ISDEAA

Contract Compact Funds

- Sec 106(a)(1)
  - Direct Program Funds

- Sec 106(a)(5)
  - ISDF (Start Up)

- P.L. 93-638 Contract or Compact

- Sec 106(a)(2)
  - Indirect CSC

- Sec 106(a)(3)(A)
  - Direct CSC
Contract Support Costs-Ongoing

Direct Contract Support Costs
DCSC pay for administrative activities that are not contained in either the IDC pool or direct program funds. They are more like direct program dollars than Indirect Dollars as they serve one program/cost objective.

Examples: Facilities, Unemployment, Workman’s Compensation

Indirect Contract Support Costs
Those costs incurred for a common or joint purpose benefiting more than one cost objective, not assignable to the cost objectives specifically benefited without effort disproportionate to the results achieved. Generally negotiated with the Interior Business Center.

Examples: Accounting, Purchasing, HR
Fair Compensation for Past CSC Shortfalls

- Ramah Class Action - 23 year old case w/ 2 past distributions
- June 19, 2012-Supreme Court upheld Full Funding for CSC
  - “Native Americans to get Millions after Big Victory in Supreme Court”
  - Additional Settlement Discussions of Ramah Class Action ongoing
- Sampling Tribal financial information to estimate settlement amounts
- Anticipate 1-2 years before distribution
BIA Contract Support Costs Workgroup

- Formed in 2003 as part of RAMAH settlement for DCSC Policy
- Convenes annually to provide technical advice to BIA/Tribes
- Revised entire Policy (not just DCSC)
- May 8, 2006-New policy adopted
  - Based upon IHS DCSC @ 15% Salaries in July 2007
  - 1st Annual CSC Shortfall Report to Congress for FY 2009 in FY 2010
# Contract Support Costs Policy

<table>
<thead>
<tr>
<th>POOL</th>
<th>TITLE</th>
<th>POLICY DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pool 1</td>
<td>ISD Fund</td>
<td>Composed of any funding associated with new and expanded awards—pre-awards, start-up, CSC in year one</td>
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<tr>
<td>Pool 2</td>
<td>CSC Base</td>
<td>Prior year CSC funding (base or stable funds). Composed of the total amounts awarded by the BIA in prior year for direct and indirect CSC</td>
</tr>
<tr>
<td>Pool 3</td>
<td>CSC Increase</td>
<td>Composed of amounts, if any, appropriated for increases from the prior year “CSC base.” Paid out to meet additional CSC needs in a bottoms up approach</td>
</tr>
</tbody>
</table>
Contract Support Costs Funding

Funding and Shortfall Report (SFR)

- **2007:** $143,628,000
- **2008:** $149,066,000
- **2009:** $147,294,000 (72.60%)
- **2010:** $166,000,000 (75.16%)
- **2011:** $219,200,000 (97.46%)
- **2012:** $219,200,000 (94.86%)
- **2013:** -5% sequestration
- **2014:** $241,900,000 (100%)
- **2015:** CR through Dec. 11
FY2014 & FY2015 CSC Appropriation Language

- **SHORT TERM**—Full Funding for 2 years
  - No CSC Line item: Agency to find the funds within its budget
  - Untenable position: Mandatory CSC requirement vs Discretionary Funding

- **LONG TERM**—Consultation to address solutions for the long run
  - Consider a standardized, streamlined approach keeping in mind that IDC rates change annually
Contract Support Costs
Workgroup

Long Term Recommendations

• Full CSC Funding - NO Program Cuts
• Mandatory indefinite appropriation
• No change in ISDEAA
• Simplify IDC Negotiation - Over ½ of Tribes do NOT have current rates
• Workgroup work with IBC & OMB to determine if:
  • IDC Rates can be deemed approved if no correspondence received from IBC after 90 days
  • Fixed multi-year rates are allowable
Recommendations, *continued*

