



NATIONAL CONGRESS OF AMERICAN INDIANS

TESTIMONY OF THE NATIONAL CONGRESS OF AMERICAN INDIANS

U.S DEPARTMENT OF HEALTH AND HUMAN SERVICES 2013 ANNUAL BUDGET AND POLICY CONSULTATION CONSULTATION POLICY AND BUDGET RECOMMENDATIONS

March 8, 2013

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INTRODUCTION

The National Congress of American Indians (NCAI) is the intergovernmental body for American Indian and Alaska Native tribal governments. For nearly 70 years, tribal governments have come together through NCAI to deliberate issues of critical importance to tribal governments and endorse consensus policy positions. As such, NCAI provides the following testimony for the 15th Annual Department of Health and Human Services (HHS) Tribal Budget and Policy Consultation Session for Fiscal Year (FY) 2015.

Commitment to the nation-to-nation relationship is critical to continuing essential funding for tribal programs and treaty guaranteed health care, while also updating administrative policies to reflect the needs of tribal governments. HHS has been a leader in refining the consultation process and ensuring that high level engagement is an agency-wide priority. As a leader in this area and an Indian Country partner, tribal leaders provide the following recommendations for future high-level meetings.

POLICY RECOMMENDATIONS

- **Agency advisory councils enhance but cannot supplant consultation.** Advisory committees cannot replace specific and meaningful consultation. In general, the meetings do not provide adequate time—or sufficient representation—to supplant consultation.
- **Indian Country must be involved in selecting representatives to advisory groups.** Tribal leaders have underscored the need for agency level committees to include a number of representatives selected by Indian Country. To truly advance the nation-to-nation relationship, these advisory groups cannot be selected exclusively by the agencies.
- **Tribal leaders must have the option for staff support comparable to that afforded to senior agency officials.** Agency meetings and technical advisory groups have shown promising trends toward including technical experts and staff to support tribal leaders. However, all of these meetings, groups, and committees must provide tribal leaders with support comparable to that offered to senior federal officials. If federal technical experts and support staff participate in the meetings, tribal leaders should have the same option to ensure that the nation-to-nation dialogue is as informed and productive as possible.

- **Establish transparent accountability mechanisms.** HHS should focus on the immediate development and implementation of accountability mechanisms and a reporting system to track progress. Tribal leaders often spend a great deal of time and resources providing feedback to a federal agency, only to receive little response directed toward their recommendations and concerns. Though HHS currently provides a review each year of agency consultations, this report often covers information already known to tribal leaders. Adoption of a more transparent, streamlined, and efficient reporting mechanism for each agency will ensure tribal leaders and advisors have all the necessary information to continue providing feedback to agency officials.

BUDGET RECOMMENDATIONS

I. Indian Health Service (IHS)

- **Support recommendations of the IHS Tribal Budget Formulation Workgroup.**

As a member of the IHS Tribal Budget Formulation Workgroup, NCAI supports the recommendations made by the workgroup leaders today during written and presented testimony. The workgroup testimony reflects both the priorities of tribal leaders from the 12 IHS Areas and the Agency-wide goals expressed by the IHS Director. NCAI affirms the work of this group and strongly recommends HHS consider the testimony in full.

- **Provide adequate funding to ensure successful implementation of the Indian Health Care Improvement Act.**

Additionally NCAI request that HHS administrators seek greater funding and appropriations for successful implementation of the Indian Health Care Improvement Act (IHCIA). There are twenty-three unfunded provisions¹ in the IHCIA that provide chances to increase tribal capacity, infrastructure, and most importantly – access to health care services. Many of the provisions that remain unfunded are those that are critical to tribal communities including those that strengthen the health care workforce, offer broader access to behavioral health, and support innovative designs for delivery of health services. NCAI understands each requires appropriations by Congress, but hopes that as HHS develops its FY 2015 budget requests that the Administration supports funding for IHCIA provisions that are feasible for timely implementation and strengthen tribal health systems as a whole.

