget Committee shall be authorized to require the Council Manager and General Manager to provide historical, forecasted, and other fiscal data and reports as it deems necessary to develop the fiscal year Budget and assure that each entity of the Business Council is fully complying with the adopted Budget. The Budget Committee may approve the reallocation of funds within a department, program, or element. The Budget Committee shall be required to meet not less than three times per year to re-evaluate the tribal Budget against updated forecasts of and the actual expenditures and revenues forecasts. The Budget Committee shall be responsible for *recommending* to the approved Budget when adjustments are warranted by changing conditions or improved information.

9.5 Authority and Responsibility of the General Manager and the Council Manager - The General Manager and the Council Manager shall be responsible for the full compliance of each department under their authority or responsibility with the approved Budget and shall take immediate corrective action necessary to bring a non-complying program back into compliance with this Ordinance and the approved Budget. The Manager shall regularly review the fiscal and programmatic compliance of each program and activity of the Tribe. The Manager shall have the authority to take any or all disciplinary actions against the manager of

any program, department, or entity or any other person obligating tribal funds who has not, in the Manager's opinion, complied with this Ordinance. The Manager shall immediately report to the Budget Committee any information that indicates a tribal program, department, or other entity may exceed its approved Budget and for which adequate corrective action cannot be taken to avoid the need for modification to the approved Budget. The Manager shall have the authority to approve reallocations of funds within a program, department, or other tribal entity as provided for in Section 10 as long as the total amount budgeted for that entity does not increase.

#### ~~9.6 Authority and Responsibility of the Office of Management and Budget~~

The Office of Management and Budget shall be responsible for developing and implementing policies and procedures to assure that every person authorized to spend or obligate Business Council funds is fully aware of the requirements of this Ordinance and the approved Budget and that these persons receive accurate and timely financial reports on not less than a monthly basis.

9.7 Authority and Responsibility of the Accounting Office - The Accounting Office is responsible for developing, maintaining, and adhering to policies and procedures that prevent the release of funds for unproved obligations. The Accounting Office is authorized to pay only those obligations which have been included in the approved Budget unless directed in writing by the Chairman to pay additional obligations authorized in conjunction with emergency items described in Section 10.

9.8 Authority and Responsibility of Managers/Directors - All program managers have the direct day-to-day responsibility to assure that their programs are operated in compliance with the budgets approved under this Ordinance, as well as all other applicable laws and regulations. Program managers shall be directly responsible for obtaining monthly financial statements for their respective programs and projects and they are required to report immediately to the General Manager or Council Manager, as appropriate, any deviations from their approved Budget. All managers are required to identify and report to the Council Manager or General Manager, in writing, any matters that prevent compliance with their program's legally adopted budget. This information is to be reported before any steps are taken which are not in compliance with the program's approved budget, the program manager becomes directly and immediately responsible for insuring that the problem is corrected, whether or not he or she is directed to do so by the Manager or other authority. For the purposes of this section, the term "manager" shall include any director, manager, chief executive, or interim official who has direct control of or responsibility for the budget of a program, project, utility, venture, or any other tribal entity regardless of the time served in such position.

9.9 Limitations on Authority - Unless specifically authorized in this Ordinance, no person, whether elected, appointed, or employed in any position, department, or entity of the tribe, has the authority to deviate from this Ordinance. However, this Ordinance is not intended to nor shall it be construed as preventing the XYZ Indian Business Council, if acting in accordance with its overriding responsibility to the XYZ Indian Tribe, from taking any necessary action to protect and safeguard the rights, resources, or welfare of the Tribe.

Section 10 - REGULAR AND EMERGENCY BUDGET AMENDMENTS AND OVER  
EXPENDITURES

10.1 Approved Budget Line Item Over-expenditures - In no case shall the approved Budget be modified except as provided for below. However, budgets are recognized as being plans to guide expenditures to meet stated and specific program objectives and that actual circumstances may make minor adjustments necessary to responsibly apply the budgeted funds to the program objectives. Adjustments to line items within a program budget shall be allowed within the limits set out below and subject to the approval and oversight of the appropriate authority.

10.1.1 Program Manager Authority - The manager of a tribal program shall be authorized to overspend any line item within that program's budget by not more than five per cent (5%) without prior approval as long as the total expenditures for that program. Necessary line item over-expenditures exceeding five per cent must be approved in advance as described below.

10.1.2 Council Manager and General Manager Authority - The Council Manager or General Manager, as appropriate, shall be authorized to approve a program manager's request to overspend any budgeted line item within a tribal program by not more than fifteen per cent (15%) as long as a written plan is presented demonstrating where sufficient savings will be realized in other line items within the same program to avoid exceeding the budgeted limit for the entire program.

10.1.3 Budget Committee Authority - The Budget Committee shall be authorized to approve a program manager's request made through the Council Manager or General Manager, as appropriate, to over-spend a budgeted line item within a tribal program by not more than twenty five per cent (25%) as long as written plan is presented demonstrating where sufficient savings will be realized another line items within the same program to avoid exceeding the budgeted limit for the entire program.

10.2 Emergency Over-expenditures or Unbudgeted Expenditures - The Chairman may approve a payment for budget over-expenditures or unbudgeted expenses only if the payment is required by one of the following:

- 1) the obligation cannot be canceled by returning the goods purchased, lawfully canceling a contract for services, or by releasing the tribe from the obligation in some other legal manner and non-payment of the obligation would cause significant harm to either the reputation or credit rating of the Business Council or the XYZ Nation; or
- 2) at the Chairman's discretion, a threat exists to the health, welfare, and or security of the tribe and its members that requires an expenditure of budgeted funds in excess of the approved budget amount or funds that have not been budgeted.

The Chairman's approval of such an over-expenditure or unbudgeted expenditure must be in writing and must include his rationale for approving the obligation or payment. The Chairman shall also convene a Budget Committee meeting within seven days of his approval of such an expenditure to prepare an amendment to the Budget incorporating the emergency expenditure and, if necessary, reducing other budgeted expenses to maintain a balanced budget. The Chairman shall also report the unbudgeted expenditure to the Business Council at the next council meeting.

10.3 Regular Budget Amendments - Any proposed amendments or modifications to the approved Budget must either be initiated by the Budget Committee or be recommended to the Budget Committee by the General Manager or Council Manager. If three or more members of the Budget Committee recommend that the Budget be modified the Chairman shall place the modification request on the Business Council agenda for final action. ~~The Budget Committee shall prepare its written recommendation, or when all committee members do not agree, the various recommendations of its members and present the recommendation(s) to the Business Council to facilitate discussion of the modification proposal. The Council may adopt an amendment to a duly authorized fiscal year Budget only after the issue has been noticed for at least two weeks on the Council's agenda and it has been discussed and voted on at a duly called Council meeting.~~ An affirmative vote of a majority of the Business Council shall be required to modify the Budget.

10.4 Emergency Amendments - The Business Council retains the emergency power to reprogram any tribal funds if it is determined that a substantial threat exists to the Lummi Nation, its resources, or its rights. If the Council takes such emergency action, it shall, within 30 days, call a special Council session for the purpose of formally recording their action and for amending the Budget and Budget Authority Resolution where necessary to accommodate their changes and to authorize an amended balanced Budget. Nothing in this Ordinance shall require the Chairman, the Council, or any other tribal officials, acting during such an emergency, to publicly disclose any information that could adversely impact the legal and/or political standing of the XYZ Nation.

10.5 Limitations on Amendments - No amendment to the Budget Authority Resolution, or to any authorized or proposed budget becomes valid until such funds are realized. In addition, no funds not contained in an approved fiscal year budget may be advanced nor expended, including grant matching fund obligations unless and until an amendment to the budget is adopted in accordance with this Ordinance.

## Section 11 - ENFORCEMENT

11.1 Personnel Policy Disciplinary Actions - Any employee who exceeds his/her written spending authority as granted by the approved Budget or by his/her superior shall be subject to the disciplinary actions for misuse of tribal funds as described in the tribe's personnel policy manual. Disciplinary actions may include any or all of the following: written reprimand, probation, suspension without pay, termination, and/or payroll deductions to repay the unauthorized expenditure.

11.2 Court Actions - In addition to the disciplinary actions of section 11.3.a, the Business Council may also take civil and/or criminal actions against an employee or former employee if it believes the employee's unauthorized expenditure(s) were either made willfully or recklessly with wanton disregard for the employee's responsibilities to protect the tribe and its assets and the employee's action have caused the XYZ Indian Business Council significant harm. Such civil and/or criminal suits shall be made under existing or future tribal or federal laws prohibiting the misuse of tribal funds.

11.3 Council Sanctions - Any member of the Business Council may call for the removal of the Council Chairman, Vice-Chairman, or Treasurer from the Budget committee if he/she feels that person has not properly

performed their budgeting responsibilities or has exceeded or abused their authority granted under this Ordinance. A majority vote of the elected Council is required vote to remove the Councilman from the Budget Committee and a majority vote shall also be required to replace that Budget Committee member with another Business Council member. The removed member's responsibilities under this Ordinance shall then be assumed by the replacement member. Such a removal need not affect that member's official standing as an officer of the Business Council.

11.4 Limitations - Nothing in this Ordinance is intended to place limitations on any lawful powers of the Business Council, tribal officials, or tribal staff other than those limitations specifically described in this Ordinance.

#### Section 12 - SEVERABILITY

If any part of this Ordinance is held to be invalid the remainder shall continue to be in full force and effect.

#### Section 13 - AMENDMENTS TO THIS ORDINANCE

This Ordinance may not be amended or repealed unless that action is approved by a three-fourths (3/4) affirmative vote of the XYZ Indian Business Council, taken at a regular duly called meeting of the Council, and only after the proposed action was publicly announced for at least 2 weeks prior to the meeting and the item was properly noted on the Council's agenda.

BE IT FURTHER RESOLVED, that the Chairman (or Vice-Chairman in his absence) is hereby authorized and directed to execute this resolution enacting this ordinance into tribal law and shall cause the ordinance to be added to the XYZ Law and Order Code, and the Secretary (or recording secretary in his absence) is authorized and directed to sign the following certification.

XYZ INDIAN NATION

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XYZ Chairman

#### CERTIFICATION

As Secretary of the XYZ Indian Business Council, I hereby certify that above resolution no. 00-00 was adopted at a Regular meeting of the Council held on the     day of March, 1000, at which time a quorum of     was present, and was adopted by a vote of     FOR,     AGAINST, and     ABSENTATION(S).

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XYZ Secretary

XYZ Indian Business Council



# PROGRAM PROGRESS REPORT

Director/Manager:

Department:

Month:

Progress Towards Goals:

I. Goal:

U. Goal:

III. Goal:

Budget

YID:

Exp. Percent

Cost:

Where To:

Topic:

Cost:

To Whom:

Deliverable:

Program Problems/Issues/Concerns & Recommended Solutions:

Reviewed By:

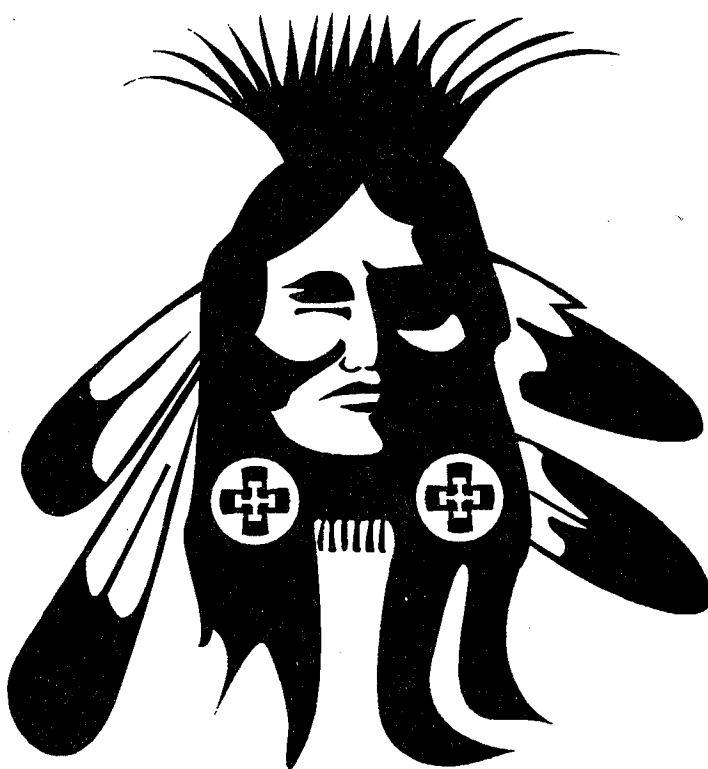
Date:

Director/Manager:

Admin/Prog. Manger

# Appendix D

## *Sample Job Descriptions*



JOB ANNOUNCEMENT  
 JOB TITLE: Self Governance Coordinator  
 OPENS: CLOSSES:

**EXEMPT:**

SALARY LEVEL: DOE

SHIFT: 8 hrs/5 days

LOCATION: Self-Governance

STATUS: Full Time/Permanent

**JOB CODE:**

DIVISION: Self-Governance

DEPARTMENT: Self-Governance

SUPERVISOR

JOB VACANCIES:

JOB SUMMARY: The Self-Governance Coordinator will be responsible for the Coordination of all activities of the Self-Governance Demonstration Project internally and externally.

