

# Contract Support Costs (CSC) Update

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AUGUST 20, 2024



# Contract Support Costs (CSC) Topics

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- Summary of Supreme Court of the United States (SCOTUS) Decision
- COVID19 CSC Activity
- Fiscal Year 2019 CSC Closeout Activity



# Summary of Decision

***Becerra v. San Carlos Apache Tribe, 144 S.Ct. 1428 (2024)***

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- holding that the Indian Health Service (IHS) must pay eligible CSC incurred by Tribes and Tribal organizations that expend program income, or third-party reimbursements, under their Indian Self-Determination and Education Assistance Act (ISDEAA) contracts and compacts.



# Indian Health Service Response

## ■ – Dear Tribal Leader Letter – June 13



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service  
Indian Health Service  
Rockville MD 20857

June 13, 2024

Dear Tribal Leader:

I am writing to share with you the Agency's initial approach to Contract Support Costs (CSC) for expenditures of third-party reimbursements. On June 6, 2024, the United States Supreme Court decided *Becerra v. San Carlos Apache Tribe* and *Becerra v. Northern Arapaho Tribe*, holding that the Indian Health Service (IHS) must pay eligible CSC incurred by Tribes and Tribal organizations that expend program income, or third-party reimbursements, under their Indian Self-Determination and Education Assistance Act (ISDEAA) contracts and compacts.

The IHS is preparing to implement the decision and pay CSC on eligible expenditures of third-party reimbursements. My staff has been actively working on a plan of action, and we are prepared to review claims, if needed, for CSC related to expenditures of third-party reimbursements. However, we hope to complete Tribal Consultation first.

To that end, we will convene the CSC Advisory Group in July 2024 to have some initial dialogue with you on methodology. Once the recommended methodology is established, our plan is to engage in full Tribal Consultation by August 2024 to collect your feedback and recommendations to ensure that we are able to modify our current processes to implement the decision. With this unprecedented decision and the anticipated changes to the CSC methodology, we are seeking as much input from you as possible to ensure we are taking all viewpoints into consideration.

We are asking for Tribes' patience as we work to implement this decision. If you would like your request considered prior to completing Tribal Consultation and finalizing a plan, please see the enclosure, "The IHS Interim Guidance for CSC on Expenditures of Third-Party Reimbursements." This will serve as an initial guidance document to illustrate the interim methodology we will immediately employ to process claims for CSC related to expenditures of third-party reimbursements, if necessary.

In recognition of the potential budgetary impact of the Court's decision, we urge Congress to act on the fiscal year (FY) 2025 President's Budget proposal to shift the IHS budget from discretionary to mandatory funding starting in FY 2026 to protect the overall appropriation for the IHS and create more adequate and stable funding into the future.

I hope this letter serves to clarify the Agency's approach for the next few months as we work to consult with the Tribes to update our official CSC policy. The IHS supports Tribal Self-Governance and Self-Determination and seeks every opportunity to fund CSC and fully implement the ISDEAA. In doing this, the IHS must ensure that we implement the ISDEAA accurately and are good stewards of Federal resources and funds.



# Contract Support Costs Advisory Group (CSCAG) Meetings

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- Virtually June 26, 2024 CSCAG Meeting
- In-person July 24-25, 2024 in Washington DC
- Virtually August 12, 2024 CSCAG Meeting



# Timeline

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- Tribal Consultation
  - Dear Tribal Leader Letter (DTLL) – June 13, 2024
  - Meetings with CSCAG
  - Initiate Official Consultation with Tribes (30-day Notification, 30-day comment, 30-day review)
  - Continue to work to finalize methodology through Dec 2024
  - Targeting final policy updates after that in Spring 2025



# COVID 19 CSC Updates

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- 2020, 2021, 2022, 2023 Coronavirus (COVID19) Funding
- Dear Tribal Leader Letters (DTTL)
- Negotiation Template