- **Continue to provide \$1 million for the On the T.R.A.I.L. (Together Raising Awareness for Indian Life) to Diabetes Prevention program.**

IHS has successfully funded the On the T.R.A.I.L. program since 2003, serving nearly 12,000 Native American youth ages 8-10 in 83 tribal communities. The program curriculum is an innovative combination of physical, educational, and nutritional activities that promote healthy lifestyles. The program also emphasizes the importance of teamwork and community service. Members apply decision-making and goal-setting skills when completing physical activities and engage in service projects to improve health lifestyles in their communities. Continued funding

¹ Indian Health Service. "IHCIA Implementation Update." April 5, 2012.

<http://www.ihs.gov/PublicAffairs/DirCorner/docs/IHCIA%20STATUS%20TABLE%204-5-12%20FINAL.pdf>

of this program sustains a tested program and represents one of the few national youth-oriented diabetes prevention initiatives.

II. Substance Abuse and Mental Health Services Administration (SAMHSA)

- **Provide \$15 million to fund Substance Abuse and Mental Health Services Administration (SAMHSA) for Behavioral Health.**

This SAMHSA grant program has been authorized to award grants to Indian health programs to provide the following services: prevention or treatment of drug use or alcohol abuse, promotion of mental health, or treatment services for mental illness. To date, these funds have never been appropriated. An appropriation of \$15 million would provide support to Indian health programs to meet the critical substance abuse and mental health needs of their citizens.

- **Support SAMHSA's Behavioral Health Tribal Prevention Grant program at \$40 million in FY 2014.**

The Behavioral Health Tribal Prevention Grant will support behavioral health services that promote overall mental and emotion health, in particular substance abuse prevention and suicide prevention services. If funded, the grant program would be the only source of federal substance abuse and suicide prevention funding exclusively available to tribes.

- **Provide a \$6 million tribal set-aside for American Indian suicide prevention programs under the Garrett Lee Smith Act.**

Suicide has reached epidemic proportions in some tribal communities. The Garrett Lee Smith Memorial Act of 2004 is the first federal legislation to provide specific funding for youth suicide prevention programs, authorizing \$82 million in grants over three years through SAMHSA. Currently, tribes must compete with other institutions to access these funds. To assist tribal communities in accessing these funds, a line item for tribal-specific resources is necessary.

III. Administration for Children and Families

Foster Care Initiative

- **Provide \$20 million to fund the Children's Bureau foster care demonstration grants program and track tribal awards.**

The goal of this initiative, proposed by the Administration, is to identify innovative strategies that improve outcomes for children in long-term foster care. Twenty million dollars in demonstration grants should be provided to tribes, states, and localities, to test new, innovative strategies for improving outcomes for foster care children—especially those children who have had long-term involvement in the foster care system. Grantees that demonstrate improved outcomes for children in long-term foster care will be eligible for bonus funding. Tribal awards and outcomes for Native children in foster care should be tracked, including outcomes for Native children residing in states in which the state received a grant award.

Child Welfare Services

- **Increase the tribal allocation of Title IV-B, Subpart 1.**

The bare minimum needed to establish a child abuse and neglect prevention program in any tribal community is approximately \$105,000.² Title IV-B, Subpart 1 supports a significant portion of this amount. Yet tribes are hindered in their ability to effectively administer a program, because the majority of them are only eligible for small grants (less than \$10,000, in most cases). Other sources of support to tribes, such as Indian Child Welfare Act (ICWA) and Bureau of Indian Affairs (BIA) Social Services funding, are needed to supplement child welfare-related services. There is a particular need to provide tribes with the funding necessary to generate responses to notices of state child custody proceedings that involve tribal member children. No other consistent, stable source of funding is available to tribal governments to provide basic, preventive child welfare services. BIA Social Services funding is discretionary and not available to every tribe. Increasing the tribal set-aside of Title IV-B, Subpart 1 funding (within a total appropriation of \$281.7 million for this capped entitlement program) will allow for larger tribal grants to provide basic child welfare services to support Native families and protect Native children.