**ESSENTIAL JOB DUTIES AND RESPONSIBILITIES** include the following (other related duties as assigned):

Establish the Project work plan and schedule to ensure goals and/or objectives are met in a timely manner, this is to include all reporting requirements.

- \* To **include** on-going SG Communication and Education with the Tribal Community
- \* Research, review, and evaluate federal/tribal and regulations as well as OMB guidelines.

Coordinate the development of a consolidated program and budget proposal that will be the basis of the negotiation process with the United States government.

Conduct regular meetings with the Supervisor and Tribal Business Council as well as other staff in order to establish and maintain internal program coordination.

Upon receipt of policy direction from the Supervisor and Tribal Business Council provide program coordination, communication and representation to the Local community, Tribes, federal **and** state governmental agencies and/or other organizations with impacts and/or effects **upon** Self-Governance.

Assist in the evaluation, monitoring and interpretation of any political and legislative activities that may have a potential impact on Self-Governance and recommend plans for maximizing the successful implementation of Self-Governance.

Assure the successful implementation and provide supervision for the SG Communication/Education Project.

Research, review, evaluate, and plan options available for accessing other federal funds under the Self-Governance initiative.

**ESSENTIAL JOB DUTIES AND RESPONSIBILITIES** include the following (other related duties as assigned-continued):

Direct and coordinate Self-Governance plans with appropriate Tribal programs and staff

Responsible for the planning and organization of the management and budgeting of all aspects of the Self-Governance initiative for the Tribal Business Council.

Other tasks that may be assigned by the Supervisor.

**KNOWLEDGE, ABILITIES AND SKILLS:**

Indian/Veteran Preference policy applies.

B.A. in Business Administration, Public Administration, Political Science, Public Affairs and/or related fields.

Three (3) years experience working in Tribal Government with knowledge of government-to-government relations, tribal sovereignty, Federal Indian Policy, trust responsibility, Treaties and constitutions.

Three (3) years experience with grants, contracts and compact negotiations and processes.

Three (3) years supervisory experience required.

Three (3) years experience in financial management, developing, implementing, monitoring and reporting project plans and operations.

Experience working with various federal agencies, programs and entities.

Required proficiency in computer applications and operations.

Three (3) years experience in grant and technical writing (i.e., proposals, manuals, Congressional testimony, and public relation materials.).

Ability to work with a diverse group of clientele.

Possess good communication skills.

Ability to travel as needed.

Must be willing to adapt to changing demands on a daily basis.

Function openly, constructively, and effectively in team orientated assignments.

JOB ANNOUNCEMENT  
SG ADMINISTRATIVE ASSISTANT

OPEN \_\_\_\_\_ CLOSED \_\_\_\_\_

EXEMPT:

JOB CODE:

SALARY:

DIVISION:

SHIFT:

DEPARTMENT:

LOCATION:

SUPERVISOR:

STATUS:

VACANCY:

**JOB SCOPE:** Under the direct supervision of the SG Coordinator the Administrative Assistant will assist in the coordination of all activities as they relate to the planning, organization, and implementation of the Project. The Assistant will be responsible for the establishment and the maintenance of all record, correspondence, reports and documents as they relate to the Self-Governance.

**ESSENTIAL JOB RESPONSIBILITIES** include the following, other duties may be assigned:

Assist in the planning and coordination of activities designed to ensure that the project work plan goals and objectives are being met in a timely manner.

Assist in preparation of the Self-Governance Communication and Education workshops.

Write, develop and type letters, budgets, proposals, meeting agendas, brochures, SG newsletters, new releases and articles and other items as may be required.

Photo copy and collate materials as needed.

Ensures that the demonstration project and communication/education files are maintained and updated as needed. Also filed into the Microsoft Cardfile System.

Screen calls, takes messages and greets the public as necessary.

Coordinate and manage preparations for meetings as they may relate to Self-Governance Demonstration Project (i.e. - Task Force, staff community public hearings, attorneys, consultants, Governmental Steering Committee, council, etc.)

Provide narrative (activity) reports and assist in the development of financial documents as necessary (i.e. - weekly, monthly, quarterly and annually, etc.)

Assist in the preparation of Congressional documents and legislation as required for the implementation of the Project.

Maintains the mail listing for the Self-Governance Demonstration Project Newsletter distribution and mails them bi-monthly.  
Maintains a calendar of Project activities.

Makes travel arrangements for the XYZ Office of Self-Governance staff, (i.e. - air fare, lodging, and per diem).

Other duties as assigned.

#### KNOWLEDGE, SKILLS AND ABILITIES:

Must be able to work independently with minimal amount of supervision.

Type 60 wpm.

Ability to take and transcribe meeting minutes.

Two years experience of knowledge in maintenance of office operations, (mail logs, filing systems, phone etiquette and general organizational skills).

Possess a Valid XYZ State Driver's License and Tribal insurable.

.XYZ and/or Indian preference policy applies. High School

Diploma or equivalent.

To apply for the Self-Governance Administrative Assistant; please submit the following information to XYZ Business Council, Human Resources Division, \_\_\_\_, no later than 4:30 p.m. on \_\_\_\_ Cover Letter, Resume and a completed XYZ Business Council application. To obtain an application please come in or call the Human Resource Division.

**JOB ANNOUNCEMENT**  
~~SGDP~~ **ADMINISTRATIVE ASSISTANT**  
**OPEN:            CLOSED:**

<b>EXEMPT:</b> <b>SALARY:</b> <b>SHIFT:</b> <b>LOCATION:</b> <b>STATUS:</b>	<b>JOB CODE:</b> <b>DIVISION:</b> <b>DEPARTMENT:</b> <b>SUPERVISOR:</b> <b>VACANCY:</b>
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**JOB SCOPE:** Under the direct supervision of the SGDP Coordinator the Administrative Assistant will assist in the coordination of all activities as they relate to the planning, organization, and implementation of the Project. The Assistant will be responsible for the establishment and the maintenance of all record, correspondence, reports and documents as they relate to the SGDP.

**ESSENTIAL JOB RESPONSIBILITIES** include the following, other duties may be assigned:

Assist in the planning and coordination of activities designed to ensure that the project work plan goals and objectives are being met in a timely manner.

Assist in preparation of the Self-Governance Communication and Education workshops.

Write, develop and type letters, budgets, proposals, meeting agendas, brochures, SG newsletters, new releases and articles and other items as may be required.

Photo copy and collate materials as needed.

Ensures that the demonstration project and communication/education files are maintained and updated as needed. Also filed into the Microsoft Cardfile System.

Screen calls, takes messages and greets the public as necessary.

Coordinate and manage preparations for meetings as they may relate to the Self-Governance Demonstration Project (i.e. - Task Force, staff community public hearings, attorneys, consultants, Governmental Steering Committee, council, etc.)

Provide narrative (activity) reports and assist in the development of financial documents as necessary (i.e. - weekly, monthly, quarterly and annually, etc.)

Assist in the preparation of Congressional documents and legislation as required for the implementation of the Project.

Maintains the mail listing for the Self-Governance Demonstration Project Newsletter distribution and mails them bi-monthly.

Maintains a calendar of Project activities.

Makes travel arrangements for the XYZ Office of Self-Governance staff, (i.e. - air fare, lodging, and per diem).

Other duties as assigned.

#### **KNOWLEDGE SKILLS AND ABILITIES:**

~~Must be able to work independently with minimal amount of supervision.~~

Type 60 wpm.

Ability to take and transcribe meeting minutes.

Two years experience of knowledge in maintenance of office operations, (mail logs, filing systems, phone etiquette and general organizational skills).

Possess a Valid XYZ State Driver's License and Tribal insurable.

XYZ and/or Indian preference policy applies.

High School Diploma or equivalent.

**To apply for the Self-Governance Demonstration Project Administrative Assistant; please submit the following information to XYZ Business Council, Human Resources Division, \_\_\_\_\_, no later than 4:30 p.m. on \_\_\_\_\_: Cover Letter, Resume and a completed XYZ Business Council application. To obtain an application please come in or call the Human Resource Division.**



## JOB DESCRIPTION

Job Title: ; Self-Governance Budget Analyst

Job Scope: Under the direction of the Program Manager the Self-Governance Budget Analyst will be responsible for reviewing, evaluating, analyzing and development of budget documents and information for the implementation and negotiations for the XYZ Self-Governance Demonstration Project Compact and Annual Funding Agreement with the United States Government.

## JOB DUTIES:

1. Review and analyze the monthly fund distribution documents of the BIA (Agency/Area/Central) Offices.
2. Review, evaluate and analyze current federal budgets:
  - BIA - Reserves - Reprogramming
  - Department of the Interior
  - Congressional Add-ons, etc.
3. Review, evaluate, analyze and interpret the BIA "Green Book" and coordinate XYZ Tribe alignment with the XYZ Office of Management and Budget.
4. Review, evaluate, analyze and assess the impacts of the BIA proposed formula allocations and distribution at the Agency/Area/Central Office levels.
5. Coordinate the design of funding documents for the implementation of the Self-Governance Demonstration Project. I.e. negotiations, allocation adjustments, and annual funding agreements with OMB.
6. Responsible for providing technical assistance and oversight to the formulation and development of the SGDP tribal budgets.
7. Coordinate with OMB the development of detailed justifications and statistical data to support the SGDP budget presentations.
8. Research, evaluate, and document the BIA budget policies and processes.
9. Responsible for obtaining all budgetary information regarding all services provided by the BIA to the XYZ Tribe.
10. Provide technical assistance in the planning, preparation and strategy in the submission of future tribal budget requests to the Department of the Interior and the United States Congress.
11. Prepare and maintain computer files of detailed line item tables that show bureau wide amounts of all BIA appropriated funds to establish the Tribal share of funding for each fiscal year.

12. Review and identify federal rules and regulations requiring revisions and waivers to successfully implement the Tribal Self-Governance Demonstration Project.
13. Assist in the preparation and coordination of Baseline Measure Reports as identified in the Self-Governance Compact.
14. Coordinate the development and preparations for the "Trust Evaluations."
15. Responsible for liaison activities with the bureau of Indian Affairs.
16. Coordinate the review, evaluation, assessment, and new development of current and new Bureau of Indian Affairs programs.
17. Establish a working and trustful relationship for the development of a positive interpersonal relationship to allow for the smooth development and transference of programs, services, activities, functions, and resources.
18. Continue to develop a transition from the federal fiscal year to the Tribal calendar year.

#### QUALIFICATIONS:

1. Must have a Bachelor of Arts in Business Management an/or Accounting.
2. Five to Seven years experience in accounting and budgeting, federal grants and budget appropriation and allocation processes, and computerized accounting systems with proven growth in responsibilities and authority.
3. Must be familiar with current federal statutes, rules, and regulations, and demonstrate the ability to review, assess and analyze the same.
4. Five to Seven years of experience n working with tribal governments and federal agencies, in particular the Bureau of Indian Affairs.
5. Must be able to demonstrate professional, executive communication skills, including oral, written, and analytical
6. Must have the ability to develop computerized budget documents.
7. Experience and/or knowledge of the Self-Governance Demonstration Project.
8. Must be able to travel at least 30% of the time.
9. Must show creativity and flexibility in dealing with diverse agencies, people, and situations.
10. Knowledge of Congressional and legislative procedures and processes.
11. Indian Preference.

## JOB ANNOUNCEMENT

JOB TITLE: Health Planner

JOB SCOPE: The Health Planner position is responsible for completing a long term Health Plan for the community that will assist the Tribe in accessing additional health resources, and making more effective use of existing resources. The position will be under the direct supervision of the Self-Governance Coordinator and work closely with a community health planning task force.

## JOB DUTIES:

1. Complete Feasibility Study - a study of a specific Indian Health Service program or segment of a program to determine if tribal management of the program is possible. This study shall indicate necessary plans, approach, training and resources required to assume tribal management of the program.
2. Complete assessment of health needs and health care services, which identify existing health care services and delivery system, program divisibility issues, health status indicators, unmet needs, volume projections, and demand analysis.
3. Complete inventory of existing health resources and programs serving community.
4. Assess off reservation health resources available to community, and complete strategy for increasing access to these resources.
5. Complete management analysis of existing management structure, proposed management structure, implementation plans and requirements; and personnel staffing requirements and recruitment barriers.
6. Compile financial analysis of historical trends data, financial projections and new resource requirements for program and management costs, and analysis of potential revenues from Federal/Non-Federal sources.
7. Complete decision stage incorporates findings; conclusions and recommendations; and the presentation of the study and recommendations to the governing body for tribal determination as to whether tribal assumption of program(s) is desirable or warranted.
8. Complete a plan of action including goals and benefits to be obtained.
9. Complete the objectives for Tribal assumptions and operation of selected Indian Health Service programs.
10. Strategies including methods, policies, and procedures for operation of tribal health programs.