- DCSC - change amount allowed from 15% to 18% of salaries
- Timely distribution of Funds
- Budget CSC with all program increases
- Training on policy and Short Fall Report (SFR)
- Overpayments - fair, predictable consistent resolution
  - Adequate notice with appeal rights
  - Options
    - Repay CSC in current year
    - Off-set in the following year
Recommendations, continued

**Interior Business Center/Program Support Center (IBC/PSC)**

1. Work through the aging list of Tribes negotiating current Indirect Direct Cost (IDC) Rates (60-70% of Tribes do not have current IDC Rates)

   **Recommendation:** IBC to identify problems with timeframe to approve agreements.
   a) Streamline process and reduce IBC administrative burden;
   b) If proposal not approved within 90 days, proposal deemed approved;
   c) Multi-year rates; and
   d) Assigning consistent examiners and the examiners process when negotiating.

2. Identification of Exclusions/Pass-thrus

   **Recommendation:** Correctly identify Exclusions and Pass-thrus in the Contract Support Cost (CSC) base definition (modify standard language to reflect what the Tribe has negotiated in the direct base).
Recommendations, continued

**Interior Business Center/Program Support Center (IBC/PSC) (continued)**

3. IBC representative attend the CSC Workgroup meetings
   **Recommendation**: Assistant Secretary Indian Affairs (ASIA) request IBC representative be a member of CSC Workgroup.

4. Develop a “clearinghouse” for disseminating IDC rates/proposals
   **Recommendation**: IBC to develop website with security controls.

5. Consistency between IBC-Indirect Cost Services (ICS) and PSC-Division of Cost Allocation (DCA)
   **Recommendation**: ICS and DCA to meet to share best practices.
Contract Support Costs
Workgroup

Recommendations, continued

Bureau of Indian Affairs (BIA)

1. Timely distribution of funds (contracted and CSC programs)
   
   **Recommendations:**
   
   a) Deadline should be established for all programs;
   b) Review of distribution/obligation process to reduce backlog;
   c) Tribes provide required documentation as soon as possible; and
   d) Disseminate information on any funding increases or decreases as soon as possible.

2. Increase percentage of Direct Contract Support Cost (DCSC) to salaries due to increase in fringe benefit costs
   
   **Recommendation:** Increase percentage to 18% of program salaries. Current percentage used to calculate DCSC is 15%.
Recommendations, continued

Bureau of Indian Affairs (BIA) (continued)

3. CSC Report

**Recommendation:**

a) Statement of what the individual is certifying; and  
b) Establish a data cutoff date (September 30).

4. Small and Needy Tribes without IDC rates

**Recommendation:** Provide CSC in the amount of $65,000 or their total contracted  
106 (a)(1) contracted amount, whichever is less.

5. Increased workload Lump Sum negotiations (due to Super Circular/raised audit 
threshold from $500,000 to $750,000)

**Recommendation:** Training of BIA and Tribal staff to include creation of  
templates, samples and training mentors.

6. Possibility of pilot rates (negotiated fixed reimbursement rate)

**Recommendation:** Have BIA research Indian Health Service (IHS) pilot project to  
determine if it might be a feasible option.
Contract Support Costs
Workgroup

Recommendations, continued

Office of Self-Governance (OSG)
1. OSG-CSC Calculation Form (BIA-CSC calculation Form)
   
   **Recommendation:** To develop submission form that captures all data elements necessary to complete the CSC calculation and seek OMB approval for future years.

2. Timely distribution of funds
   
   **Recommendation:**
   a) Deadline should be established for all programs;
   b) Review of distribution/obligation process to reduce backlog;
   c) Tribes provide required documentation as soon as possible;
   d) Disseminate information on any funding increases or decreases as soon as possible; and
   e) Hiring of a budget analyst.
Contract Support Costs Workgroup

Recommendations, continued

Office of Self-Governance (OSG) (continued)

3. Increase percentage of DCSC to salaries due to increase in fringe costs

   **Recommendation:** Increase percentage to 18% of program salaries. Current percentage used to calculate DCSC is 15%.

**NOTE:** BIA Recommendations:

1. OSG submit funding distribution list in a timely manner in accordance with the applicable CRs or distributions; and
2. Identify and track multiple IDC Rates per awardees at the OSG level.
Recommendations, *continued*

**Department of Interior/Indian Health Service (DOI/IHS)**

1. Indian Self-Determination and Education Assistance Act (ISDEAA)
   
   **Recommendation:** No changes to the Law.

2. CSC funding
   
   **Recommendation:**
   
   a) Work with Congress and OMB to develop legislation to make CSC funding a mandatory indefinite appropriation; and
   
   b) X-year CSC appropriation.