# COVID19 Funding

	A	B	C	D	E	F	G	H
1								
2		[TRIBE NAME HERE]						
3								
4		<b>BFY</b>	<b>Budget Activity Program</b>	<b>Description</b>	<b>Total</b>	<b>Notes</b>		
5		2020	C25041CVIT	FFCRA- CoVID19 Testing	70,199.00	Amendment No. 3	May be eligible for CSC-subject to review	
6			C35241ARET	CARES- CoVID19 IHS and Tribal Operated Programs	467,212.00	Amendment No. 4 and Amendment No. 6	May be eligible for CSC-subject to review	
7			C353410376	CARES- Maintenance and Improvement	177,077.00	Amendment No. 7	May be eligible for CSC-subject to review	
8			C353411271	CARES- Medical Equipment	296,766.00	Amendment No. 7	May be eligible for CSC-subject to review	
9			C35441PRCT	CARES-CoVID19 Purchased and Referred Care (PRC)	408,244.00	Amendment No. 4	May be eligible for CSC-subject to review	
10			C45241000F	Paycheck Protection Program and Health Care Enhancement Act	754,296.00	Not Eligible for CSC	Not Eligible for CSC	
11		2020 Total			\$ 2,173,794.00			
12								
13		2021	C30441TELT	CARES- CoVID19 Telehealth	71,049.00	Amendment No. 8	DTLL Dated 3/26/21	
14			C35241ARET	CARES- CoVID19 IHS and Tribal Operated Programs	16,098.00	Amendment No. 16	May be eligible for CSC-subject to review	
15			C55241TRAT	CRRSA- COVID19 Test Related Activities--IHS and Tribal Programs	744,938.00	Amendment No. 3	May be eligible for CSC-subject to review	
16			C58941VRAT	CRRSA- COVID19 Vaccine Related Activities--IHS and Tribal Programs	249,273.00	Amendment No. 2	DTLL Dated 2/2/21	
17			C65241ARPT	ARPA-TESTING, CONTACT TRACING, MONITORING AND MITIGATION	1,402,816.00	Amendment No. 5 and Amendment No. 9	DTLL Dated 6/22/21	
18			C653410376	ARPA-Maintenance & Improvement, Leasing, Construction, Purchasing	1,142,939.00	Amendment No. 10	May be eligible for CSC-Subject to review	
19			C653411271	ARPA-Equipment	99,062.00	Amendment No. 10	May be eligible for CSC-Subject to review	
20			C6B941VDMT	ARPA-VACCINE PLANNING DISTRIBUTION, MONITORING AND TRACKING	664,368.00	Amendment No. 5	DTLL Dated 6/22/21	
21			C6F6411LRT	ARPA-LOST REIMBURSEMENT	2,157,078.00	Not Eligible for CSC	Not Eligible for CSC	
22			C6F941PHWT	ARPA-PUBLIC HEALTH WORKFORCE	221,195.00	Amendment No. 9	DTLL Dated 6/22/21	
23			C6G041TTET	ARPA-INFORMATION TECHNOLOGY AND TELEHEALTH	65,707.00	Amendment No. 5	DTLL Dated 4/16/21	
24			C6F741HCST	ARPA-HEALTH CARE SERVICES/PRC	633,517.00	Amendment No. 5	DTLL Dated 6/22/21	
25			C6F841MBHT	ARPA-MENTAL AND BEHAVIORAL HEALTH PREVENTION AND TREATMENT	187,125.00	Amendment No. 5	DTLL Dated 6/22/21	
26		2021 Total			\$ 7,655,165.00			
27								
28								
29		2022 Total		CRRSA- COVID19 Test Related Activities--IHS and Tribal Programs	38,383.00	Amendment No. 10	May be eligible for CSC-subject to review	
30								
31								
32								
33								



