

Enclosure: Tribal Consultation and Urban Confer Comments Summary Indian Health Service Fiscal Year 2018 Increase

TRIBAL CONSULTATION AND URBAN CONFER COMMENTS SUMMARY INDIAN HEALTH SERVICE FISCAL YEAR 2018 INFLATION INCREASE

A summary of comments received in response to the Tribal Consultation and Urban Confer initiated on July 10, 2018, with a comment period that closed on July 27, 2018, regarding funding for fiscal year (FY) 2018 Indian Self-Determination and Education Assistance Act section 105(l) lease cost agreements follows below. The IHS received a total of 48 written comments.

Tribal Consultation Input: The IHS received 29 letters representing the views of 22 Tribes, 8 Tribal Organizations (representing more than 300 Tribes and Tribal Organizations), and 2 IHS Tribal Advisory Committees (representing Direct Service and Self-Governance Tribes).

Urban Confer Input: The IHS received 19 Letters from 19 Urban Indian Organizations.

In summary, the various commenters:

- Oppose use of unallocated inflation increases, which were appropriated expressly for keeping pace with inflation and would therefore negatively impact purchasing power.
- Assert that use of unallocated inflation increases for other purposes (i.e., 105(l) lease costs) is a breach of contract for failing to timely transmit full Tribal shares, which include inflationary adjustments.
- Prefer use of unallocated FY 2018 inflation increases as long as “full eligible and actual costs are paid to Tribes.”
- Do not support reprogramming unallocated inflation increases for the Urban Indian Health budget line, since Urban programs are not eligible for entering 105(l) leases and Urban programs are already underfunded. Inflation for Urban programs should be distributed expeditiously and more timely in the future.
- Suggest using Management Initiatives funds, Office of Tribal Self-Governance “Shortfall Funds,” and unobligated balances to help address the funding need and reduce impact to Tribes.
- Indicate that reprogramming is “divisive, creating ‘winners’ and ‘losers,’ ” as occurred with reprogramming for Contract Support Costs (CSC) in FY 2014.
- Emphasize that taking funds off the top will “negatively impact the agency’s ability to meet its trust and legal obligations and ultimately affect patient care.”
- Recommend seeking a supplemental appropriation for FY 2018.
- Indicate that IHS should get a better handle on 105(l) lease costs through better tracking, projecting, and communication of funding needs to Congress.
- Advocate for a separate budget line or a separate indefinite appropriation to ensure full funding for 105(l) leases, similar to CSC.
- Request that IHS cease proposing appropriations language that “overturns” the *Maniilaq* decision and makes entering lease agreements discretionary.

- Request IHS to provide more information about projected funding needs, attempts to seek additional funding, and alternatives considered as part of consultation/confer—more time would provide better dialogue.