11. Detailed plans for each major program or functional area to correspond with the identified goals, benefits, objectives and strategies.
12. Draft long range health plan for community.
13. Provide technical assistance to tribal health programs in program development and expansion of medical facilities.
14. Write grant proposals for additional health programs and resources.
15. Program planning and evaluation including the development of any management systems necessary for contract management, and the development of cost allocation plans for indirect cost rates.
16. Planning, designing monitoring, and evaluation of Federal health programs serving the tribe, including Federal administrative functions. Tribal management grants may not be used to support operational programs, or to supplant existing public and private resources. The grants may, however, be used as matching shares for other Federal grant programs that develop tribal capabilities to contract for the administration and operation of health programs.
17. Assist in the development of Tribal Management for the Tribal organization to assume operation of all/part of existing Indian Health Service Direct operation Health care programs.
18. Other related duties as assigned.

#### QUALIFICATIONS:

1. B.A. or B.S. Degree in health planning, social services or related field.
2. Two (2) to three (3) years previous experience working in tribal health program planning and development efforts for a Native American organization.
3. Knowledge of Indian Health Service programs.
4. Proposal and grant writing experience.
5. Knowledge of statistics and computer-based data management systems.
6. Valid State Driver's License and insurance. Subject to Motor Vehicle background check for past three (3) years.
7. Indian preference policy applies.
8. Proof of US Citizenship for employment eligibility for Federal requirements.

JOB DESCRIPTION  
JOB TITLE: LIFE CENTER DIRECTOR

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EXEMPT:	YES	JOB CODE:	
SALARY LEVEL:	DOE/Negotiable	DIVISION:	Life Center
SHIFT:	8 hours a day/5 days a week	DEPARTMENT:	Life Center
LOCATION:	XYZ Administration	SUPERVISOR:	Chairman
DURATION:	FullTime Permanent		

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**JOB SUMMARY:** Director is responsible for planning, organizing, coordinating, directing the health programs of the XYZ Nation: XYZ Clinic, XYZ Family Services, XYZ Social Services, and XYZ Public Health Department. Involves implementing XYZ Health Plan 2000, and policies of the XYZ Health Authority Commission.

**ESSENTIAL JOB DUTIES AND RESPONSIBILITIES** include the following, other related duties as assigned.

Assists Directors of XYZ Clinic, XYZ Family Services, XYZ Social Services, XYZ Public Health Department in planning, developing, evaluating, and implementing program goals for each department in line with the Plan 2000.

Assists and coordinates budget development and preparation for annual submittal to XYZ Health Authority in timely fashion to meet annual budget hearing process allowing Commission time to review and recommend budgets to XYZ.

Insures financial program accountability within departments following all financial program fiscal policies. Monitors the Director's budgets and all budgets under their supervision. Insures reports are submitted timely by Directors.

Works closely with the XYZ Health Authority Commission in planning, administering, and implementing XYZ Health Plan 2000.

Works closely with Directors on negotiating program proposals, contracts, contractual agreements, grants with public and private funding organizations.

Evaluates overall operation of Life Center organization and initiates improvements as needed.

Seeks input from XYZ Health Authority Commission as needed on resolution of complex administrative or management issues or problems and advises Commission of action taken or implemented.

Attends Health Commission meetings as a non-voting member.  
Represents XYZ at meetings with local, state, federal  
agencies as chief advocate.

Coordinates annual report preparation with input from  
Directors from XYZ Health Clinic, XYZ Family Services, XYZ  
Social Services, and XYZ Public Health Services.

Other related health tasks upon request of supervisor.

**KNOWLEDGE, ABILITIES AND SKILLS:**

Indian/Veteran preference policy applies.

Masters Degree in Public Health Administration, Human  
Relations or Social Work Administration or related field.

Minimum of ten (10) years progressive executive management  
experience in health care administration, preferably in  
community based health care in Native American setting.

Demonstrated competence in health care management, fiscal  
management responsibility (budgets) and negotiations.

Strong oral and written communication ability with diverse  
variety of people and agencies.

Computer skills beneficial in development of budgets and  
reports.

Must possess and maintain a valid Washington State Driver's  
License, insurable and subject to Department of Motor  
Vehicle check.

I understand that this is an Indian Preference job subject  
to the Tribal policies.

I have discussed the above-outlined job duties with my  
immediate supervisor and understand that these duties will  
serve as the basis for performance evaluation in the future.

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Employee Signature

Date

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Supervisor Signature

Date

JOB DESCRIPTION  
JOB TITLE: CLINIC DIRECTOR

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EXEMPT:	YES	JOB CODE:	
SALARY LEVEL:	DOE/\$45,000	DIVISION:	
SHIFT:	DAY/+ various meetings	DEPARTMENT:	Life Center
LOCATION:	XYZ Health Clinic	SUPERVISOR:	Health Director
DURATION:	Full/time/Permanent		

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**JOB SUMMARY:** The Clinic Director will provide overall administrative and leadership to the XYZ Health Clinic, will plan, direct, and coordinate issues affecting the health care, medical staff relations, medical technology, personnel management, and related issues. The director is responsible for day to day management operations of clinic functions including planning, policy analysis, grant writing, health data analysis, public relations, fiscal issues, contract/grant compliance, and special projects.

**ESSENTIAL JOB DUTIES AND RESPONSIBILITIES** include the following, other related duties as assigned.

Manages all aspects of the Health Clinic programs and overall administrative direction of the Clinic activities. Provides administrative supervision t all clinic services. Approves staff schedules.

Insures compliance with all appropriate regulatory and accrediting bodies and their regulations governing health care delivery. Insures the program and the facility are continually monitored and managed to maintain the highest standards of operation and patient care. Initiates change and is responsible to assess whether additional resources or changes are required in the future to adequately address deficiencies or needs.

Formulates administrative policies and procedures for the Health Clinic. On a continuing basis, evaluates the effectiveness and efficiency of current Clinic polices and procedures. Ensures medical staff by-laws, rules and regulations are current.

Establishes and maintains monthly report system with Life Center Director. Monitors financial statements and other reports for assigned departments and areas of responsibility.

Assists Department Manager's in preparation of budgets and allocation of funds based on studies of costs, reviews of

departmental budget estimates, familiarity with operating procedures, and discussions with department managers.

Planning, directing, and evaluating the activities of the Lummi Clinic programs in meeting the goals of the XYZ Health Plan 2000.

Monitors the Quality Assessment and Improvement plan via internal Clinic committee.

~~Monitors department managers in their resolving issues such as staffing, utilization of clinic facilities, community bases-services, and issues concerning equipment and supplies. Issues are to be resolved at departmental level as appropriate. Facilitates and directs the Clinic Executive Committee.~~

Studies areas of underutilized capacity and overhead. Coordinates strategic planning and marketing efforts to identify methods of increasing utilization or reducing overhead as appropriate through and with Office Manager.

Manages and directs a contract health program through extensive contractual relationships with hospitals, physicians, dentists, other health care providers, pharmacies and variety of other types of health care services via Office Manager.

Monitors billing and collection system to maximize collection of third party revenue.

Monitors effective recruitment, promotion, training, and recognition of Clinic staff to assure the highest standards of professional performance via Office Manager.

Assures the provision of preventive health services as an integral component of the overall health care program consistent with Lummi Health Plan 2000.

Ensures that departments observe strict confidentiality guidelines by all staff members both intra and inter departmentally.

Review capital expenditure requests and justifications for purchases outside departmental budgets. Presents recommendations for approval to the Life Center Director/Health Commission. In accordance with tribal policy.



Continually monitors patient satisfaction to ensure that they are positive. Reviews patient questionnaires, as appropriate, recommends and/or implements corrective actions as identified.

Actively seeks and encourages tribal participation in the Clinic's planning operation, and evaluation of it's programs via health Authority Commission through supervisor.

Keeps community informed of Clinic's operations via annual general council reports and local community newsletter.

Assists the Life Center Director in local, regional, and statewide efforts to inform and propose policies and legislation consistent with the sort and long range objectives of the Health Plan by serving as a primary health advocate for the Tribes.

Serves as an ex-officio member of the Health Commission and participates as a member, if assigned to standing committees.

Bachelor's degree in Health Care Administration and/or Public Health. Prefer a master's degree.

At least five years of progressive Executive Management experience in health care administration, preferably in community-based health care setting with demonstrated competence in the management and direction of effort in a Native American community.

#### **KNOWLEDGE, ABILITIES AND SKILLS:**

Knowledge of methods, principals, practices of health care management, finance, budgeting, negotiations and be able to communicate orally and in writing with diverse variety and people and agencies.

Ability to coordinate the various clinic programs into a team approach.

Ability to comprehend the broad scope of clinic programs and their inter-relationship with other tribal, federal, state and local programs.

XYZ Indian/Veteran preference policy applies.

Must possess and maintain a valid Washington State Driver's License as a condition of employment. Must have a clear

Motor vehicle record for the past three years to be eligible for insurance through Tribe's insurance carrier.

I understand that this is an Indian Preference job subject to the Tribal Policies.

I have discussed the above-outlined job duties with my immediate supervisor and understand that these duties will serve as the basis for performance evaluation in the future.

\_\_\_\_\_  
Employee's Signature

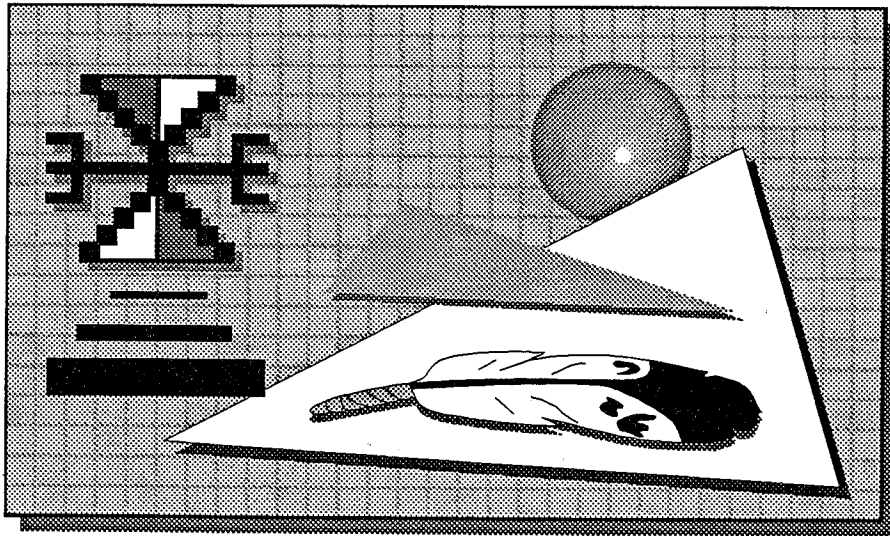
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Date

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Supervisor's Signature

\_\_\_\_\_  
Date

# Appendix E

## *Self-Governance Work Group Reports*



## REPORT FROM THE INTERIOR PROGRAM WORKGROUP TO THE SELF-GOVERNANCE TRIBAL LEADERS

The Interior Workgroup was established at the Self-Governance Workshop and Policy Conference held in Sparks, Nevada on November 1-2, 1994. Initially, the Workgroup was informally called the "Non-BIA Programs Workgroup", based on its assignments.

Following its creation in November to December, 1994, the Workgroup discussed informally its work assignments and exchanged various draft proposals. In late December, the Workgroup received copies of the DOI report to Congress, in draft form which identified proposed eligible programs that would be available for assumption by Self-Governance Tribes and described 1996 programmatic targets for transferring those programs to Tribes.

A Workgroup meeting was held in Denver on January 9 - 10 to review and discuss the eligible programs list and programmatic target with Interior Department representatives. The Interior representatives attending the meeting included Bill Sinclair, Office of Self-Governance, Glynn Key, Special Assistant to Secretary Babbitt, and Sharee Freeman, Office of the Solicitor. Prior to the meeting, the Workgroup identified and transmitted to Bill Sinclair several programmatic and implementation issues to discuss during the meeting. During that meeting, it was decided that the issues raised by the Workgroup should be discussed at a follow-up meeting after the Secretary had transmitted his eligible programs list to the Congress, as required by P. L. 103-413, within 90 days of its enactment.

