



## United South and Eastern Tribes, Inc.

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### USET Resolution No. 2014:045

#### **SUPPORT OF THE PROPOSAL TO ENACT PERMANENT MANDATORY APPROPRIATIONS FOR CONTRACT SUPPORT COSTS UNDER THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT**

- WHEREAS,** United South and Eastern Tribes Incorporated (USET) is an intertribal organization comprised of twenty-six (26) federally recognized Tribes; and
- WHEREAS,** the actions taken by the USET Board of Directors officially represent the intentions of each member Tribe, as the Board of Directors comprises delegates from the member Tribes' leadership; and
- WHEREAS,** Section 106(a) of the Indian Self-Determination and Education Assistance Act (ISDEAA) provides that Tribes and Tribal organizations entering into contracts to carry out programs and services pursuant to that Act are entitled to contract support costs (CSC) for the reasonable administrative and overhead costs of carrying out those programs and services; and
- WHEREAS,** in the last decade, the U.S. Supreme Court has twice held that the United States government's promise to pay full CSC under ISDEAA contracts is legally binding and enforceable, and that such liability is not affected by limits on the amounts of discretionary funding made available for payment of CSC; and
- WHEREAS,** USET member Tribes, through resolution number 2013:045, requested that the federal government honor its ISDEAA agreements and provide full funding to Tribes and Tribal organizations carrying out programs and services under contract; and
- WHEREAS,** as a binding legal obligation of the federal government that is governed by the criteria set forth in the ISDEAA, the right to full payment of CSC is an entitlement under substantive law and constitutes the type of obligation that is normally funded by the federal government on a mandatory basis; and
- WHEREAS,** CSC is currently funded on a discretionary basis, as part of the Bureau of Indian Affairs and Indian Health Service annual lump sum appropriations, which does not guarantee full funding and which for many years resulted in systemic underpayments of CSC, which in turn required Tribes and Tribal organizations across the country to reduce vital health and welfare programs and services to their members and beneficiaries, and has exposed the United States government to legal liability for breach of contract; and
- WHEREAS,** a permanent, mandatory appropriation in legislation is needed to fully meet the funding requirements created by the ISDEAA CSC entitlement and to resolve the conflicts currently faced by the agencies as a result of the need to fund both CSC and substantive Indian programs with discretionary funds; and

- WHEREAS,** in December 2010, the United States recognized the rights of its First Peoples through its support of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), whose provisions and principles support and promote the purposes of this resolution; therefore, be it
- RESOLVED** the USET Board of Directors believes that the United States government has a legal and a moral duty to fully fund Contract Support Costs, a duty which requires reliable and sufficient appropriations every year, without exception, which are not paid for through cuts to Indian program budgets funded by the federal agencies; and, be it further
- RESOLVED** the USET Board of Directors supports the Proposal to Enact Permanent Mandatory Appropriations for Contract Support Costs under the Indian Self-Determination and Education Assistance Act, which puts forward a proposal to enact a permanent, mandatory appropriation for Contract Support Costs and to exempt it from sequestration; and, be it finally
- RESOLVED** the USET Board of Directors urges the Bureau of Indian Affairs, the Indian Health Service, the Office of Management and Budget, and the United States Congress to work to enact a permanent, mandatory appropriation for Contract Support Costs as soon as possible to finally address the longstanding problems arising from the federal government’s past treatment of Contract Support Costs funding as discretionary.

**CERTIFICATION**

This resolution was duly passed at the USET Semi-Annual Meeting, at which a quorum was present, in Bar Harbor, ME, June 4, 2014.



Brian Patterson, President  
United South and Eastern Tribes, Inc.



Brenda Lintinger, Secretary  
United South and Eastern Tribes, Inc.

*“Because there is strength in Unity”*