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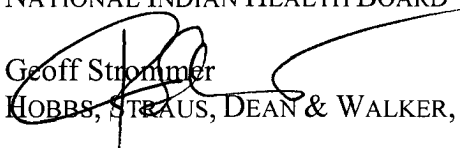
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## MEMORANDUM

April 11, 2014

TO: Stacy Bohlen  
NATIONAL INDIAN HEALTH BOARD

FROM:   
Geoff Strommer  
HOBBS, STRAUS, DEAN & WALKER, LLP

RE: ***Permanent Mandatory Appropriations for Contract Support Costs***

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Attached is a White Paper proposing a solution to one of the more vexing challenges to tribal contracting and compacting under the Indian Self-Determination and Education Assistance Act. As affirmed by the U.S. Supreme Court, the payment of full contract support costs under the Act is a binding legal obligation—an entitlement. Despite the mandatory nature of the obligation, however, contract support costs are currently paid from the annual discretionary appropriations for the Indian Health Service and the Bureau of Indian Affairs. This fundamental disconnect between substantive law and the appropriations process has caused decades of conflict, with tribes underfunded and the federal government facing legal liability in the billions of dollars.

The attached paper proposes to solve this dilemma through a simple statutory amendment that would appropriate contract support costs on a permanent, indefinite basis like other legal entitlements. Contract support costs would no longer be pitted against funding for Indian programs and services in the annual budgeting process. And the difficulties in predicting CSC needs—as tribes expand and reduce the scope of their contracts, as indirect cost rates change, etc.—would be met by the permanent, indefinite nature of the appropriation.

Now is the time to bring contract support cost appropriations into line with the substantive entitlement in the Act. Congress recently called for “long-term accounting, budget, and legislative strategies” to address the challenge of full contract support cost funding. This proposal would not solve all of these challenges. We believe it would represent a major step forward, however, for tribal governments and organizations contracting or compacting—or considering doing so—under the Act. We therefore respectfully request that NIHB consider supporting the legislative proposal described in the attached White Paper. If you have any questions or comments, please contact me at [gstrommer@hobbsstraus.com](mailto:gstrommer@hobbsstraus.com) or 503-242-1745.