At the Workgroup's first meeting on January 9 - 10, it was agreed that all Self-Governance Tribes should be given a final opportunity to respond to the proposed Interior eligible programs list and to identify their priority programs that they propose to assume in FY 1996. Therefore, the Tribes were given until January 13 to respond to the Secretary's proposed list. To assist the Tribes and answer any questions, members of the Workgroup conducted telephone surveys with each Interior Self-Governance Tribe prior to the January 13 deadline. Based on the feedback received from the Tribes, the Secretary formally submitted his final list to the Senate Committee on Indian Affairs and House Native American Affairs Subcommittee on January 23.

Workgroup members agreed that implementation guidelines would be helpful to the Interior agencies and BIA Self-Governance Tribes. Such guidelines would facilitate implementation of P.L. 103-413 until the formal regulations are developed. The Workgroup established four (4) subcommittees to draft interim guidelines for FY 1996 for the Pre-negotiation, Negotiation, Post-Negotiation and Measurement and Evaluation components of P.L. 103-413. Following the circulation of the subcommittee draft guidelines for comments amongst the Workgroup members and Self-Governance Tribes, the Workgroup agreed to finalize the interim guidelines at their February 2-3 meeting.

The Workgroup held their second and final meeting in Denver on February 2-3 to discuss programmatic and implementation issues associated with transferring the Interior programs to Self-Governance Tribes. An agenda for the February 2-3 meeting and the list of issues raised by the Workgroup is attached. While the Workgroup completed its assigned tasks, a number of specific implementation issues were raised. The following pages present the Workgroup's issues and recommendations that were developed at the February 2-3 meeting in Denver:

#### 1. Office of Self-Governance.

Presently, the Office of Self-Governance reports to the Assistant Secretary of Indian Affairs. Theoretically, the OSG is located in the Office of the Secretary, but it actually operates primarily within the arena of the BIA. While this may have seemed efficient in the past, it is not consistent with the expansion of Self-Governance statutory authority to non-BIA Interior agencies. The OSG does not possess any authority to assist with non-BIA Interior agencies. It is the opinion of the Workgroup that the location and authority of the OSG will likely have a direct negative impact on the implementation of Self-Governance negotiations with other Interior agencies.

The Workgroup recommends:

- That Tribal leaders take the necessary actions to locate the OSG directly under the authority of the Secretary.
- That any Interior negotiators be directly associated with the OSG and have authority to finalize and approve the negotiated agreements.
- That the "Indian Desks" which exist in most Interior agencies outside of the B.I.A., should not be designated as the Self-Governance representative for that agency. There is concern that the Indian Desks primarily serve the interests of the agency instead of the Tribes and that they will likely promote a continuing role for their agency in the programs which are transferred to the Tribes, including promoting such things as scopes-of-work.. FARs, etc.
- That Self-Governance issues be assigned to one Solicitor with authority to address all legal issues related to Self-Governance for the Department of the Interior instead of allowing each agency and regional/local office to piecemeal Self-Governance issues by fragmenting legal interpretations.

#### 2. Negotiation of FY 1996 agreements

The Workgroup and Interior representatives had lengthy discussions regarding the existing location and authority of the OSG, the timeframe for negotiating FY'96 funding agreements and how the FY 1996 negotiations will be conducted. The Workgroup considered the following timeframes and FY 1996 preparations and negotiation requirements:

March 1	Tribes inform the Secretary of this intent to assume programs.
March 30	Agency responds to Tribe's letter and begins providing the appropriate information. (Pre-Negotiation process)
May 1	Formal Negotiations begin.
June 30	Negotiated agreement finalized.

Given the foregoing timeframe, it is not likely that the OSG will be in a position to assist with Interior agency negotiations. Members of the Workgroup repeatedly expressed their displeasure with this situation. It is the Workgroup's opinion that the present situation has been created by the lack of commitment and demonstrated leadership by the Office of the Secretary, despite the fact that these issues have been continually raised by Tribal leaders since 1990.

Unfortunately, little time remains to address these problems before the FY 1996 negotiations are to begin. Therefore the Workgroup considered the following options for FY 1996 negotiations:

1. Negotiations be conducted by Secretary Babbitt or a negotiator appointed directly by him.
2. Negotiations be conducted by the OSG.
3. Negotiations be conducted by the Assistant Secretary for Indian Affairs or a negotiator appointed directly by her.
4. Negotiations be conducted by each Assistant Secretary, who is responsible for the specific DOI Bureau, Service or Agency involved.

Following lengthy deliberations, it became clear that the current OSG structure simply does not mesh with the requirements that are placed on the Secretary in P.L. 103-413. The Workgroup members viewed Option 4 as the only feasible alternative for the first round of negotiations. However, members of Workgroup believe that the OSG should be required to participate in the negotiation process with non-BIA Interior agencies. Therefore, we also recommend that the Tribal leaders clearly address dissatisfaction with this situation to Secretary Babbitt as soon as possible and request that it be immediately resolved. Several members of the Workgroup have identified numerous options for assisting OSG including, entering into IPA's with other offices to transfer staff to OSG, delegations of authority, etc.

### 3. Contract Support/Indirect Cost

Concerns have been expressed by Interior representatives that Contract Support/Indirect Cost may not be available from agency budgets for Self-Governance Tribes. The Workgroup believes that this will be a major area of concern to Self-Governance Tribes and that clear policy direction should be developed by Tribal leaders and transmitted to Secretary Babbitt. It is likely that most agencies will say that they do not receive appropriations for contract support/indirect cost and that Tribes will have to pay for these expenses from their direct program funds. The Workgroup believes that this will be a

major area of contention during the individual negotiations between a Tribe and Interior negotiators.

The Workgroup discussed the position of the Sacramento IG that theoretical over/under recoveries exemptions are limited to typical BIA contracts and compacts. Therefore, the Workgroup does recommend that if, for whatever reason, that a Tribe does not receive its full funding of its negotiated indirect cost rate for all programs that the Tribe should receive an exemption to the under/over recovery rule for Self-Governance agreements with other Interior agencies.

#### **4. Use of the existing Interior Compact of Self-Governance**

The Workgroup and Interior representatives discussed the intent of the Self-Governance Tribes to use the existing Compacts and only negotiate Annual Funding Agreements with other Interior agencies. The members of the Workgroup were concerned that without a clear policy decision by the Secretary, this area will also be a major point of contention during the FY 1996 negotiations. While some Workgroup attendees suggested that we should simply remain silent on this issue for FY 1996, most felt that there is no way of avoiding the discussion. The problems will likely be raised by the agency lawyers who may want to review and make changes to the existing Compacts before recommending that the agency approve a negotiated agreement. The Workgroup believes that the recommendation regarding one Solicitor for OSG, (identified in No. 1 above), is a possible solution to this potential problem.

The Workgroup recommends that the Tribal leaders determine their policy direction regarding the use of the same Compact with separate Annual Funding Agreements and transmit that decision to the Secretary.

#### **5. FY 1996 Pre-Negotiation, Negotiation, Post Negotiation and Evaluation Criteria**

As part of the Workgroup's assignment, it was agreed that there is a need for implementation guidelines which can be used by the Tribes and agencies until the final negotiated rules can be developed. Therefore, the Workgroup proposed that the attached guidelines be used for that temporary purpose. It has been reported that the Interior Department is developing their own Implementation Guidelines. We recommend that the development of the Department Implementation Guidelines be monitored for consistency with Tribally developed guidelines.

#### **6. Monitoring Success of Self-Governance Tribe Negotiating Funding Agreements with DOI Outside of the BIA**

The Workgroup's final recommendation is that the success of Self-Governance Tribe in securing funding agreements with DOI Bureaus, Services and Agencies can only be achieved through a continuous monitoring process performed by the Self-governance

Tribal Leadership. This information is needed in order to be able to report to the Tribes and to Congress on their collective success. We believe this process should become a clearinghouse to record the successes and problems experienced with the Interior agencies.

### Conclusion

The Interior Workgroup believes that the attached documents fulfill our work assignments that were given to us at the Working and Policy Conference in Sparks. Members of our Workgroup are available to answer any questions regarding our work assignments.

We want to express our appreciation to members of the Workgroup as well as other Self-Governance Tribal representatives for their commitment and support in fulfilling the Workgroup's task. Unless directed otherwise, this report finalizes our work assignment and we plan to conclude our Workgroup's duties on February 16, 1995.



FINAL DRAFT  
NON BIA PROGRAMS TRIBAL WORK GROUP

INTERIM GUIDANCE FOR SELF-GOVERNANCE TRIBES SEEKING TO INCLUDE  
NON-BIA-DEPARTMENT OF THE INTERIOR PROGRAMS IN THE 1996 ANNUAL  
FUNDING AGREEMENTS UNDER AUTHORITY OF P.L. 103-413

SUGGESTED GUIDANCE FOR NON-BIA DEPARTMENT OF THE INTERIOR STAFF

**INTRODUCTION AND PURPOSE**

The following guidelines were developed during two meetings of the Non-BIA Tribal Work Group authorized by the Self-Governance Leadership assembled for the Fall Conference in Sparks, Nevada on November 1&2, 1994. The final version of these guidelines are to be presented for review by the Self-Governance Tribal Leadership assembled for the Winter SELF-GOVERNANCE Conference in Washington D.C. on 2/16/95.

The purpose of the Interim Guidelines is to provide guidance to staff of the Self-Governance Tribes, staff of the Department of the Interior, Office of the Secretary and other non-BIA-DOI Officials who are responsible for the implementation of the mandates contained in P.L. 103-413.

The guidance provided herein is intended to cover the process of negotiating 1996 Annual Funding Agreements only. It is anticipated that regulations will be developed through the Negotiated Rule Making Process and will be implemented in time to guide the process of negotiating 1997 Annual Funding Agreements. However, Section 407 (d) of the Act states that "The lack of promulgated regulations shall not limit the effect of this title."

These interim guidelines provide a tribally suggested process for key Self-Governance tasks. The process covers Self-Governance Pre-Negotiations, Negotiations and Post Negotiations Implementation activities. The guidelines also include Dispute Resolution procedures and Measurement Criteria for DOI bureaus, services and agencies.

**General Guidance**

While the Secretary's Office of Self-Governance would be the natural office for expanded tribal Self-Governance activities within the Department, the current OSG staffing is too low to actually get the work done for 1996 agreements. Instead, the work must be completed through DOI Assistant Secretaries and bureau/agency directors. For the 1995-96 interim period, OSG will provide DOI Bureaus and Agencies with model materials and advice on Self-Governance negotiations and operations. The Self-Governance Tribes and Department of the Interior Officials recognize that few DOI managers and other staff, outside of the Bureau of Indian Affairs, are familiar with Tribal Self-Governance. Therefore, the following general Self-Governance principles which have been successfully used over the seven years since the initiation of Tribal Self-Governance are provided.

### **Government to Government Relationship**

Section 403 (a) of P.L. 103-413 authorizes the Secretary of the Department of the Interior to negotiate annual funding agreements with Self-Governance Tribal governing bodies "consistent with the Federal Government's law and trust responsibility for the Indian people."

Self-Governance agreements are negotiated on a government to government basis, in a good faith relationship, with full disclosure consistent with existing laws and Tribal operational capacity.

### **Non-Procurement Agreements**

The resulting Self-Governance agreements are not procurement contracts and should not be considered as procurement activities. These are agreements between governments.

### **Operational and Administrative Costs Recognized**

Administrative and support costs are recognized and included with operational funds into annual funding agreements through the negotiation process.

### **Advance Payments**

P.L. 103-413 Section 403 (g) (2) requires that funding agreements authorized under the act "provide for advance payments to the tribe in the form of annual or semiannual installments at the discretion of the tribe."

FINAL DRAFT  
SELF-GOVERNANCE PRE-NEGOTIATIONS PROCESS FOR DEPARTMENT OF THE  
INTERIOR PROGRAMS

I. At least 6 months prior to the implementation date of the proposed agreement, the Tribe sends a letter to the Secretary of Interior expressing an interest in examining Self-Governance options, describing by title any programs of initial interest, and requesting pre-negotiations information.

II. Within 30 days of receiving the tribal letter, the Secretary of Interior, or his authorized representative, provides the requested information (described in C below) to the Tribe and assists the Tribe to arrange a meeting with the appropriate federal representatives:

A. The Interior program Secretary's office sends materials to the Tribe and to the Interior local and regional offices that will facilitate pre-negotiations.

B. The Secretary's office contacts and directs the local and regional offices to prepare for pre-negotiations.

C. The Secretary's office sends an information package to the Tribe and the DOI local and regional office. Together, the Secretary and each local/regional office will provide the following.

1. Program and budget information, which will include staffing, support services, direct and indirect functions, relevant management plans and regulations, for each eligible program, service, function, and activity or portion thereof, identified by the Tribe, from the appropriate DOI agency.