# COVID19 Funding

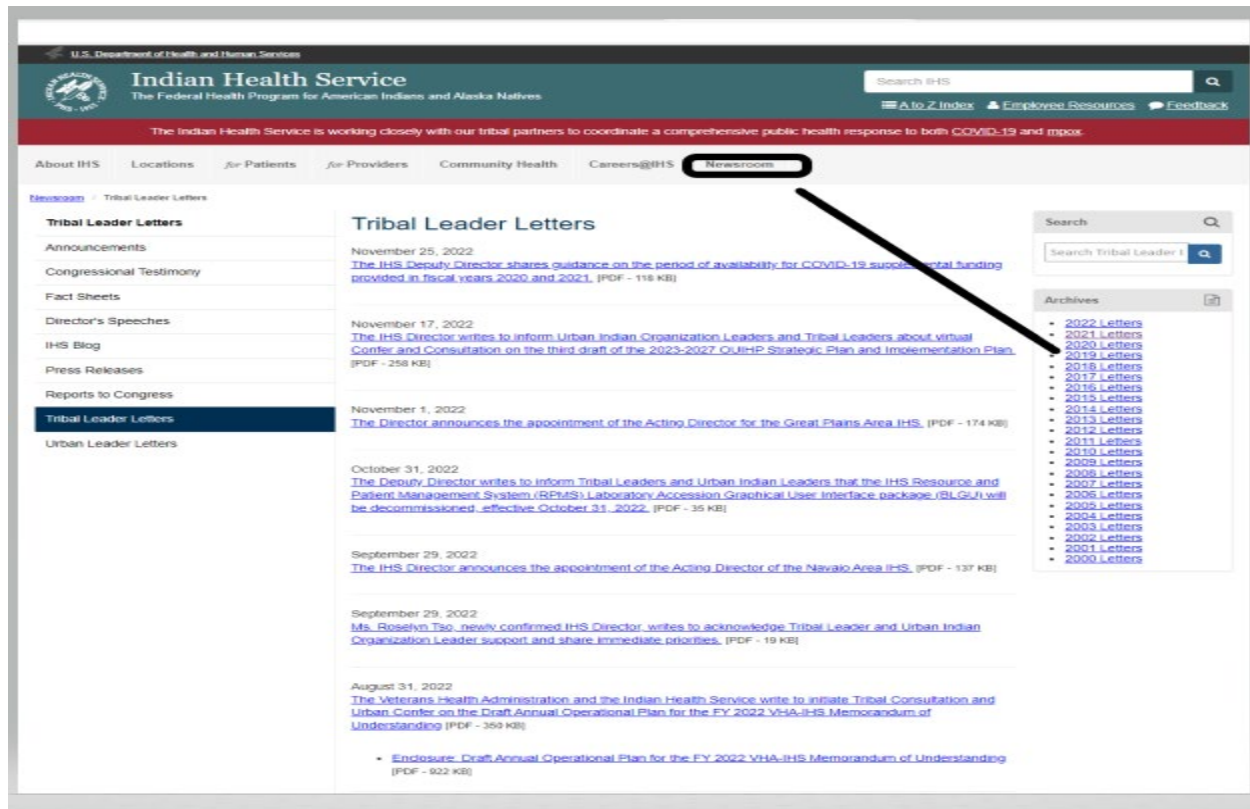
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- IHS will include American Rescue Plan Act (ARPA) lost reimbursement funds in its CSC calculations going forward for both T/TO's that have been paid CSC on COVID-19 funds and for T/TO's that have not yet received CSC on COVID-19 funds.



# COVID19 DTTL's

- <https://www.ihs.gov/newsroom/triballeaderletters/>





# Fiscal Year 2019 CSC Closeouts

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- Tribes/Tribal Organizations that use IDC rates to negotiate CSC
- Tribes/Tribal Organizations that use IDC Type Amount to negotiate CSC
- Tribes/Tribal Organizations that use the 10% deminimis rate CSC



# Staff Contacts

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