

# Memo

Date: May 20, 2008

To: Tribal Budget Advisory Council (TBAC) Tribal Co-Chairs; Joe Garcia, Governor, Okay Owingeh and Ron His Horse Is Thunder, Chairman, Standing Rock Sioux

From: Rhonda Butcher, Citizen Potawatomi Nation, Tribal Co-Chair BIA Contract Support Cost (CSC) Workgroup

Re: BIA Contract Support Costs Workgroup Update

On April 16<sup>th</sup> and 17<sup>th</sup> the BIA CSC workgroup held a meeting to review BIA CSC Policy implementation. At that meeting, the CSC workgroup recommended that the TBAC receive an update so that you will have full information on this topic as you consider budget priorities for future years. Two issues of note stand out for your review and consideration. These issues are: 1) the need for new and recurring ISD funds on an annual basis and 2) significant increases are needed to fully fund the ongoing BIA CSC shortfall.

As you are aware, the BIA passed a Contract Support Cost Policy on May 8, 2006. While there are a few minor differences, the BIA Policy is a close approximation of the Policy that has been utilized by the Indian Health Service for a number of years. The good news is that the BIA is finally recognizing Direct Contract Support Costs (estimated at 15% of salaries). The bad news is that full implementation of the policy is yet to be accomplished as the first shortfall report is not complete. A brief summary of BIA CSC funding and how it is allocated follows:

Pool	Description	Current Method of Distribution
<b>1 ISDF or Indian Self Determination Fund</b>	This pool is used to fund start-up costs and CSC for new programs funded under a contract/compact. (Year 1)	ISD is given out at a pro-rata share of the total need for the year. Start-up is funded up to 100% and recurring IDC and DCSC are paid up to the national average as funds allow. ISD is not distributed until after July 2 <sup>nd</sup> each year.
<b>2 Prior Year CSC or Recurring CSC</b>	This pool contains the on-going CSC funding (direct contract support and indirect costs) for tribes. (Year 2 and beyond)	The funds are distributed at the same level as the prior year at no more than 100% of the current year's CSC needs. Partial payments from the previous year are annualized for purposes of this pool.
<b>3 CSC Increases or Shortfall Funding</b>	This pool contains the remaining portion of the appropriations above the two pools noted above. (Year 2 and beyond)	If CSC increases are received, these are distributed to those tribes who are the furthest from meeting their CSC needs (Bottom-Up Approach)

### **CSC Funding Issue #1: Need for recurring ISD Funds on an annual basis**

The Indian Self-Determination Fund (ISDF), also known as Contract Support Costs (CSC) Pool 1, is no-year (available until spent or one time) appropriations. Currently, the only funds available to pay start-up and CSC for new contracts are funds from prior year's appropriations. While these prior year funds from the ISDF can be used to pay the costs for new contracts, there are no funds available to transfer (or follow) the new contracts into Pool 2 in year two and beyond. This means that the tribe contracting the new program will incur the full CSC for that new program from either direct program dollars or from within their already existing Contract Support Fund (CSF) base.

In short, even though start-up funds are currently available for new contracts, recurring CSF for year two and beyond are not. It should be noted that these programs without "recurring" CSF could receive funds from Pool 3, if new money is available based on the bottom-up approach.

**Recommendation: Based upon historical needs, the CSC Workgroup recommends an appropriation of \$2 million "annually" for the ISDF. This would ensure an efficient transfer of CSF from Pool 1 into Pool 2 on an annual basis. Any unused ISDF would be rolled into Pool 3 and distributed "bottom-up" based upon the annual shortfall report.**

### **CSC Funding Issue #2: Significant increases are needed to fully fund the CSC Shortfall**

At our last meeting, the BIA CSC Workgroup reviewed the draft 2007 CSC Shortfall Report. Despite being required by statute, the Agency had not prepared a Shortfall Report since 1998. The report was riddled with errors and inconsistencies. The report must be corrected as soon as possible. By design, the format of the report is very similar to that prepared by the Indian Health Service each year. When completed, tribes as well as the TBAC will be provided with a copy of the shortfall report so that total BIA CSC requirements can be accurately identified. An accurate shortfall report is critical for fair distribution of CSC funds and as clear and precise notification to Congress on the significant underfunding of contract support costs.

**Recommendation: The BIA CSC Workgroup recommends fully funding Contract Support Costs. Based upon the draft 2007 Shortfall Report, we estimate the total CSC need, including both IDC and DCSC, to be \$59,198,000.**

In conclusion, in 1988 Congress recognized that the single greatest impediment to successful implementation of the Indian Self-Determination Policy was the consistent failure of the BIA and IHS to pay full fixed contract support costs associated with the administration of transferred programs. We believe that this is still the case in 2008. Thank you for your consideration of these recommendations.