2. Specifics for those programs etc. from the annual Self-Governance programs eligible list that the Tribe requested in its letter.

3. The Secretary's contact persons and the federal negotiating team members.

III. Tribal staff and the DOI program staff meet in pre-negotiations, discuss pre-negotiations team authorities, the Tribe's intent and review specific program and related financial information. The meeting will be held within 45 days of the date that Interior receives the Tribe's letter of interest. (\*\* Any unresolved disputes faced in the pre-negotiations may be addressed using the attached Disputes Resolution process, or as otherwise agreed.)

A. Tribal representatives describe Tribe's reason(s) for negotiating to compact the Interior programs and present its intent to examine options for transferring program and function responsibilities to the Tribe under the P.L. 103-413, Section 403(b)(2) and Section 403(c) authority.

B. Tribal and DOI program staff review and agree on the ground rules for completing pre-negotiations and reaching tentative agreements.

C. Tribal and DOI program staff review and discuss the pre-negotiations program and financial information for local, regional, and Secretary's levels and go over how these programs and budgets are developed, allocated and managed.

D. Tribal and DOI program staff discuss options and timeframes for transferring the responsibilities and related tribal share of the total budgeted amounts to the Tribe.

E. Tribal and DOI program staff write summary of pre-negotiations meeting, identify any information gaps, prepare questions for local/state/regional offices and Secretary's, discuss any information that the DOI agency wants from the Tribe, and schedule next meeting.

IV. Tribe and Interior agency receive and review follow up pre-negotiations information within the next 30 days, Tribe makes internal decisions about the programs proposed for transfer to a Tribal Annual Funding Agreement.

A. Tribe identifies the DOI programs, services, functions, and activities of most interest from all levels of the agency and answers any questions regarding its intent.

B. Tribal and DOI agency staff complete pre-negotiations with tribal response to Self-Governance questions. Both sides jointly write summary of pre-negotiations tentative agreements and agree on submission for confirmation in final negotiations. Both sides list unresolved questions and issues. Both sides tentatively schedule first meeting for final negotiations.

FINAL DRAFT  
SELF-GOVERNANCE POST NEGOTIATION PROCESS FOR DEPARTMENT OF THE  
INTERIOR PROGRAMS

After successfully negotiating and approving a funding agreement, the Tribe and the Federal agency have mutual responsibilities for its implementation.

## IMPLEMENTATION ISSUES

### Distribution of Funding Agreements

The Federal Agency is responsible for distributing the agreement to the Committee on Indian Affairs of the U.S. Senate and the appropriate Sub committee of the U.S. House of Representatives no later than 90 days before the effective date of the agreement.

### Developing the Funding Distribution Process

The Tribal Self-Governance Act of 1994 provides the following provisions regarding funding of negotiated agreements:

#### Section 403 (g) Payment

"(1) At the request of the governing body of the tribe and under the terms of an agreement entered into under this section, the Secretary shall provide funding to the tribe to carry out the agreement."

"(2) The funding agreements authorized by this title and title III of this Act shall provide for advance payments to the tribes in the form of annual or semi annual installments at the discretion of the tribes."

Before the effective date of the agreement the agency must take the necessary actions to fund the negotiated agreements at the beginning of each Tribal fiscal year, regardless of whether it begins on October 1 or January 1. In the event of temporary funding provided through a Continuing Resolution of the U.S. Congress the agency must provide advance funding, consistent with the amount authorized by Congress or any larger amount agreed to by the Tribe and the Agency. In the event that advance payments are not made, the Agency payment to the Tribe will include interest on the amount that Agency should have provided to the Tribe.

### Identification of Designated Officials

Both the DOI Agency and the Tribe are responsible for identifying their respective Designated Official who will be responsible for addressing issues relating to the negotiating process and funding agreements. The Designated Officials are responsible for identifying any special terms included in the agreement and for ensuring that those provisions are implemented in accordance with the agreement.

### Implementation by the Tribe

Before the effective date of the agreement, the Tribal Council is responsible for establishing budgets, performance criteria and goals for each program, activity, function and activities included in the negotiated agreement, consistent with the mutually developed terms agreed to by the Secretary and the Tribe. Additionally, the Tribe may be required to hire additional personnel to perform its obligations under the agreement.

#### Waivers of Federal Regulations

The Tribal Self-Governance Act of 1994 (P.L. 103-413) and Federal regulations contain provisions to waive federal rules that impact program performance. The Tribes may identify regulations that should be waived during the Tribal implementation phase. The Tribal and Federal Designated Officials are responsible for monitoring and facilitating the regulation waiver process.

#### Implementation and On-going Decision Making

During the course of the year, covered by the agreements, there may arise conflicts, that were either forecasted or unforeseen at the time of negotiations. It is the responsibility of the Federal and Tribal Policy level officials and the Federal and Tribal Designated Officials to resolve these conflicts in a pro-active and positive manner. It is responsibility of both the Tribal and Federal decision makers to commit their respective governments to addressing any problem arising under the agreement in a timely manner which demonstrates continuing good faith.

#### Appeals of Decision/Non Decision by Federal Officials

Section 403 (h) of the Tribal Self-Governance Act of 1994 provides that Section 110 of the Indian Self-Determination Act (25 U.S.C. 450 et seq.) is available to Self-Governance disputes as well as administrative dispute resolution procedures agreed to between the Tribe and the Federal Agency.

#### FUTURE BUDGETS

Section 404 of P.L. 103-413 (The Tribal Self-Governance Act of 1994) requires the Secretary to identify in the President's Budget any funds proposed to be included in the Self-Governance agreements with Tribes. Each agency is responsible for requesting funds needed to implement Self-Governance Annual Funding Agreements each year in their budget requests to the Secretary.

#### TRIBAL/FEDERAL EVALUATION PROCEDURES

The agreement may contain evaluation and reporting procedures for the activities, services, functions and programs assumed by the Tribe as well as those retained by the Agency. the Tribal and Federal Designated Officials should work together to implement these provisions in accordance with the negotiated agreement.

## FINAL DRAFT DISPUTE RESOLUTION PROCESS

Self-Governance negotiations and implementation issues are to be addressed in a government-to-government manner between the Federal agencies and Indian Tribes. Both Federal and Tribal officials are expected to make every effort to resolve differences of opinion and resolve conflicts using the negotiation process. However, in the event that negotiations fail to produce satisfactory results among the parties, the following dispute resolution process may be applied:

1. The aggrieved party shall reduce the complaint to writing which explains the disputed issues, recommends a desired solution, designates a mediator on its behalf, and provide same to the designated negotiator of the other party.
2. Within five days of receipt of a written complaint described above, the other party's negotiator shall designate a mediator on its behalf. Within five days of that designation, both mediators shall select a third mediator. The three mediators shall comprise a mediation team and shall have five days to submit a written proposed resolution to the parties involved in the complaint.
3. If the parties accept the mediation team's proposed resolution, the appeal shall be deemed settled. If either party is aggrieved by the mediation team's proposed resolution, they may take the steps outlined in sections 4. below.
4. If either party is not satisfied, they may forward the complaint to the Secretary of the Interior. The Secretary shall have five days from the date of receipt of the complaint to render his or her decision on the complaint. The decision of the Secretary shall be deemed final agency action for purposes of judicial review.

The Tribes and the Secretary of the Interior explicitly recognize that time is of the essence in the performance of duties pursuant to P.L. 103-413. It is also recognized that this appeals process is abbreviated from the standard appeals process generally applicable to actions of the Department of the Interior.

FINAL DRAFT  
P.L. 103-413 TRIBAL SELF-GOVERNANCE ACT OF 1994  
SELF-GOVERNANCE DOI PROGRAMS  
MEASUREMENT CRITERIA

Through P.L. 103-413, Congress directed that tribes be given the opportunity to take responsibility for operating Interior, non-BIA programs that are available to tribes or Indians or that are of special significance to a tribe. The Secretary publicly supported this directive and organized his Department to respond with a list of eligible programs and a list of programmatic targets. The Secretary has committed to making this program a success and to negotiating and implementing non-BIA program funding agreements. The Secretary will measure the success of his non-BIA bureaus and agencies using measurement criteria that are tied to the statute.

To take advantage of the non-BIA program Self-Governance opportunity, tribes need Interior information and cooperation. The administration and Congress agreed upon P.L. 103-413 requirements that will assist tribes to take advantage of the law. For your use in educating staff and carrying out the Secretary's commitment, we urge you to review and use relevant sections of the statute.

In measuring his success, the Secretary will examine the "good faith effort" of each Interior, non-BIA bureau/agency to support and participate in Self-Governance. Measuring the "good faith effort" will involve examining the process used and the results produced with criteria that may include the following areas.

1. Did the bureau/agency package and provide pre-negotiation program and financial information to tribes that covered each eligible program, service, function, and activity at each organizational level?
2. How many tribes were provided program and financial information by the bureau/agency?
3. Did the agency bring its decision makers to the table, conduct pre-negotiation and negotiation meetings with each requesting tribe, and discuss each eligible program?
4. How many eligible programs did the bureau/agency discuss and pre-negotiate with each tribe?
5. How many funding agreements were negotiated/implemented with tribes?
6. How many programs and how much funding was transferred to tribes in this Fiscal Year in relation to the levels that were eligible?
7. How did the agency/bureau fund the responsibilities that were transferred to tribes including contract support?
8. What was each tribe's assessment of its pre-negotiation and negotiation results with this agency/bureau? What was each tribe's assessment of the agency/bureau's good faith effort in reaching the terms that were negotiated?



FINAL DRAFT  
P.L. 103-413 TRIBAL SELF-GOVERNANCE ACT OF 1994  
SELF-GOVERNANCE DOI PROGRAMS  
PRE-NEGOTIATIONS RESPONSE LOG BUREAU OF \_\_\_\_\_

Please list the names of tribes that have requested non-BIA program Self-Governance information from your office and your file numbers for documenting each tribe's participation. Also list the date that you sent acknowledgment of their request and sent your initial information materials to the tribe and to your appropriate local/regional offices. Then list the date that you sent program and financial information and set a pre-negotiations meeting date. Please note that each tribe listed will be contacted to obtain similar information and their view of the process and results.

Name of Tribe	Agency File Number	Acknowledgment Materials Date	Date Pre-Negotiations Program/Financial Information Sent
1.			
2.			
3.			
4.			
5.			
6.			

## FINAL DRAFT

P.L. 103-413 TRIBAL SELF-GOVERNANCE ACT OF 1994  
SELF-GOVERNANCE DOI PROGRAMS  
TOTAL FUNDING AGREEMENTS LOG BUREAU OF \_\_\_\_\_

Please list the names of tribes that have completed non-BIA program Self-Governance pre-negotiations and final negotiations with your office and the appropriate local and regional office, your file numbers for documenting each tribe's participation, and the dates those negotiations were completed. Please note that each tribe listed will be contacted to obtain similar information and their view of the process and results.

Name of Tribe	Agency File Number	Date Pre-Negotiations Were Completed	Date Final Negotiations Were Completed
1.			
2.			
3.			
4.			
5.			
6.			

## FINAL DRAFT

P.L. 103-413 TRIBAL SELF-GOVERNANCE ACT OF 1994  
SELF-GOVERNANCE DOI PROGRAMSTRIBAL SPECIFIC FUNDING AGREEMENT(S) LOG  
BUREAU OF

Please record the name of each tribe that completed Self-Governance pre-negotiations and final negotiations with your office and with the appropriate local and regional office. List the dates those negotiations were completed and your file numbers for documenting each tribe's participation. For each tribe, also record:

- a. the eligible programs (from the Secretary's list) that were available to the tribe;
- b. the programs (from the Secretary's list, from the programmatic targets, and others) that were actually discussed in pre-negotiations; and,
- c. the programs that were actually included in that tribe's funding agreement for your agency.
- d. the names of the respective Designated Official for the Interior agency and the Tribe.

Please note that each tribe listed will be contacted to obtain similar information and their view of the process and results.

Name of Tribe	Agency File Number	Date Pre-Negotiations Were Completed	Date Final Negotiations Were Completed
1.			

- a. List the eligible programs, the programmatic targets, and the program or target numbers (from the Secretary's list) that were available to the tribe.

\_\_\_\_\_ No. \_\_\_\_\_

\_\_\_\_\_ No. \_\_\_\_\_

\_\_\_\_\_ No. \_\_\_\_\_

\_\_\_\_\_ No. \_\_\_\_\_

## FINAL DRAFT

P.L. 103-413 TRIBAL SELF-GOVERNANCE ACT OF 1994  
SELF-GOVERNANCE DOI PROGRAMSTRIBAL SPECIFIC FUNDING AGREEMENT(S) LOG  
BUREAU OF \_\_\_\_\_

Please record the name of each tribe that completed Self-Governance pre-negotiations and final negotiations with your office and with the appropriate local and regional office. List the dates those negotiations were completed and your file numbers for documenting each tribe's participation. For each tribe, also record:

- a. the eligible programs (from the Secretary's list) that were available to the tribe;
- b. the programs (from the Secretary's list, from the programmatic targets, and others) that were actually discussed in pre-negotiations; and,
- c. the programs that were actually included in that tribe's funding agreement for your agency.
- d. the names of the respective Designated Official for the Interior agency and the Tribe.

