MONTH XX, 2024

The Honorable [YOUR SENATOR]

United States Senate

[ADDRESS]

The Honorable [YOUR CONGRESSMEMBER]

United States House of Representatives

[ADDRESS]

**Re: Support for the President’s FY25 Proposal for Mandatory CSC and 105(l) Funding**

Dear Senator [NAME] and Representative [NAME]:

On behalf of [TRIBE/TRIBAL ORGANIZATION], I write in strong support of the proposal to reclassify Contract Support Costs and Section 105(*l*) Tribal Lease Payments as mandatory appropriations. We respectfully urge you to include the proposal in the FY25 Interior and Environment Appropriations bill (hereinafter “Interior bill”). The President’s budget request has consistently recommended this change since FY 2022.

Ten years ago, for FY14, the House and Senate Committees on Appropriations (hereinafter “Committees”) published a bipartisan, bicameral statement recognizing the mandatory nature and rapid growth of legally obligated Contract Support Costs (CSC) and expressing concern about the potential impact on the Interior bill. They stated:

*“[T]he House and Senate Committees on Appropriations are in the untenable position of appropriating discretionary funds for the payment of any legally obligated contract support costs. Typically obligations of this nature are addressed through mandatory spending, but in this case since they fall under discretionary spending, they have the potential to impact all other programs funded under the Interior and Environment Appropriations bill, including other equally important tribal programs.”[[1]](#footnote-2)*

Six years later, for FY20, the Committees published a similar statement regarding payments related to Tribal Lease Payments required by Section 105(*l*) of the Indian Self-Determination and Education Assistance Act (hereinafter “105(*l*) payments”.) The Committees expressed concern that 105(*l*) payments *“are negatively impacting the ability to use discretionary appropriations to support core tribal programs, including health, education and construction programs, or provide essential fixed cost requirements.”[[2]](#footnote-3)* The Committees called on the Department of the Interior and the Department of Health and Human Services (HHS) to *“formulate long-term accounting, budget, and legislative strategies to address the situation, including discussions about whether, in light of the Maniilaq decisions, these funds should be re-classified as an appropriated entitlement.”[[3]](#footnote-4)* Since FY22, the Departments of the Interior and HHS have requested that CSC and 105(*l*) payments be appropriated as mandatory, but Congress has not yet acted on this common-sense proposal.

On June 6, 2024, the U.S. Supreme Court is ruled that the IHS must pay contract support costs on revenue collected from 3rd party payers like Medicare, Medicaid, and private insurance. This will undoubtedly have major budget implications on the IHS CSC budget. The government argued that this decision could cost up to $2 billion annually, which would more than double the current CSC obligation. With the Fiscal Responsibility Act in place, domestic discretionary spending will increase by just 1%. This is not nearly enough to absorb these costs without further cuts to other essential services and programs. Now is the time to reclassify these costs appropriately, as mandatory funding.

Simply put, both programs will continue to grow as they continue to be utilized by Tribal nations throughout the United States, and the Interior bill will continue to fail to meet its trust and treaty obligations to Tribes under the budget structure and process currently in place. Reclassifying CSC and 105(*l*) payments as mandatory would be a positive step and would be consistent with budgeting for most other Federal legal obligations where full and timely payments minimize litigation risk. Moreover, as with other recently reclassified mandatory appropriations in the Interior bill, the Committees could retain oversight of the programs.[[4]](#footnote-5)

The need to reclassify CSC and 105(*l*) payments as mandatory is necessary, and it is a reasonable, fair, and a direct response to the Committee’s bipartisan, bicameral calls for a long-term solution and the President’s budget proposals. [TRIBE/TRIBAL ORG NAME] recognizes and appreciates your strong leadership and bipartisan support over the years for Tribal self-determination. For the sake of continuing to improve the federal government’s commitments to meeting its trust and treaty obligations under your leadership, we urge you to include the President’s proposal in the FY25 Interior bill.

Sincerely,

[TRIBAL SIGNATURE]

1. See page H975 of the Congressional Record for January 15, 2014, accessed on 5/21/2024 at <https://www.govinfo.gov/content/pkg/CREC-2014-01-15/pdf/CREC-2014-01-15-bk2.pdf>. [↑](#footnote-ref-2)
2. See page H11281 of the Congressional Record for December 17, 2019, accessed on 5/21/2024 at <https://www.govinfo.gov/content/pkg/CREC-2019-12-17/pdf/CREC-2019-12-17-house-bk3.pdf>. [↑](#footnote-ref-3)
3. *Id.* [↑](#footnote-ref-4)
4. See section 430 of division E of the Consolidated Appropriations Act, 2024 (P.L. 118-42), accessed on 5/21/2024 at <https://www.congress.gov/bill/118th-congress/house-bill/4366/text>. [↑](#footnote-ref-5)