

IHS/Tribal CSC Workgroup

CSC PILOT PROJECT EVALUATION REPORT **&** **Recommendations Of The IHS/Tribal CSC Workgroup** **May 14, 2001**

The IHS/Tribal CSC Workgroup formed a sub-workgroup for purposes of assembling data and conducting an analysis of that data as a part of the evaluation of the IHS Contract Support Cost (CSC) Pilot Project. This evaluation was directed by the Director of the IHS as a means of determining how or whether the CSC Pilot Project should be continued. The CSC Pilot Project Evaluation Sub-workgroup coordinated its efforts closely with the Tribal Self-Governance Technical Workgroup and relied heavily upon the survey information gathered by the Tribal Self-Governance Advisory Committee. Members participating on the IHS CSC Pilot Project Evaluation Sub-workgroup included:

Cyndi Holmes- Jamestown S'Klallam	Reuben Howard- Pascua Yaqui Tribe
Sybil Sangrey- Rocky Boy Tribal Health	Lloyd Miller- Sonosky Law Firm
Lindsay Naas- Gila River Health Care Corp.	Micky Percy- Choctaw Nation of Oklahoma
Rusty Tahsuda- IHS Phoenix Area Office	J. Mike Wood- IHS Portland Area Office
Ron Demaray- IHS/OTP	Jocelyn Beer- IHS/OGC
Tim Martin- USET	Dr. David Mather- ANTHCC
Gina Tyner-Dawson- IHS/OTSG	Susie Guardipee- IHS/OTSG
James Armbrust- IHS Alaska Area Office	Duff Pfanner- IHS Alaska Area Office

The Sub-workgroup began by reviewing the data and survey documents and adhered to the following charge from the full CSC Workgroup:

1. Review the process and outcomes to determine if the process should be continued, discontinued, or expanded.
2. Analyze data and surveys generated by OTSG and the Pilot Project Participants.
3. Develop recommendations to the full CSC Workgroup relative to changes to the IHS CSC Circular that would be beneficial to all tribes.

The Sub-Workgroup reviewed the CSC data generated by the OTSG and the OTP. They also reviewed the surveys provided by the Tribal Self Governance Technical Workgroup. The surveys generally indicated that the participating tribes thought that the Pilot Project was a good thing and they would like to continue it. The recurring theme or benefit realized by tribes participating in the Pilot Project was that they believed that the CSC Pilot Project enabled them to stabilize their situations and create efficiencies; that it allowed them to plan better, that it would allow Congress to better predict budgetary needs for CSC; and that there were time and cost savings in their annual negotiations with the IHS as a result of their participation in the Pilot Project. While the data showed that most participant's AFAs still reflected CSC shortfalls when compared to their computed CSC need, the tribes still reflected on the Pilot Project as beneficial

or successful. This had a strong influence on the recommendation to continue and expand the Pilot Project.

The Sub-Workgroup found much confusion as some tribes saw their CSC as a part of the “stable base budget” they entered into with the OTSG while others specifically excluded CSC from their “stable base budget”, instead referring to their participation in the CSC Pilot Project. The reason this issue was critical was because it was difficult to tell whether a tribe was agreeing to a fixed fee amount for their CSC for the duration of the Pilot Project or whether that amount was to be adjusted annually for inflation or other mandatory adjustments provided through appropriations.

It became obvious that there were significant differences between what was agreed to under one tribe’s AFA relative to what was agreed to under another tribe’s AFA. Some apparently negotiated more favorable terms than others. Perhaps as many as 9 of the 17 participants’ AFAs reflected the fact that the CSC methodology employed by them under the Pilot Project was basically the same as current IHS CSC policy. The Sub-workgroup came to the conclusion that it would be difficult continue a system for CSC wherein the IHS would treat one tribe significantly more favorably than another. This action might further fuel the criticism that the IHS’s CSC system is not being administered in an equitable manner. Another item of note is that several of the AFAs included the IHS CSC common language offered for consideration in FY 2000 and 2001. This language was not intended to be applicable to tribes participating in the CSC Pilot Project and the inclusion of this language exemplifies why guidance in the negotiation of CSC Pilot Projects is needed.

As a result of the analysis of the surveys, the CSC data, and the review of the AFA language, the Sub-workgroup developed recommendations both for the OTSG for their consideration in FY 2002 AFA negotiations, and for the Director of the IHS for his consideration in adopting some of the beneficial aspects of the CSC Pilot Projects in an interim CSC policy announcement for FY 2002 only. The recommendations were discussed by the full IHS/Tribal CSC Workgroup at a meeting in Seattle, Washington on March 29th. After some discussion, the full CSC Workgroup offered some modifications to the recommendations made by the Sub-workgroup. It was then the consensus of the full IHS/Tribal CSC Workgroup that the recommendations be forwarded to the IHS OTSG and the Director for consideration in FY 2002 negotiations. The following findings and recommendations are hereby presented to the OTSG and the Director for implementation in FY 2002.