Please note that each tribe listed will be contacted to obtain similar information and their view of the process and results.

Name of Tribe	Agency File Number	Date Pre-Negotiations Were Completed	Date Final Negotiations Were Completed
1.			

- a. List the eligible programs, the programmatic targets, and the program or target numbers (from the Secretary's list) that were available to the tribe.

\_\_\_\_\_ No. \_\_\_\_\_

\_\_\_\_\_ No. \_\_\_\_\_

\_\_\_\_\_ No. \_\_\_\_\_

\_\_\_\_\_ No. \_\_\_\_\_

\_\_\_\_\_ No. \_\_\_\_\_  
 If any programs or programmatic targets from the Secretary's list were not available to the tribe, describe why.

b. List the programs (from the Secretary's list, from the programmatic targets, and others) that were actually discussed in pre-negotiations.

_____	No. _____
_____	No. _____
_____	No. _____
_____	No. _____
_____	No. _____
_____	No. _____
_____	No. _____

If any programs or programmatic targets from the Secretary's list were not discussed with the tribe, describe why.

c. List the programs that were actually included in that tribe's funding agreement for your agency.

_____	No. _____
_____	No. _____
_____	No. _____
_____	No. _____
_____	No. _____
_____	No. _____
_____	No. _____

For each program or programmatic target that was discussed but not taken by the tribe, provide a short description of any reasons that tribal representatives gave for the decision.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Appendix E-19

Public Health Service

JAN 27 1995

Indian Health Service  
Rockville MD 20857

TO: Director  
Through: Acting DHO *[Signature]*

FROM: Acting Director  
Office of Tribal Self-Governance

SUBJECT: Baseline Measures Workgroup

ISSUE

The Self-Governance legislative authority requires that the Indian Health Service (IHS) and tribes develop/negotiate baseline measures that will provide the basis for evaluating the benefits and costs of the Self-Governance Demonstration Project (SGDP). Although the IHS has not had the opportunity to meet with tribes as a group to jointly develop baseline measures, some baseline measures have been negotiated with individual SG tribes. The IHS and tribes need to develop mutually agreed upon health status indicators that can be used to establish baselines that can be utilized in reporting the performance and impact on the health status of Self-Governance tribes. In addition as a result of the recent 638 amendments, similar type of performance indicators may be needed for "638" tribal contractors.

DISCUSSION

The SGDP and more recently the 638 amendments have brought to the debate, the issue of the public health role and responsibility of IHS under Self-Governance. A thorough legal and legislative review to determine the public health role and responsibility of IHS for tribally administered health programs needs to be accomplished as soon as possible. The results of the review will serve as the frame of reference for the baseline measures that are developed. A snapshot of existing health conditions, programs, services, functions, and activities will provide the basis for semi-annual reports to Congress on relative costs and benefits of the SGDP. In the spirit of tribal participation, baseline measures should be developed jointly by tribes and the IHS. Although tribes have the flexibility to negotiate baseline measures on an individual basis, the Agency will need data that is common to all SG tribes for budget formulation and reporting to Congress on the success of the SGDP. The Self-Governance legislation allows Self-Governance tribes to develop and submit their own reports directly to Congress relative to the criteria of negotiated baselines.

In order to accomplish the development of joint IHS and Tribal baseline measures, the establishment of a baseline measures workgroup is needed. The following outlines the membership and charge of the workgroup:

CHARGE TO THE WORKGROUP

1. Define the Public Health responsibility of the Indian Health Service (IHS) under Self-Governance.
2. Develop a process to identify, test, and disseminate a set of health status indicators that are to be used to monitor the performance of Self-Governance tribes (i.e., "baseline measures").
3. Define the relationship between the IHS data reporting requirement, in particular, the Core Data Set Requirements, and the responsibilities of tribes participating in the SGDP.

Director  
Page - 2

4. Advise and make recommendations to the Office of Tribal Self-Governance and the Director, IHS, about the scope and conduct of the evaluation of the SGDP.

#### WORKGROUP MEMBERS

The Baseline Measures Workgroup membership will consist of representatives of IHS, and nominees from both Self-Governance Tribes and non-Self-Governance tribes. A Chairperson and Co-Chairperson will be selected by the membership. In order to accomplish this charge in a timely manner, the following IHS individuals should be assigned to the workgroup:

Mr. Rick Barror OEHE  
Mr. Tom Crow, OEHE  
Mr. Tony D'Angelo, OPEL  
Mary Ann Farrell, MD, CMO, Nashville Area  
Ms. Carol Martin, OTSG  
Ms. Athena Schoening, OTA  
Jonathan Sugarman, MD, Portland Area Epidemiologist  
Roger Gollub, MD, Albuquerque Area  
OGC Representative  
6 Tribal Representatives: (To be determined - 3 compact and 3 non-compact tribes)

This workgroup will coordinate its efforts with the User Population Workgroup and other Self-Governance workgroups to ensure consistency between policy recommendations.

#### EXPECTED PRODUCTS OF THE WORKGROUP

1. A minimal set of population-based health status indicators that can be reported routinely by SG tribes. In contrast to the "National Year 2000" health objectives found in the Indian Health Care Act Amendments of 1992, these measures will support monitoring quality of care at the local level, the impact of SG on the health status of compacting tribes, and the impact of tribal health systems on tribal populations.
2. Recommendations to the OTSG regarding what tribal reporting requirements should be included in compacts, and the rationale for these requirements.
3. Recommendations to the OTSG on policies regarding incorporating the inclusion of the IHS' Core Data Set Requirements in the baseline measures negotiated agreement.
4. A draft evaluation design that can be forwarded to the Director, IHS. Recommendations regarding who should conduct this evaluation and an estimate of resources required.
5. Definition of the Public Health responsibility of the IHS under Self-Governance.
6. Develop an implementation plan for testing the health status indicators.

#### DURATION OF THE WORKGROUP

The workgroup will need to complete this assignment by June 30, 1995. Therefore, the workgroup should be in place by January 15, 1995. Travel funds are available through the OTSG for the workgroup and support staff for four

Director  
Page - 3

meetings during the appointed time period. It is expected that a policy will be in place in time to affect the current fiscal/calendar year 1995 negotiated compacts.

AUTHORITIES

In carrying out the charge, the workgroup has responsibilities and authority to convene four meetings and to assign work to the staff assigned to the workgroup. Support will be provided from the OTSG, Headquarters East, and all Area office staff.

RECOMMENDATION

The OTSG recommends that you approve the establishment of the baseline measures work group.

DECISION

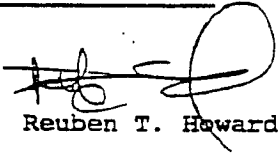
Approved

TH

Disapproved

Date

02/13/95

  
Reuben T. Howard



DRAFT: FOR CONSULTATION PURPOSES ONLY

PROPOSAL FOR  
 — DETERMINING A FUNDING FORMULA  
 — FOR  
 FUNDS CONTROLLED BY CENTRAL OFFICE OF  
 BUREAU OF INDIAN AFFAIRS

INTRODUCTION

The Tribal Self-Governance Act of 1994 (P.L. 103-413) requires that within 90 days of enactment, the Secretary of Interior, in consultation with tribes, will provide to the Congress the formula that will be used in determining tribal shares of funds controlled by central office for the Bureau of Indian Affairs (BIA). There are four categories of funds controlled by BIA central office: other recurring, non-recurring, central office operations and special projects and pooled overhead. This report will address each category in turn beginning with the proposed central office tribal shares formula.

Time has been insufficient to allow for consultation with tribes. Consequently this report is being sent to the Congress and to tribal governments concurrently. Another report will be sent to the Congress within 45 days which will report on the tribal comments received and any modifications made to the proposed formula. Comments on the proposed draft should be received by Ms. Hilda Manuel, Acting Deputy Commissioner, Bureau of Indian Affairs via fax (202-208-5320) or by mail at 1849 C Street, N.W., Washington, D.C. 20240, by COB February 24, 1995.

A meeting of the Self-Governance Tribal Work Group on Central Office is scheduled for February 28, 1995 in Denver, Colorado, to review comments received from the tribes. For information regarding this meeting contact Anna Sorrell of the Salish Kootenai Tribe at (406-675-2700).

BACKGROUND:

The issue of negotiating self-governance tribal shares of BIA central office programs and budgets was first raised in 1990 during negotiations. The Tribes interpreted Title III, Section 303, Pub. L. 100-472, to mean that the Secretary had to provide for shares of central office funds "in amount equal to that which the Tribe would have been eligible to receive under contracts and grants under the Act, including direct program costs and indirect costs, and for any funds which are specifically related to the provision . . . of services to the Tribe and its members". Pub. L. 100-472, Title III, Section 303 (6).

In response, the DOI negotiator at that time informed the Tribes that the Assistant Secretary-Indian Affairs had agreed to include \$45,000 from the BIA central office for each Self-Governance tribe. The tribes accepted this amount but insisted that further study be conducted to determine the proportional tribal shares.

During the second year of negotiations a proportionate analysis was used program by program to determine a Self-Governance tribe's share of central office operating funds. The formula used was a tribe's percent of each national program and this percent was applied to each program's central

office operation after a residual had been removed. However, pooled overhead programs and other central office operations, such as ADP, were not included. Tribes at that time were given the choice of either \$45,000 or a proportionate share of central office operations. Three compact agreements (Quinault, Cherokee, and the Southeast Alaska Compact) chose the proportionate formula while the other tribes chose the \$45,000.

Several other tribes continued to press for further analysis and a line-by-line negotiation of central office programs based on the same methods/formulas used at the area and agency negotiations (# of tribes, tribal enrollment, land/water acreage, etc.). Congress itself, in report language, has made this recommendation urging the BIA to conduct this analysis.

For the last two years, all additional tribes entering Tribal Self-Governance have received \$45,000 per compact agreement.

#### PROPOSED CENTRAL OFFICE TRIBAL SHARES FORMULA:

Although the budget line items identified as central office operations and special projects/pooled overhead were both examined for a formula methodology, only central office operations was made available for Self-Governance. The budget category of special projects are funds typically earmarked for specific or unique requirements and/or designated for certain tribes or tribal organizations. These funds were not made available. Pooled overhead are funds set aside to pay for general services provided to the BIA. These include costs for payroll, FTS, mail/postage, and GSA rentals/leases. This category also includes fixed assessments made to prior year activities and services which the Bureau must pay to other federal agencies. These include payments for workman's compensation costs and employee compensation (see Attachment 1 for more detail). Although these funds will eventually be made available as tribal shares, the amounts cannot be accurately projected until actual downsizing has been implemented.

**Residual functions:** For central office operations, the central office directors were asked to identify the residual and core functions deemed necessary to perform inherently federal functions related to trust oversight and statutory mandates. The directors were asked to identify the authorized full time equivalents (FTE's) for each program required to perform inherently federal functions and to justify the residual amounts/FTE's held back for these core functions.

The justifications revealed that there is considerable duplication of effort across several of the directorates. Some of these duplicative core functions include policy development, budget formulation, allocation, program monitoring, development/ maintenance of regulations/manuals, coordination with other governmental agencies, technical assistance, program reviews and audits, etc. Many of the functions that were deemed non-compactable by the program directors on a statutory basis were found to be without merit.

For purposes of this exercise, the directors were asked to assume that all federally recognized tribes were either contracting under P.L. 93-638 as amended, or compacting under Self-Governance. (Note: The reason for using a 100% Self-Governance or contracting assumption is that it parallels the process used in area/agency negotiations and it required the program managers to define a core level of effort that would be necessary to meet inherently federal functions and

the Secretary's trust responsibility if all programmatic responsibility were transferred to the tribes. Further it provides a tribal share for all tribes.)

The information received from each BIA central office director was reviewed and modified by the Acting Deputy Commissioner of Indian Affairs and approved by the Department of the Interior's Chief of Staff. With the residuals identified, the amount of funding for central office operations that would be made available for negotiation was calculated (See Attachment 2).

**Methodology for Funding Formula:** It was important to develop a formula that was consistent for all tribes. In addition to consistency, another primary consideration was to develop a formula that would be relatively simple.

Using residuals and amounts available, a single aggregate formula was developed for all central office operations. The proposed formula approximates the level of BIA central office operations as a percent of total BIA direct appropriations.

The formula is:

Central office operations minus residual funds divided by the  
total direct BIA appropriation minus central office operations  
and contract support.