Promoting Safe and Stable Families

- **Provide \$200 million for Title IV-B, Subpart 2—the full amount authorized for the discretionary component of the program which will benefit tribes and states.**
- **Under the same subpart, increase funding for the tribal Discretionary Court Improvement Program (CIP) Grants by \$5 million.**

In order for tribal courts to advance new practices and improve outcomes with children under their jurisdiction, they need access to funding that will support capacity building and innovative practices, such as the funding that states receive under Title IV-B, Subpart 2 of the Promoting Safe and Stable Families Act. Currently, the Title IV-B, Subpart 1 program allows the use of funds for family preservation purposes, but Title IV-B, Subpart 2 (the larger of the two programs) does not focus on family preservation. Title IV-B, Subpart 2 should be funded at \$205 million – the full amount authorized under the Act for the discretionary component of the program – so tribes will receive increased resources from the three percent set-aside.

Child Abuse Prevention and Treatment Act (CAPTA)

- **Provide a separate line-item for tribal Title II grants and set-aside five percent of total funding for tribes and tribal consortia.**

Grants are authorized under Title II, Community-Based Grants for Prevention of Child Abuse and Neglect of the Child Abuse Prevention and Treatment Act (CAPTA). Currently, tribes and migrant programs must compete with each other for a one percent set-aside of the total funding appropriated under Title II of CAPTA.

Tribes and states have a governmental responsibility to ensure that foster care protections are provided to every child who is in an out-of-home placement under their jurisdiction and care. A

² Cost estimate provided from analyses developed by the National Indian Child Welfare Association.

five percent tribal set-aside, listed as a separate line item in the budget, will provide a base level of funding for every tribe, regardless of size, and give every tribal community an opportunity to establish a quality child abuse and neglect prevention program.

Indian Child Protection and Family Violence Prevention Act

- **Appropriate \$10 million for the Indian Child Abuse Treatment grant program and \$30 million for the Indian Child Protection and Family Violence Prevention grant program.**

The Bureau of Indian Affairs and Indian Health Service have oversight authority for the Indian Child Protection and Family Violence Prevention Act, but in more than 10 years have never made any requests for these grants, nor has Congress appropriated any funding. Yet, American Indian and Alaska Native children experience the second highest rate of child abuse and neglect, just behind their African American peers.³ These grants would provide greater access for tribes to respond to child abuse and neglect in their communities and begin to slow the cycle of untreated trauma and violence in tribal communities.

Indian Child Welfare

- **Increase funding to the Bureau of Indian Affairs for the Indian Child Welfare Act (ICWA) Tribal Priority Allocations by \$20 million for tribes and tribal consortia.**

Upon passage of Indian Child Welfare Act (ICWA) in 1978, Congress estimated that \$35 million was needed to fully fund tribal programs under the Act. Despite this historical estimate, the program has never been funded at more than \$17 million in any given year. We request a \$20 million increase in ICWA funding, through the Bureau of Indian Affairs' Tribal Priority Allocations line item, to begin to address historical underfunding and provide tribes minimum support with which to keep Native children safe in their homes and communities. Given the disproportionate representation of American Indian and Alaska Native children in foster care when compared to all other racial/ethnic groups, the lack of tribal access to the Title XX Social Services Block Grant (a major source of funding for state child welfare programs), and the assistance that tribes provide to states – free of charge – to help manage Indian child welfare cases in the state system, it is critical that ICWA be fully funded.

- **Reestablish the Urban Indian Child Welfare Grant Program under the Indian Child Welfare Act (ICWA) and fund it at \$5 million.**

Increasingly, American Indian and Alaska Native children are removed from their homes in urban areas, and placed into state custody. From 1979 to 1993, the Bureau of Indian Affairs requested funding for grants that would allow urban organizations serving Native peoples to help tribes, states, and counties comply with ICWA. The grant program became an effective way to serve tribal children and families who resided in urban areas, but it was discontinued due to lack of funding. Five million dollars in urban Indian child welfare grants will provide support that tribes need to respond to notices from states and counties that are removing Indian children from their homes because of abuse or neglect.

³ US Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. (2011). *Child Maltreatment 2010*. Retrieved on January 2, 2013, from <http://archive.acf/hhs.gov/programs/cb/pubs/cm10/cm10.pdf>.

