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ALASKA

COMMITTEE ON ARMED SERVICES

COMMITTEE ON
COMMERCE, SCIENCE, AND TRANSPORTATION

COMMITTEE ON VETERANS' AFFAIRS

United States Senate

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March 26, 2010

The Honorable Daniel K. Inouye
Chairman
Senate Committee on Appropriations
Capitol, S-128
Washington, D.C. 20510

The Honorable Thad Cochran
Vice Chairman
Senate Committee on Appropriations
Capitol, S-128
Washington, D.C. 20510

Dear Chairman Inouye and Vice Chairman Cochran:

To strengthen tribal self-governance and support economic self-sufficiency, I request your support for an increase to President Obama's FY 2011 proposed budget. As you know, the federal Indian policy of tribal self-determination has been highly successful in improving the lives of many American Indians and Alaska Natives. The Indian Self-Determination and Education Assistance Act of 1975 (P.L. 93-638) allowed Indian tribes to take control of the welfare of their tribal citizens by managing the federal programs for the benefit of Indians, without diminishing the federal trust responsibility of the United States.

Today, under the P.L. 93-638 the Departments of the Interior and Health and Human Services have contracted with Indian tribes and tribal organizations in 35 states to administer \$2.3 billion in various programs that would otherwise be administered by the federal government. Under these contracts tribes operate hospitals and clinics, administer welfare assistance programs, run police departments, and carry out a vast array of other governmental activities in such areas as education, housing and land and resource management – all of which the federal government would be administering but these contracts.

P.L. 93-638 requires tribes be paid in full for the "contract support costs" which they incur administering these contracts. These fixed overhead costs are annually established by the Government itself, primarily the Interior Department's National Business Center. These costs cover such necessary contract expenses as the cost of federally-mandated annual audits and property and workers' compensation insurance. When these costs are not paid, Tribes are compelled to divert resources by leaving positions vacant in the contracted programs serving their members in order to make up the difference.

To be clear, health care, law enforcement and other positions are not being filled because the government is failing to pay full contract support costs. The government would never underpay ordinary procurement contractors their agency-approved costs in running government contracts,

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and a different rule not should apply here. Indeed, in 2005 the Supreme Court reaffirmed the binding nature of the government's duty to pay tribal contract support costs under P.L. 93-638 contracts.

The Indian Health Service recently reported an anticipated contract support shortfall for FY 2011 of \$100 million, and the BIA has informally estimated that its shortfall in FY 2011 will be at least \$45 million. These contract obligations should be paid, and employment under contracted programs serving Indian communities thereby restored.

Additionally, the BIA fulfills its goal of Indian self-determination through the Tribal Priority Allocation (TPA) account within its budget, which is the primary source of funding for many tribal governments. The TPA provides tribal governments with the flexibility to respond to the urgent and changing needs of their tribal citizens. Without appropriate TPA support, the promise of Indian self-determination cannot be fulfilled. In December 2009, the BIA Tribal Budget Advisory Committee added TPA to their 2012 Tribal Budget Priorities along with a number of critically important funding areas. Alaska is home to the majority of federally recognized tribes and they live in some of the most high cost and poorest areas of the country. I request the line item for Alaska Small and Needy Tribes under the Bureau of Indian Affairs Budget be increased to \$8.860 million to provide an increase to 17 Small and Needy tribes in the lower 48 to bring them to a minimum TPA funding level of \$160,000 and 211 Alaska tribes of approximately \$40,000 each. This increase will go far to provide much needed relief and support for tribes throughout Alaska and the nation. This increase was recommended in 1994 by the budget subcommittee of the joint reorganization task force and has never been implemented.

I appreciate the FY 2010 budget increase for contract support costs. This went a long way to fulfill the requirement to fund these costs. I strongly encourage appropriate sums to strengthen tribal self-governance and support economic self-sufficiency be designated, where appropriate, in the Department of Interior and Departments of Labor, Health and Human Services, and Education Appropriations budgets.

Sincerely,



Mark Begich
United States Senator