3. 100% CSC funding
   
   **Recommendation:** No program dollars should be used to fund CSC.
4. **New program dollars**

   **Recommendation**: When the President requests an increase in a given program, the President’s Budget should also identify the projected additional CSC requirement that is associated with that increase.

5. **Sequestration**

   **Recommendation**: Tribes and Federal Government to be restored the amount that was sequestered (both program contracted amounts and CSC).
Recommendations, continued

Department of Interior/Indian Health Service (DOI/IHS) (continued)

6. CSC distribution “Overpayment”

**Recommendation:** BIA/IHS should adopt a fair, predictable and consistent approach for dealing with CSC “overpayments.”

   a) Adequate notice to the Tribes of “overpayments” with appeal rights and identification of possible impacts;
   
   b) If Tribe does not repay in the current year, BIA will off-set in the following year in lieu of imposing a Bill for Collection from Treasury which risks all federal funding transactions to the Tribe or Awardee.
   
   c) Define “Overpayment” as a distribution of CSC based on the most current IDC rate and most current negotiated DCSC or lump sum negotiated amounts at September 30 each year.
      
      • The calculation of the “overpayment” is based on the most current available rate at September 30 - this date would be used for every Area/Region to include OSG, no exceptions.
Recommendations, continued

Department of Interior/Indian Health Service (DOI/IHS) (continued)

7. CSC Training

**Recommendation:**

a) DOI-Develop training model with CSC workgroup members and Awarding Officials on CSC policy, implementation on data required for the CSC report;

b) Currently BIA offers ISDEAA classroom training, webinars, and on-line training;

c) IHS-Develop CSC training; and

d) Attach trainings to National Meetings (example: TBIC, NCAI, SG Conference, Providers Conference, Partners in Action, etc.).
8. CSC Policy Consistency

**Recommendation:**

a) IHS honors IDC Rate up to 3-years old and BIA honors IDC Rate up to 4-years old.

b) BIA and IHS staff to jointly review policy and provide recommendations to CSC workgroups:
   
   • Please note, the DCSC should be excluded from this consistency analysis as the BIA CSC Workgroup will continue to analyze this, the CSC Policy of both Agencies should follow their respective missions.
Department of Interior/Indian Health Service (DOI/IHS) (continued)

c) Retain the three pool structure. The three pool structure is identified in the CSC Policy Handbook, the pool structure has worked for years where 100% CSC funding was not available:

- **Pool 1** is Indian Self-Determination Fund for Startup and Pre award Costs.
- **Pool 2** is IDC and DCSC.
- **Pool 3** is for Special Congressional Appropriations.

d) Provisions need to be established for non-current IDC rate adjustments (Contract Dispute Act claims and fixed-carry forward IDC rate adjustments).
Recommendations, continued

**Bureau of Indian Education (BIE)**

1. Administrative cost grant

   **Recommendation:** Consideration of full funding of the Administrative costs grant

2. Choctaw Decision Schools

   **Recommendation:**
   a) Consistency in applying the exclusions;
   b) Consistency in applying criteria for eligibility; and
   c) All Choctaw Decision Schools be included on the CSC report.
Indian Employment, Training and Related Services Demonstration Act of 1992, Education Assistance, Public Law 102-477

1. OSG-CSC Calculation Form (BIA-CSC calculation Form)

**Recommendation:** To develop submission form that captures all data elements necessary to complete the CSC calculation and seek OMB approval for future years.
Contract Support Costs: What’s Next?

- Recommendations approved
- Update CSC Policy
## Workgroup Members

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