- **Increase Bureau of Indian Affairs Child Welfare Assistance funds by \$10 million to \$35 million.**

This funding stream provides foster care and adoptive home services to children who do not qualify for Title IV-E funding. Historically, because this funding has never exceeded \$30 million per year, many tribes have not even been able to access these severely limited funds. Child Welfare Assistance, funded through the BIA Tribal Priority Allocations line item, should be increased to \$35 million in FY 2014.

Moreover, tribes should be able to use program funding as a non-federal match for the Title IV-E Foster Care and Adoption Assistance entitlement program. Tribes only recently gained direct access to Title IV-E funds, and have not had the same support that states have had over the last three decades to build the infrastructure necessary to administer the program. Consistent with the federal statute, the regulations should be clarified to ensure that Child Welfare Assistance, like any other tribal contract funding, can be used as a non-federal match to leverage other federal funds.

IV. Administration on Aging

Older Americans Act – Title VI

- **Provide \$30 million for Parts A (Grants for Native Americans) and B (Grants for Native Hawaiians) of the Older Americans Act.**

Programs under Title VI of the Older Americans Act are the primary vehicle for providing nutrition and other direct supportive services to American Indian, Alaska Native, and Native Hawaiian elders. Approximately two-thirds of the Part A and Part B grants to tribes or consortia of tribes are for less than \$100,000. This funding level is expected to provide services for a minimum of 50 elders for an entire year. Yet, those tribes receiving \$100,000 typically serve between 200 and 300 elders. As such, many tribes are unable to meet the five-days-a-week meal requirement because of insufficient funding and are serving congregate meals only two or three days per week. Some Title VI programs are forced to close for a number of days each week, unable to provide basic services such as transportation, information and referral services, legal assistance, ombudsman, respite or adult day care, home visits, homemaker services, or home health aide services. Rapidly increasing transportation costs also severely limit Title VI service providers' ability to deliver meals and related supportive services to home-bound Native elders at the current funding level. This funding should be significantly increased so that Native elders receive the care that they deserve.

- **Provide \$8.3 million for the Native American Caregiver Support Program administered by the Administration on Aging and create a line-item for training for tribal recipients.**

The Native American Caregiver Support Program under Part C of the OAA assists American Indian, Alaska Native, and Native Hawaiian families caring for older relatives with chronic illnesses. The grant program offers many services that meet caregivers' needs, including information and outreach, access assistance, individual counseling, support groups and training, respite care, and other supplemental services. However, this program cannot be effective if it is

not adequately funded. It should be funded at \$8.3 million, with sufficient resources also allocated to address historically unmet tribal training needs.

Older Americans Act – Title VII

- **Create a tribal set-aside of \$2 million under Subtitle B of Title VII.**

Subtitle B of Title VII of the Older Americans Act authorizes a program for tribes, public agencies, or non-profit organizations serving Native elders to assist in prioritizing issues concerning elder rights and to carry out related activities. While states have been funded at more than \$20 million per year under this program, tribes have never received appropriations for this purpose. Further, tribes have no additional source of mandatory federal funding for elder protection activities. As such, a \$2 million tribal set-aside should be created under Subtitle B to ensure that tribes have access to such funds at a comparable level to states.

Older Americans Act – Title IV

- **Provide \$3 million for national minority aging organizations to build the capacity of community-based organizations to better serve Native seniors.**

Language and cultural barriers severely restrict Native elder access to federal programs for which they are eligible. Typically, these senior Americans have limited access to and participation in programs such as Social Security, Medicare, and Medicaid. Funding is needed to build capacity for tribal, minority, and other community-based aging organizations to serve Native elders and enroll them in programs to which they are entitled. These efforts could include training tribal staff on expanding Native elders' access to Medicare, Medicaid, housing, congregate meals, and veteran benefits. Efforts could also include working with tribal leaders to leverage existing funds and programs to sustain support for elders. This funding is essential to strengthening local organizations in serving seniors.

CONCLUSION

NCAI looks forward to continuing our partnership with HHS, and is available to assist in any way we can. Should you have any questions, please contact Terra Branson, Legislative Associate, at 202.466.7767 or tbranson@ncai.org.