This percentage for central office administration will then be applied to each tribe's annual funding agreement, excluding contract support, to determine a tribe's share of central office operations.

**Application of Formula:** The following shows the proposed formula and calculates a percent using FY 1995 actual appropriations for the BIA:

Adjusted BIA Direct Appropriation

	(\$ millions)
BIA actual direct appropriation	1,747.1
minus	
Central Office Operations	80.5
minus	
Contract Support	103.1
	<hr/> 1,563.5

Adjusted Central Office Operations

Central Office Operations	80.5
minus residual amounts	22.2
	<hr/>
Central Office Operations available (subtotal)	58.3
plus	

DRAFT: FOR CONSULTATION PURPOSES ONLY

Appendix E-25

Central Office shares in current Self-Governance Agreements

1.4

Available Central Office

59.7

Percent Available Central Office To Direct BIA Appropriations

Available Central Office Operations

59.7

Divided by

= 3.82%

Adjusted Direct BIA Appropriation

1,563.5

NOTE: This example uses fiscal year 1995 figures. Subsequent year appropriations may change the percentage. If there is a 50% reduction in central office as proposed under the National Performance Review (NPR) streamlining, the percentage would be reduced since streamlining would result in funds transferred to BIA field operations.

JUSTIFICATION:

The Central Office Tribal Shares Formula was developed by reviewing each line item in BIA's budget for central office operations and determining a residual amount. A single aggregate percent was developed as the tribal share formula instead of several formulas for each line item in central office operations. This has the advantage of having central office shares following in proportion to program shares that are negotiated in annual funding agreements. Another advantage is that the percent is easily calculated so that funds can be quickly determined once all negotiations have been completed and an appropriation bill has been enacted.

In the final analysis, efforts to apply Central Office operations utilizing formulas similar to area and agency negotiations would have been difficult to defend and create unnecessary conflicts between large and small tribes. The formulas would not have accurately captured workload or activities of the central office.

Factors such as number of tribes, tribal enrollment, and trust acres which work as estimates of workload responsibilities in the field become problematic when applied to the central office. Even where factors could be agreed upon, the weighing of each factor becomes the focus of conflict (i.e. big tribe vs. small tribe, large land base vs. small land base).

The use of an administrative ratio of central office relative to the total BIA budget to determine tribal shares of central office reflects the current distribution of the BIA budget. This approach neutralizes the challenges and establishes tribal shares of central office based on the current distribution of the BIA budget for all types of service delivery (Self-Governance agreements, Self-Determination contracts, and BIA direct).

EXPLANATORY NOTES:

1. This formula is proposed for use in the 1996 negotiation although Tribal representatives have recommended that the Department should consider negotiating central office in 1995

and distributing a pro rata amount in 1995. However, once consultation has been completed and actual negotiations commence, there may not be enough time for the BIA to make the necessary adjustments to assure that the negotiated amounts are transferred to the Self-Governance tribes.

2. The central office formula and Self-Governance tribe's share of central office operations will be calculated each year. This calculation will be computed once all annual funding agreements have been signed, both calendar and fiscal year tribes, and final Congressional action on the budget has been taken. If, at the time of calculating a central office share, a tribe does not have an amount determined for a particular program, then the prior year's amount would be used. If AFA's are amended during the course of the year, the central office percent will not be applied to the amended AFA.
3. Contract support is excluded in the application of the formula to avoid applying central office overhead to tribal contract support.
4. Under this proposal, there will not be a minimum base amount for a tribal share of central office operations.
5. Congressional report language has directed that negotiations of funds controlled by central office should be conducted on a line-by-line basis and in the same manner as negotiations are conducted at the area and agency level. The reason for proposing a single formula is this approach makes it easier to understand and explain and reduces potential inequities between large and small tribes. Applying the formula to the annual funding agreement in many respects simulates or continues the formulas at area/agency negotiations.

#### DETERMINING A TRIBAL SHARE:

To determine a tribal share of central office operations for a Self-Governance tribe in FY 1995, the proposed percent should be applied to the tribe's 1995 annual funding agreement less contract support amounts.

#### OTHER RECURRING AND NON RECURRING PROGRAMS AND SPECIAL PROJECTS:

The method of determining tribal shares for the other recurring, non-recurring and special projects is identified on the Attachment 2. The majority of line items within the other recurring and non-recurring categories are negotiated at the area office level or limited to specific programs and tribes. It lists each program/project, the amount available, the tribal share formula and the level of authority at which negotiation decisions will be made. As can be seen, many of these line items have established distribution methods. For FY 1996 negotiations there is no proposal to change the distribution methods or the level of authority at which negotiation decisions will be made. It is the intent of the BIA and OSG to have the person with the authority to make negotiation decisions present at all negotiations.

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## CENTRAL OFFICE STUDY

Line #	PROGRAM TITLE	FFS Code	FY 1996 Enacted	FY 1996 Actual	Residual Amount	D Residual %	E Available Amount	F Tribal Share Formula	G F.N.
<b>** CENTRAL OFFICE (C.O.) OPERATIONS **</b>									
1	Community Services, General	35410	504,000	502,039	0	0%	502,039	Single Share Formula	
2	All Other Aid to Tribal Government	35420	2,201,000	2,191,808	326,771	15%	1,863,035	Single Share Formula	
3	Self Determination Services	35430	595,000	592,865	0	0%	592,865	Single Share Formula	
4	Drug Abuse Coordination Office	35440	127,000	125,759	0	0%	125,759	Single Share Formula	
5	Social Services	35510	1,073,000	1,067,956	0	0%	1,067,956	Single Share Formula	
6	Child Protection & Family Violence	35520	247,000	245,530	0	0%	245,530	Single Share Formula	
7	Law Enforcement	35610	2,915,000	2,902,448	145,122	5%	2,757,324	Single Share Formula	
8	Housing Development	35720	194,000	182,631	0	0%	182,631	Single Share Formula	
9	Economic Development	35730	81,000	82,226	0	0%	82,226	Single Share Formula	
10	Natural Resources, General	35810	331,000	329,370	49,406	15%	279,965	Single Share Formula	
11	Agriculture	35820	292,000	290,444	43,587	15%	246,857	Single Share Formula	
12	Forestry	35830	1,544,000	1,537,059	230,559	15%	1,306,500	Single Share Formula	
13	Aviation Management	35832	68,000	65,874	6,587	10%	59,287	Single Share Formula	
14	Forest Marketing Assistance	35834	76,000	75,855	7,586	10%	68,270	Single Share Formula	
15	Endangered Species	35840	125,000	123,763	12,376	10%	111,387	Single Share Formula	
16	Water Resources	35840	401,000	398,236	59,863	15%	339,351	Single Share Formula	
17	Wildlife and Parks	35850	286,000	284,456	42,868	15%	241,768	Single Share Formula	
18	Minerals and Mining	35860	866,000	862,350	129,353	15%	732,898	Single Share Formula	
19	Trust Services, General	35910	372,000	370,291	55,544	15%	314,747	Single Share Formula	
20	All Other Indian Rights Protection	35920	519,000	517,011	77,552	15%	439,459	Single Share Formula	
21	Environmental Quality Services	35930	226,000	224,570	33,686	15%	190,885	Single Share Formula	
22	Real Estate Services	35940	1,332,000	1,326,462	198,969	15%	1,127,493	Single Share Formula	
23	Land Records Improvement	35950	2,225,000	2,213,382	2,413,382	100%	0	Single Share Formula	
24	Financial Trust Services-Trust Funds	35960	18,208,000	18,175,047	18,175,047	100%	0	Single Share Formula	
25	Executive Direction & EEO	35100	4,336,000	3,989,366	0	0%	3,989,366	Single Share Formula	
26	Administrative Services:								
27	- Administration	35200	5,826,000	6,203,129	310,156	5%	5,892,973	Single Share Formula	
28	- Financial Management	35230	9,638,000	9,793,259	489,663	5%	9,303,596	Single Share Formula	
29	- Construction Management	35270	5,804,000	5,778,941	288,947	5%	5,489,994	Single Share Formula	
30	- Facility Safety Inspections	35280	192,000	190,635	9,532	5%	181,103	Single Share Formula	
31	Safety Program Management	35210	297,000	295,435	14,772	5%	280,663	Single Share Formula	
32	ADP Services:								
33	- ADP Central Program Management	35240	7,054,000	7,023,559	351,178	5%	6,672,381	Single Share Formula	
34	- ADP Central System Support	35250	6,140,000	6,254,204	412,710	5%	5,741,494	Single Share Formula	
35	Education Program Management	35300	4,639,000	4,270,827	213,541	5%	4,057,286	Single Share Formula	
36	Indian Gaming	35150	999,000	895,096	149,264	15%	845,832	Single Share Formula	
37	TOTAL CENTRAL OFFICE OPERATIONS		80,577,000	80,537,879	22,249,833		56,288,056	Single Share Formula	

## \*\* OTHER RECURRING PROGRAMS \*\*

18	Contract Support	37810	103,323,000	103,125,653	0	0%	103,125,653	N/A	
19	Welfare Assistance Grants	31410	105,644,000	105,442,220	0	0%	105,442,220	N/A	
20	School Operations:								
21	- Indian School Equality Program -								
22	- ISEP (Formula Funds)	30000	260,881,000	259,762,903	0	0%	259,762,903	N/A	
23	- Program Adjustments	30100	1,225,000	1,219,666	0	0%	1,219,666	N/A	
24	- Early Childhood Development	30500	6,498,000	6,470,617	0	0%	6,470,617	N/A	
25	- Student Transportation	30200	24,803,000	24,696,739	0	0%	24,696,739	N/A	
26	- Institutionalized Handicapped	30300	3,439,000	3,432,432	0	0%	3,432,432	N/A	
27	- Solo Parent Program	30400	74,000	73,859	0	0%	73,859	N/A	
28	- Substance Abuse Counselors	30600	0	0	0	0%	0	N/A	
29	- Facilities, Operation & Maintenance	31000	68,138,000	67,846,166	0	0%	67,846,166	N/A	
30	- Administrative Cost Grants	30700	36,630,000	36,560,037	0	0%	36,560,037	N/A	
31	- Technical Support	30800	7,222,000	7,191,236	0	0%	7,191,236	N/A	
32	- Operating Grants to TCCG's	31100	26,370,000	26,319,633	0	0%	26,319,633	N/A	
33	- Technical Assistance	31120	114,000	113,782	0	0%	113,782	N/A	
34	- Endowments	31130	879,000	877,130	0	0%	877,130	N/A	

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## CENTRAL OFFICE STUDY

Line #	PROGRAM TITLE	FFS Cost Code	A FY 1996 Enacted	B FY 1996 Actual	M Residual Amount	D Residual %	E Available Amount	F Tribal Share Formula	G F.N.
** OTHER RECURRING PROGRAMS, cont **									
55	Johnston O'Malley Education Assistance	31200	0	0	0	0%	0	N/A	
56	Facilities Operations and Maintenance	31500	0	17,049,373	0	0%	17,049,373	Area Office	
57	Road Maintenance	31600	0	0	0	0%	0	Area Office	
58	Housing Improvement Program	31700	0	0	0	0%	0	Area Office	
59	Intergal O & M	31800	11,288,000	11,249,472	0	0%	11,249,472	Eligible Tribes/Competitive - Central Office	
60	Wildlife and Parks:								
61	Rights Protection Implementation-	31910							
62	Western Washington (Bodt)	31911	5,964,000	5,938,635	0	0%	5,938,635	Area Office	
63	Columbia River	31912	2,304,000	2,294,609	0	0%	2,294,609	Area Office	
64	Klamath Conservation Program	31913	759,000	755,554	0	0%	755,554	Area Office	
65	Volgt Case Area	31914	4,084,000	4,013,320	0	0%	4,013,320	Area Office	
66	Michigan Settlement	31915	1,924,000	1,915,335	0	0%	1,915,335	Area Office	
67	US/Canada Pacific Salmon	31916	2,208,000	2,198,792	0	0%	2,198,792	Area Office	
68	Upper Columbia United Tribes	31917	299,000	297,431	0	0%	297,431	Area Office	
69	Lake Roosevelt Management	31918	604,000	504,035	0	0%	504,035	Area Office	
70	Circle of Flight Waterfowl Initiative	31919	599,000	596,858	0	0%	596,858	Area Office	
71	Fish Hatchery Operations	31950	2,132,000	2,122,937	0	0%	2,122,937	Predetermined - Central Office	
72	Fish Hatchery Maintenance	31960	208,000	207,603	0	0%	207,603	Eligible Tribes/Competitive - Central Office	
73	Tribal Management Develop. Programs	31970	7,698,000	7,633,392	0	0%	7,633,392	Eligible Tribes/Competitive - Central Office	
74	Memorials Forestry	32000	508,000	504,035	0	0%	504,035	N/A	
75	Financial Trust Services	32200	3,060,000	3,047,189	0	0%	3,047,189	N/A	
76	TOTAL RECURRING PROGRAMS		683,855,000	703,560,625	0	0%	703,560,625		

