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GENERAL MEMORANDUM 12-117

OMB Report on Sequestration Concludes the IHS would be Subject to Large Reduction

The Office of Management and Budget (OMB) submitted to Congress on September 14, 2012, a report on the impact of a sequestration of funds beginning in January 2013 pursuant to the Budget Control Act of 2011 (PL 112-25).¹ The report, which was required by Congress, describes the impact at very broad levels, not in terms of reductions that would occur at the program, project and activities levels. It was widely reported that under the Budget Control Act, the Indian Health Service (IHS) would be limited to a two percent reduction should a sequestration occur. *The Office of Management and Budget, however, has concluded that the IHS would be subject to a full sequestration which they estimate to be 8.2 percent.*² This view was confirmed by OMB to tribal leaders in a meeting on September 20, 2012.

OMB describes the impact of \$109 billion in budget cuts as being "deeply destructive" and urges Congress to agree to a balanced plan to achieve the required deficit reduction, thus allowing for cancellation of the sequestration.

Although for the past year the IHS and others indicated that under the Budget Control Act any sequestration for their programs would be limited to two percent pursuant to Section 256 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, the OMB has now concluded that Section 256 is not applicable. The end result is that there is no exemption for IHS discretionary funding which accounts for all of the IHS budget except for the \$150 million in annual mandatory Special Diabetes Program for Indians funding.

The impending sequestration is the result of Congress not enacting legislation that would reduce the deficit by \$1.2 trillion over a ten-year period as required by the Deficit Reduction and Budget Control Act. We also note that the Joint Select Committee on Deficit Reduction ("Super Committee"), tasked with developing such a plan, was unable to reach agreement on a proposal to send to Congress to achieve the required deficit reduction.

If sequestration occurs, most discretionary domestic programs would see an 8.2

¹ See our General Memorandum 11-094 of August 5, 2011.

² The same would be true for migrant and community health centers.

percent reduction, including those in the Bureau of Indian Affairs and Bureau of Indian Education. Indian trust funds and Indian settlements would *not* be subject to sequestration. Programs exempted from the sequestration include mandatory funding for child nutrition programs; Child Care Block Grant; Pell Grants; Grants to States for Medicaid; Foster Care and Adoption Assistance; Supplemental Security Income; Social Security; Temporary Assistance for Needy Families program; "emergency" unemployment; and civilian and military retirement. Medicare would be limited to a two percent provider reduction (benefits would be exempted).

When Congress returns to session following the elections, likely in mid-November, their main order of business is to enact legislation that will make unnecessary a sequestration of funds. While there is no consensus on what such legislation will look like, Congress may consider legislation that will include a FY 2013 across-the-board reduction of less than 8.2 percent and combine it with revenue-raising provisions. It is important for tribes and Indian organizations to be communicating *now* with Congress and the Administration about restoring protection for IHS programs and to work toward protections for other Indian programs.

We will closely follow developments relating to FY 2013 funding and the sequestration issue.³ Please let us know if we may provide additional information or assistance in communicating with Congress and the Administration on these matters.

The OMB report on sequestration may be accessed at:

http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/stareport.pdf

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³ OMB notes that the estimates in the report are preliminary and could change based on changes in law and ongoing legal, budgetary and technical analysis.