Ronald B. Demaray, Chairman
IHS/Tribal CSC Workgroup

RECOMMENDED GUIDANCE FOR FY 2002 CSC PILOT PROJECTS

March 29, 2001

I. FINDINGS:

The Overall Tribal Benefits (from CSC base budget surveys):

- Stability for planning purposes was the overriding benefit
- Ability to create efficiencies;
- Allows the IHS and Congress to better predict budget needs;
- Time and costs savings during annual AFA/FA negotiations with the IHS

II. Recommendations for OTSG for FY 2002:

- Review CSC provisions and terms relative to end dates of CSC pilot projects versus tribe's desire to enter into a multiple year funding agreement. It is recommended that the current Pilot Projects either convert to the proposed interim CSC Alternative Stable Base CSC approach outlined below or conclude in FY 2002 in favor of any new Stable Base CSC approach adopted as a part of the IHS CSC policy in FY 2003.
- Consider AFA language in light of any impact created by Congressional actions, i.e. mandating a specific approach relative to CSC contrary to IHS Policy or the CSC Pilot Project.
- Clarification of treatment of CSC base budget. There are differences and CSC should be treated differently than the standard base budget amounts.
- ALN's should be informed that CSC common language does not necessarily apply to CSC base pilot projects

III. Recommendations for the Director, IHS for an interim FY 2002 CSC Pilot Program:

- The CSC Pilot Program should be opened up to all Tribes (Title I and Title V) for FY 2002 "as a transitional year" with certain guidelines:
 - Pre-requisite for expansion of CSC Pilot Program: Historical stability as evidenced by showing that the following conditions have been met:
 - (A) The tribe or tribal organization qualifies to carry out a mature contract under Title I or is operating a self-governance agreement under Title V of the Act., and
 - (B) The tribe's or tribal organization's indirect cost rate has not varied more than 10 percent of its value over the prior year's rate for the preceding 3 years (for tribes or tribal organizations that have no indirect rate, this criterion shall be satisfied if the actual payment of contract support costs to the tribe or tribal organization has not varied more than 10 percent over the prior year's amount for the preceding 3 years).

- Two options are offered for eligible tribes to choose from:
 - Option (1) Fixed-fee / Lump-sum amount; or
 - Option (2) Fixed rate

Guidelines for Option (1): - FIXED-FEE / LUMP-SUM AMOUNT

- Tribe must operate mature contract(s) or be a Self-Governance Compactor and have demonstrated stability in the management of CSC (see eligibility criteria above);
- All CSC is a negotiated fixed-fee/lump-sum amount; Tribe's DCSC and IDC need is adjusted annually based on national OMB non-medical inflation index. Funding of this increased need is subject to Congressional appropriation and provided on the same basis as all other tribes;
- Amounts are only decreased due to Congressional appropriations reductions or other appropriation action;
- Three (3) year terms. If a tribe wants to re-negotiate within the term, then the tribe would re-negotiate under the provisions of the then current IHS CSC policy and would then need to re-qualify for participation in the CSC Pilot Program;
- Tribes are held harmless to how lump sum amounts are expended within IHS programs (appropriations authority applies);
- To the extent the existing funding is not available to fully fund the negotiated CSC lump sum amount, then the tribe remains eligible for shortfall funds on the same basis as all other tribes;
- Amounts for new and expanded (ISD funded programs) would be added to the base amount when funded.

Guidelines for Option (2): - FIXED RATE

- Tribe must operate mature contract(s) or be a Self-Governance Compactor and have demonstrated stability in the management of CSC (see eligibility criteria above);
- Fixed rate to be negotiated with IHS (current OIG/DCA IDC rate or an average of the past three year's rates may be considered in establishing the Fixed Rate)
- DCSC is fixed. The tribe is eligible for mandatory increases on DCSC only on the same basis as all other tribes; no mandatories on IDC are computed due to the fact that this need is considered in the application of the rate to each fiscal year's direct cost base);
- Three (3) year terms. If a tribe wants to re-negotiate within the term, then the tribe would re-negotiate under the provisions of the then current IHS CSC policy and would then need to re-qualify for participation in the CSC Pilot Program;
- Tribes are held harmless to how lump sum amounts are expended within IHS programs (appropriations authority applies);
- To the extent that existing funding is not available to fully fund the CSC need resulting from the tribe's Fixed Rate, then the tribe remains eligible for shortfall funds on the same basis as all other tribes;

- Amounts for new and expanded (ISD funded programs) would be computed using the Fixed Rate and added to the base amount when funded.

IV. Future Considerations:

- The CSC Pilot Program should be made subject to full tribal consultation
- If supported (and as amended if necessary) the CSC Pilot Program, Options 1 and 2 should be incorporated into IHS CSC Policy.

APPROVED June 12, 2001 by
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