## \*\* NON-RECURRING PROGRAMS \*\*

77	Self-Determination Services:								
78	Technical Assistance Grants	33200	0	0	0	0%	0	N/A	
79	Self Governance Grants (Shortfalls)	33300	4,934,000	4,924,576	0	0%	4,924,576	N/A	
80	Special Tribal Courts	33000	1,468,000	1,463,200	0	0%	1,463,200	Area Office	
81	Special Law Enforcement	33100	1,086,000	1,082,928	0	0%	1,082,928	Eligible Tribes/Competitive - Central Office	
82	Business Enterprise Develop. Program	33500	3,891,000	2,994,270	0	0%	2,994,270	Area Office	
83	Community & Reserv. Econ. Develop. Prgm.	33600	5,944,624	5,944,624	0	0%	5,944,624	Predetermined	
84	Technical Assistance	33400	772,000	768,529	0	0%	768,529	Area Office	
85	Agriculture:								
86	Prairie Dog Program	33710	1,352,000	1,149,800	0	0%	1,149,800	Eligible Tribes/Competitive - Central Office	
87	Noxious Weed Eradication	33720	1,958,000	1,949,270	0	0%	1,949,270	Eligible Tribes/Competitive - Central Office	
88	Gila River Farms Project	33730	828,000	822,426	0	0%	822,426	N/A	
89	Irrigation Drainage	33800	587,000	584,881	0	0%	584,881	N/A - Transferred - DOI	
90	Forestry:								
91	Forest Development	33910	9,083,000	9,043,693	0	0%	9,043,693	Area Office	
92	Forest Inventories/Plans	33920	1,511,000	1,504,122	0	0%	1,504,122	Area Office	
93	Woodland Management	33930	510,000	507,804	0	0%	507,804	Area Office	
94	Northwest Forest Plan	33935	4,500,000	4,480,650	0	0%	4,480,650	Northwest Tribes - Predetermined - Area Office	
95	Water Management and Development	34020	7,876,000	7,891,898	0	0%	7,891,898	Eligible Tribes/Competitive - Central Office	
96	Unresolved Hunting & Fishing Rights	34100	374,000	372,288	0	0%	372,288	Eligible Tribes/Competitive - Central Office	
97	Minerals and Mining:								
98	Mineral Assessments	34210	1,888,000	1,879,212	0	0%	1,879,212	Eligible Tribes, Plus Percentage of Resources - Central Office	
99	Special Projects	34220	597,000	594,862	0	0%	594,862	Area Office	
100	Indian Rights Protection:								
101	Litigation Support	34410	1,993,000	1,979,212	0	0%	1,979,212	Area Office	
102	Water Rights Negotiation Litigation	34420	15,000,000	14,472,305	0	0%	14,472,305	Eligible Tribes/Competitive - Central Office	
103	Attorneys Fees	34430	2,332,000	2,327,548	0	0%	2,327,548	Area Office	
104	Unresolved Rights Issues	34440	1,238,000	1,232,841	0	0%	1,232,841	Area Office	
105	ANILCA Programs	34450	1,453,000	1,447,230	0	0%	1,447,230	Area Office	
106	ANCSA Programs	34460	601,000	596,854	0	0%	596,854	Area Office	
107	Real Estate Services:								
108	Cadastral Surveys	34310	2,171,000	2,161,863	0	0%	2,161,863	BLM	
109	Probate Backlog Reduction	34320	556,000	555,936	0	0%	555,936	Area Office	

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## CENTRAL OFFICE STUDY

PROGRAM TITLE	FFS Cost Code	A FY 1996 Enacted	B FY 1996 Actual	Residual Amount	D Residual %	E Available Amount	F Tribal Share Formula	G F.N.
** NON-RECURRING PROGRAMS, cont **								
Lease Compliance	34330	1,534,000	1,527,078	0	0%	1,527,078	Area Office	
Environmental Quality Services:								
Waste Management	34710	3,853,000	3,838,658	0	0%	3,838,658	Eligible Tribes/Competitive - Central Office	
Navajo-Hopi Settlement Program	34500	1,195,000	1,192,718	0	0%	1,192,718	N/A	
Endangered Species	34800	1,837,000	1,829,499	0	0%	1,829,499	Northwest Tribes - Predetermined - Area Office	
<b>TOTAL NON-RECURRING PROGRAMS</b>		<b>83,142,000</b>	<b>81,420,573</b>	<b>0</b>		<b>81,420,573</b>		

## \*\* SPECIAL PROGRAMS AND POOLED OVERHEAD \*\*

Indian Child Welfare Act urban	37810	1,735,000	1,731,888	0	N/A	1,731,888	Predetermined	
Child Protection and Family Violence	37620	0	0	0	N/A	0	Predetermined	
Post-Secondary Schools	38500	11,782,000	11,732,548	0	N/A	11,732,548	Predetermined	
Special Higher Education Scholarships	38600	2,779,000	2,673,883	0	N/A	2,673,883	Predetermined	
Police Academy (C.O.)	37710	1,151,000	1,145,807	0	N/A	1,145,807	Predetermined	
Substance Abuse	37120	1,000,000	998,090	0	N/A	998,090	Predetermined	
Housing Training	37800	0	0	0	N/A	0	Predetermined	
Indian Arts & Crafts Board	38100	1,074,000	1,068,954	0	N/A	1,068,954	Predetermined	
United Tribes Technical College	38010	1,816,000	1,810,535	0	N/A	1,810,535	Predetermined	
United Sioux Tribe Develop. Corp.	38020	107,000	106,788	0	N/A	106,788	Predetermined	
Natl Ironworkers Training Program	38030	526,000	523,997	0	N/A	523,997	Predetermined	
Indian Integ. Reserv. Inven. Prgm. (IIRIP)	38210	1,500,000	1,492,145	0	N/A	1,492,145	Predetermined	
Intertribal Agriculture Council	38220	198,000	197,822	0	N/A	197,822	Predetermined	
General Administration:								
Intra-Gov't Billings	37140	19,761,000	19,708,285	0	N/A	19,708,285	Not Available, 1999	
Employee Compensation-Payments	37150	8,448,000	8,430,952	0	N/A	8,430,952	Not Available, 1999	
Unemployment Compensation	37160	7,802,000	7,787,098	0	N/A	7,787,098	Not Available, 1999	
Employee Displacement Costs	37170	2,318,000	2,313,573	0	N/A	2,313,573	Not Available, 1999	
Personnel & EEO Consolidation	77	2,866,000	2,853,348	0	N/A	2,853,348	Not Available, 1999	
Facilities Management:								
GSA Rentals	37230	15,203,000	15,173,962	0	N/A	15,173,962	Not Available, 1999	
Direct Rentals	37240	1,390,000	1,387,345	0	N/A	1,387,345	Not Available, 1999	
Technical Training	37250	188,000	187,641	0	N/A	187,641	Not Available, 1999	
ADP Telecommunications	37320	0	0	0		0		
Human Resources Development	37400	1,675,000	1,665,812	0	N/A	1,665,812	Not Available, 1999	
<b>TOTAL SPECIAL PROGRAMS/POOLED OVERHEAD</b>		<b>81,422,000</b>	<b>81,090,078</b>	<b>60,808,018</b>		<b>23,482,063</b>		
<b>TOTAL CENTRAL OFFICE PROGRAM FUNDING</b>		<b>937,006,000</b>	<b>949,409,168</b>	<b>82,867,839</b>		<b>888,531,317</b>		



**POOLED OVERHEAD**

**Intra-governmental Billings (Assessments):** This item provides payment for services such as the Federal Finance System (FFS) paid to USGS, the Department payroll system (PAY/PERS) paid to BOR, postage paid to the Postal Service, and the Federal Telephone System (FTS) paid to GSA and for general services provided to the Bureau by the Department of Interior. The estimates are set by the other agencies and represent bills due.

**Employee Compensation Payments:** These funds reimburse the Department of Labor for expenses for on-the-job injury payments incurred during the previous fiscal year for Bureau employees.

**Unemployment Compensation:** These funds reimburse the Department of Labor for unemployment compensation payments to former Bureau employees who are eligible for compensation benefits when affected by reduction in force, expiration of temporary appointment, or resignation.

**Employee Displacement Costs:** These funds cover the cost of severance and lump sum leave payments to federal employees displaced as a result of tribal contracting activity under Public Law 93-638.

**Personnel and EEO Consolidation:** These funds provide six months support for the Bureau staff who are scheduled to transfer to regional centers in 1995. In succeeding years the funds will support regional centers.

**GSA Rentals:** These funds pay for the rental costs of 1,168,704 square feet of building space for administrative buildings at central office, area offices, and agency locations. The space is leased by the GSA.

**Direct Rentals:** These funds cover the cost of leasing 180,000 square feet of building space in non-federal facilities from tribes and others for the Bureau's operations.

**Technical Training:** These funds provide training for facility staff and facility users to operate and maintain safe facilities mitigate life safety problems and adhere to environmental and code compliance laws, policies, and regulations. This training program was established to overcome material weaknesses identified in the facilities management program.

**Human Resource Development Program:** These funds support Bureau training for the High Potential Employees Development Program and the Management and Executive Development Program.

— Department of Interior Global Warming research program (\$99,000).  
Approximately \$10,000 is currently base transferred to compacts.

3. \$90,000 is used to support an IPA assignment with the Intertribal Timber Council.

## TRUST EVALUATION GUIDELINES

### Draft No. 6 - May 15, 1995

Trust Evaluations are limited to the minimum requirements for physical trust resource programs contained in statutes and the Compact. Any trust review that goes beyond the minimum requirements must be agreed to by both the Tribes and United States. The Tribes and United States must mutually agree on the programs assumed by the Tribe and those retained by the Secretary must identify in the Annual Funding Agreement the programs which are subject to a Trust Evaluation review as well as the management principles which apply to these functions.

Each Trust Evaluation should consist of four basic components, which are: 1) Management Principles; 2) Administration; 3) Resource Management Performance; and 4) Findings. Each Tribe may develop a Trust Evaluation format and process and assemble an Evaluation Team for each resource category or program which meets its needs and priorities. The composition of a Team may include, but not limited to, representatives of the Tribe and the OS, OAIT, BIA, another Tribe, or solely by the Tribe. The types of annual reviews may include on-site visits, written surveys, written performance certifications, or other methods agreed to by the Tribe and Secretary. The Tribe and United States may agree to exchange written plans, policies, evaluation criteria, checklists, etc., prior to the review.

The guidelines for Trust Evaluations include:

#### I. RESOURCE MANAGEMENT PRACTICES:

Unless otherwise agreed between the Tribe and Secretary, the Trust Evaluation will be based on written resource management policies and principles, which may include:

- A. Established management criteria, plans, and/or prescriptions which have been approved by the Tribe and Secretary and consistent with applicable federal law. Management criteria and/or prescriptions may include each documents as management plans, manuals, etc.
- B. In cases where approved management practices have not been adopted, the Evaluation Team shall apply applicable Federal statutes.

#### II. ADMINISTRATION:

Administrative decision by the Tribes and Secretary will be part of the Trust Evaluation process. This means answering the following:

1. Has the Tribe and Secretary agreed on their respective roles and responsibilities for resource management? If not, do acceptable guidelines

exist that can reasonably determine the respective roles and responsibilities of the Tribe and Secretary? If not, why not?

2. Have any federal regulations been waived or has any waivers been requested during the evaluation period?
3. If applicable, has the Tribe moved in excess of 30% of the base program fund for resource program to another budget? If so, did the Tribe provide a written explanation for this transfer, I required by the Compact.

### III. RESOURCE MANAGEMENT PERFORMANCE:

The actual performance of both the Tribe and Secretary must be reviewed. The Evaluation should address the following issues:

1. Has a previous Trust Evaluation been conducted to review the management of this resource by the Tribe? By the United States? If so, how were any findings addressed.
2. Has the Tribe performed resource management activities in a manner consistent with the applicable management principles?
3. Has the Secretary performed retained activities in a manner consistent with the applicable management principles, federal law, or the retained trust functions?

### IV. FINDINGS:

The Trust Evaluation should result in a determination of whether the trust functions have been satisfactorily performed by answering the following questions:

1. Has the Tribe or Secretary identified any deficiencies in the administration of this resource?
2. Is a trust resource in imminent jeopardy?

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The Tribe and United States may agree by negotiation to conduct additional evaluations and/or management reviews to supplement the Trust Evaluation process. Other evaluations and reviews conducted outside of the period of review shall not be considered as a part of the Trust Evaluation and any finding may not be used to supplement the findings in the Trust Evaluation process, unless agreed to by the Tribe.

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