



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

June 14, 2013

The Honorable Lisa Murkowski
Ranking Member
Subcommittee on Interior,
Environment, and Related Agencies
Committee on Appropriations
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Senator Murkowski:

I am writing to transmit the "Indian Health Service Contract Support Costs" table consistent with the fiscal year (FY) 2014 President's Budget request for the Indian Health Service (IHS).

As enacted in 1975, the Indian Self-Determination and Education Assistance Act (ISDEAA), P.L. 93-638, gave Indian tribes the authority to contract with the federal government to operate programs serving their tribal members and other eligible persons and to receive not less than the amount of program funding that the Secretary would have otherwise provided for the direct operation of the program. The Act was amended in 1988 to identify Contract Support Costs (CSC) and provide that CSC be added to the program amount. CSC are defined as reasonable costs for activities that tribes and tribal organizations must carry out but that the Secretary either did not carry out in her direct operation of the program or provided from resources other than those under contract.

The demand for CSC funding has increased because of the new and expanded programs, services, functions, or activities assumed by tribes and tribal organizations under both Titles I and V of the ISDEAA. Tribes and tribal organizations use this funding to manage their ISDEAA agreements and the corresponding services in their communities.

In its June 18, 2012, ruling in *Salazar v. Ramah Navajo Chapter*, the United States Supreme Court held that "not to exceed" language in past appropriations was not sufficient to limit CSC. The Supreme Court identified legislative remedies, ranging from amending the authorizing statute, to changing payments for CSC, to enacting line-item appropriations for each contract, to appropriating full funding for CSC. To balance the priorities of all tribes with the available appropriations, and in accordance with the Supreme Court's decision, the Administration proposes new appropriations language for both IHS and the Bureau of Indian Affairs in FY 2014 to provide a "not to exceed" amount for CSC funding for each ISDEAA contract. The enclosed "Indian Health Service Contract Support Costs" table reflects the FY 2014 request for CSC and is required by the proposed new appropriations language included in the FY 2014 President's Budget. The table was prepared based on the FY 2014 budget request for new contracts and an

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estimate of contract support costs under each contract and compact, relying on information available to IHS as of April 30, 2013. As the Appropriations Committees move through the FY 2014 appropriations process, the Department can provide technical assistance on the IHS CSC table.

The Administration looks forward to working with tribes and Congress to develop a balanced, long-term solution. I appreciate the Committee's continued interest in and support of the activities of HHS.

Sincerely,

A handwritten signature in black ink that reads "Kathleen Sebelius". The signature is written in a cursive style with a large initial "K" and "S".

Kathleen Sebelius

Enclosure