

**RESOLUTION OF THE BIA/TRIBAL BUDGET ADVISORY COUNCIL
RECOMMENDING A NEW EXECUTIVE ORDER REQUIRING OMB
TO CONSULT ON AN ANNUAL BASIS WITH FEDERALLY RECOGNIZED
TRIBES TO DEVELOP A BUDGET FUFILLING THE OBLIGATION OF THE
UNITED STATES TO AMERICAN INDIANS AND ALASKA NATIVES**

WHEREAS, the BIA Budget Advisory Council was established in 1999 to facilitate tribal government participation in the planning of the BIA budget and includes two tribal representatives from each of the 12 BIA Regions; and

WHEREAS, self-rule by American Indians and Alaska Natives within the United States as separate sovereign governments predates the formation of the United States and these governments are acknowledged to be separate sovereign governments in Article I, Section 8 of the United States Constitution; and

WHEREAS, through treaties and other agreements, and in exchange for appropriating from American Indians and Alaska Natives for its use vast tracts of land and the resources of those lands, the United States has accepted certain fundamental trust obligations to American Indians and Alaska Natives, including providing health care, education, housing, social welfare, law and order, transportation and many other services to American Indians and Alaska Natives; and also has accepted the role of trustee and manager of resources owned in trust by the United States for the benefit of American Indians and Alaska Natives; and

WHEREAS, the Snyder Act, 25 U.S.C. Section 13, and other sections of law encodeify these obligations to American Indians and Alaska Natives, and the Indian Reorganization Act of 1934, 25 U.S.C. Sections 450 et seq., requires the Secretary of the interior to consult with tribal governments on Federal funding concerning programs for American Indians and Alaska Natives; and

WHEREAS, the fundamental trust obligations of the United States to American Indians and Alaska Natives have never been fully fulfilled, and now American Indians and Alaska Natives suffer from great inadequacies and inequities in all aspects of those matters that are part of the overall trust obligations of the United States to American Indians and Alaska Natives, as has been documented in the recent report entitled "A Quiet Crisis: Federal Funding and Unmet Need in Indian Country", made public by the United States Civil Rights Commission in July, 2003, despite the fact that the United States is now the wealthiest and most powerful nation in the history of the world; and

WHEREAS, based on the long-standing political relationship between the United States and American Indians and Alaska Natives, the President of the United States has recognized and ordered in Executive Order 13175 that all executive branch agencies must develop and maintain a policy of a government-to-government relationship between the United States and the tribal governments of American Indians and Alaska Natives, and that such relationship must include consultation on a government-to-government basis regarding all policies of the executive branch that have a significant impact on

American Indians and Alaska Natives, including formulation of the budgets that should be adopted each fiscal year to fulfill the trust obligations of the United States to American Indians and Alaska Natives; and

WHEREAS, prior to the commencement of each fiscal year, the Office of Management and the Budget (OMB), along with the various executive branch departments, are responsible for developing the budget to fulfill the trust obligations of the United States to American Indians and Alaska Natives; and

WHEREAS, OMB and the executive branch have developed various means for measuring the effectiveness of programs funded by the United States Congress, including a Program Assessment Rating Tool (PART), and Congress has also required programs to be evaluated using the Government Performance Review Act (GPRA), but despite the moral and legal obligation of the United States to fulfill its fundamental trust obligations to American Indians and Alaska Natives, OMB treats these obligations as “Indian programs” and applies the program evaluation requirements of PART and GPRA in a manner that prevents the United States from fulfilling its fundamental trust obligations to American Indians and Alaska Natives; and

WHEREAS, Consistent with the goals of self-determination and self-sufficiency for American Indians and Alaska Natives, the tribal governments of American Indians and Alaska Natives should be made exempt from “program review” tools such as GPRA and PART, by Executive Order or legislative enactment or both, as may be appropriate, because the United States has the responsibility to meet its fundamental trust obligations to American Indians and Alaska Natives in appropriations made each year and the fulfillment of that responsibility is not a federal “program” that is or should be subject to OMB oversight; and

WHEREAS, the United States executive branch and the Congress need to treat tribal governments on a respectful government-to-government basis, completely fulfill the fundamental trust obligations of the United States to American Indians and Alaska Natives as mentioned above, and permit tribal governments to handle federal funds provided for their benefit in a manner similar to how such funds are administered by the states and local governments, with the goals of self-governance and self-sufficiency for American Indians and Alaska Natives; and

NOW THEREFORE BE IT RESOLVED by the BIA/Tribal Budget Advisory Council that the President of the United States is urged to issue an Executive Order that will specifically require the Office of Management and the Budget (OMB) to: 1) consult with the tribal governments of American Indians and Alaska Natives on a government-to-government basis prior to submission of the budget for each fiscal year from the executive branch to Congress; and 2) ensure that the proposed budget submitted to Congress each fiscal year by the executive branch will, if all funds designated in such budget are appropriated by Congress, fulfill the fundamental trust obligations of the United States to its American Indians and Alaska Natives in all matters covered by the treaties and laws of the United States affecting American Indians and Alaska Natives,

including management of and accounting for the resources of American Indians and Alaska Natives held in trust for their benefit by the United States; and further, that will make all appropriations administered by the executive branch for the benefit of American Indians and Alaska Natives exempt from any executive branch program evaluation requirement imposed by OMB and not otherwise required by Congress, so that the tribal governments of American Indians and Alaska Natives are permitted to utilize funds appropriated on their behalf in a manner similar to that of states and local governments; and

NOW THEREFORE BE IT FURTHER RESOLVED by the BIA/Tribal Budget Advisory Council that the Congress of the United States is urged to enact appropriate legislation or a budget resolution that will require government-to-government consultation with tribal governments of American Indians and Alaska Natives in the formulation of the budget for each fiscal year in those areas affecting American Indians and Alaska Natives and that such budget as developed will fulfill the fundamental trust obligations of the United States to American Indians and Alaska Natives as stated above, and that such appropriations as are approved by Congress to fulfill the needs of American Indians and Alaska Natives be free of any program evaluation process applicable generally to federal programs, such as the Government Performance and Review Act or other program evaluation or performance review mechanisms imposed by OMB, so that the tribal governments of American Indians and Alaska Natives are permitted to utilize funds appropriated on their behalf in a manner similar to that of states and local governments; and

NOW THEREFORE BE IT FURTHER RESOLVED by the BIA/Tribal Budget Advisory Council that all tribal governments of American Indians and Alaska Natives in the United States are urged to pass resolutions similar to this one regarding changing the budget process of the United States to meet fully and responsibly the needs of American Indians and Alaska Natives.

CERTIFICATION

The foregoing resolution was adopted at a meeting of the BIA/Tribal Advisory Council at the BIA Information Technology Center at Herndon, Virginia, on April 13, 2004, with a quorum present.

Jim Gray, Co-Chair
BIA/Tribal Budget Advisory Committee

Tex G. Hall, Co-Chair
Tribal Budget Advisory Committee