



JAN 22 2015

Dear Tribal Leader:

I am writing to provide an Indian Health Service (IHS) update on Contract Support Costs (CSC). This letter includes updates on the following topics: 1) the status of resolving past year claims for unpaid CSC; 2) fiscal year (FY) 2014 CSC payment and reconciliation activity; 3) the FY 2014 and FY 2015 CSC appropriations; and 4) an update on recommendations for long-term solutions to CSC appropriations.

#### Status of Resolving Past Year Claims for Unpaid CSC

Over the past year, the IHS has made tremendous progress in its commitment to resolving past year claims for unpaid CSC. As of January 16, 2015, the IHS has extended settlement offers on 1,211 claims and settled 861 claims in the amount of \$679 million.

This is a significant accomplishment when compared to the three CSC claims that were settled between the date of the Supreme Court's decision in *Salazar v. Ramah Navajo Chapter* and November 2013. The IHS could not have accomplished this without Tribal partnership and support. IHS will continue to work with you to resolve remaining claims as soon as possible. If you have questions on the status of your claims, please contact your IHS Area Director or ask your attorney to contact the Office of the General Counsel.

#### FY 2014 CSC Payment and Reconciliation Activity

In FY 2014, to ensure the Agency met its goal to pay full CSC funding, we made initial payments soon after the appropriation was available, and we implemented a reconciliation process to more accurately fully fund the estimated CSC need by tracking fluctuations and updating CSC estimates in real time. This process allowed for the completion of CSC reconciliations in April, September, and December 2014. This process also required communication with Tribes to ensure that data needed to estimate CSC need was updated and as accurate as possible. This process was developed based on Tribal requests to create consistency and ensure a fair and equitable approach to CSC payments for all Tribes. Further reconciliation will occur as appropriate and as updated information becomes available.

For FY 2015, we will continue to use this payment and reconciliation process, but have moved to monthly data reconciliation. This improved business approach will enable us to closely monitor CSC funds and make any necessary payment adjustments as early as possible so that we can fully fund the estimated CSC need but avoid overpayments as much as possible. Questions regarding CSC need and funding should be referred to your respective IHS Area Director.

We are grateful to the IHS CSC Workgroup for their advice and recommendations over the past year that have been incorporated into our Agency improvements for both the estimation of CSC need in the pre-award, or negotiations, phase and for our annual payment and reconciliation process. We look forward to our upcoming meeting with the IHS CSC Workgroup on January 29-30 to continue our work on these issues.

### FY 2014 and FY 2015 CSC Appropriations

Due to the changes in the FY 2014 Consolidated Appropriations Act, which did not specify a limit on the total funds available for payment of CSC, it was necessary for the IHS to reprogram funds initially budgeted for other activities in order to fully fund the estimated CSC need in FY 2014. In addition to the \$10 million reduction to other items in the budget identified earlier in the year, the IHS reprogrammed additional funds from the Services appropriation in September 2014 to fully fund the estimated CSC need. As mentioned above, IHS is currently reconciling payment information from the end of FY 2014.

For FY 2015, the IHS received an increase of \$76 million for CSC, bringing the total budget for CSC to \$663 million. Congress indicated that the FY 2015 appropriation includes funds sufficient to restore budget line items that were reduced and reprogrammed for CSC in FY 2014 and cover the estimated need that prompted the reprogramming late in FY 2014. IHS is currently preparing for the FY 2015 payment and reconciliation process as mentioned above.

### Implementation of Long-Term Solutions – Submission of CSC Proposals/Requests

In an explanatory statement that accompanied the FY 2014 Consolidated Appropriations Act, Congress requested that the IHS and the Bureau of Indian Affairs (BIA) consult with Tribes to formulate long-term solutions for CSC appropriations. In response, the IHS and BIA held a series of joint consultation sessions and the IHS convened Area listening sessions for Tribal input.

It was clear from these consultation sessions that Tribes want full funding of CSC, but not at the expense of other services and program funding in the budget. Therefore, Tribes made several recommendations for both short- and long-term solutions to address the CSC appropriations issue identified by Congress. IHS and BIA have discussed these recommendations with the Administration. While we are not able to discuss whether any of the recommendations were included in the FY 2016 President's Budget until it is released on February 2, IHS did receive support for one recommendation that was not related to the FY 2016 President's Budget we believe can be implemented now.

As an interim solution that does not require any amendments to the ISDEAA, many Tribes proposed that the IHS work with Tribes to identify and implement target dates earlier in the year for Tribes to make requests for additional CSC associated with new or expanded programs, functions, services, or activities (PFSA), as well as any proposals to renegotiate direct and indirect-type CSC. Receiving proposals or requests earlier in the fiscal year would help with planning and potentially help reduce the risk of reprogramming services funding to fully fund CSC proposals received later in the year.

The current IHS CSC policy states that Tribes may submit a request for CSC associated with new or expanded assumptions of PFSAs as late as July 3 for Title I or August 17 of a fiscal year

for Title V. Additionally, the IHS CSC policy does not establish deadlines for renegotiation of direct or indirect-type CSC.

Requests for CSC associated with new or expanded PFSAs and requests to renegotiate direct and indirect-type CSC are significant variables that can impact the CSC budget and subsequently the entire IHS budget at any point throughout the year; however, there is no deadline for renegotiations of direct or indirect-type CSC and the dates identified in the IHS CSC policy for requests for CSC associated with new or expanded PFSAs are late in the year. The risk of reprogramming services funding to fully fund the estimated CSC need is increased if proposals and requests are received later in the fiscal year, as occurred in FY 2014.

At the recommendation of the CSC Workgroup and consistent with the recommendations received throughout the CSC consultation process, Tribes have recommended that the IHS work with Tribes to submit requests earlier in the fiscal year for CSC associated with new or expanded PFSAs, and establish earlier target dates to renegotiate direct or indirect-type CSC. This option will allow the IHS and Tribes to plan for new assumptions and more accurately anticipate CSC funding throughout the fiscal year. A request for Tribes to submit proposals earlier in the year would be a voluntary collaborative effort to avoid potential reprogramming later in the year; IHS is not proposing to amend the ISDEAA for this option.

Therefore, the IHS requests that proposals for FY 2015 CSC funding associated with new or expanded PFSAs, and renegotiations of direct and indirect-type CSC be submitted by March 31. If you have any questions, please contact your Area Director.

We welcome your comments, suggestions, and recommendations on any of the topics in this update. Please send your input to [consultation@ihs.gov](mailto:consultation@ihs.gov).

We appreciate your input and remain committed to work with Tribes on solutions to this very important issue. Thank you for your ongoing support and partnership, which has been critical in achieving progress on CSC-related issues.

Sincerely,

/Yvette Roubideaux/

Yvette Roubideaux, M.D., M.P.H.  
Acting Director