PRESS RELEASE: Supreme Court Rules 5-4 in Favor of Tribes on Reimbursement of Contract Support Costs for Third-Party Expenses

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FOR IMMEDIATE RELEASE

"Today, the Supreme Court required the United States to uphold its responsibility to fully support Tribal self-determination under the Indian Self Determination Education and Assistance Act (ISDEAA). Contract support costs are necessary to ensure that Tribes that exercise their rights under ISDEAA receive the same amount of funding support as other federally run programs. Tribal governments know the needs of their people, and protecting and supporting Tribal self-determination is essential to ensuring the health and well-being of American Indians and Alaska Natives. NCUIH is a strong supporter of Tribal self-determination and proudly signed on to the National Indian Health Board's amicus brief to the Supreme Court in support of the respondent Tribes."

– NCUIH CEO, Francys Crevier (Algonquin)

Washington, D.C. (June 6, 2024) – The Supreme Court delivered their opinion in Becerra v. San Carlos Apache (consolidated with Becerra v. Northern Arapaho Tribe), authored by Chief Justice John Roberts. The decision in this case will benefit and assist Tribes operating under self-determination contracts with IHS. Moving forward, additional funding will be allocated within IHS' budget to pay contract support costs related to Tribes using third-party revenue for administering their healthcare programs. In support of Tribal sovereignty and efforts of Tribes to ensure IHS carries out the federal trust responsibility, NCUIH signed on to the amicus brief filed by the National Indian Health Board (NIHB).

The court relied on language found in the Indian Self-Determination Act (ISDA), to show that, under Section 5325(a), the contract support costs incurred are eligible for repayment since they were done so to "ensure compliance with the terms of the contract." The collection and spending of third-party revenue was done by Tribes as required by their contracts with IHS – to carry out operations transferred from IHS to the Tribes. Therefore, the court interprets ISDA to assume the administrative and overhead costs incurred as a result would be defined as contract support costs. Section 5326 of ISDA was also discussed by the court, which found that the limitations included "do not preclude payment of costs incurred by the required spending of program income under a self-determination contract."

A highlight of the opinion is the court recognizing that reading ISDA differently would penalize Tribes who pursue self-determination. The purpose of contract support costs is to prevent funding gaps between IHS and Tribes, and finding differently would impact Tribes ability to finance and operate their healthcare programs.

About NCUIH

The National Council of Urban Indian Health (NCUIH) is a national non-profit organization devoted to the support and development of quality, accessible, and culturally-competent health and public health services for American Indians and Alaska Natives (AI/ANs) living in urban areas. NCUIH advocates for the 41 Urban Indian Organizations contracting with the Indian Health Service under the Indian Healthcare Improvement Act.

NCUIH respects and supports Tribal sovereignty and the unique government-to-government relationship between our Tribal Nations and the United States. NCUIH works to support those federal laws, policies, and procedures that respect and uplift Tribal sovereignty and the government-to-government relationship. NCUIH does not support any federal law, policy, or procedure that infringes upon or in any way diminishes Tribal sovereignty or the government-to-government relationship.

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