



MAY 12 2014

Dear Tribal Leader:

I am writing to provide an update on Contract Support Costs (CSC). This letter includes updates on the following topics: 1) the Indian Health Service's (IHS) progress on resolving past CSC claims; 2) consultation activities on a long-term solution for CSC as requested by Congress; 3) CSC appropriations and payments in fiscal year (FY) 2014; and 4) CSC in the FY 2015 President's Budget Request.

I am pleased to share progress made toward resolving past CSC claims in compliance with the *Salazar v. Ramah Navajo Chapter* Supreme Court decision. IHS has heard the request from Tribes and Congress to accelerate the resolution of past CSC claims. IHS is working to resolve the claims expeditiously, with a goal to settle where possible. We believe that having the Agency and Tribes working together collaboratively to resolve the claims will have the most benefit for our ongoing relationship. Our improved internal business practices, which are based on a foundation of fair and consistent processes, focus on settlement of CSC claims whenever possible.

We have made significant progress on settling past CSC claims. In November 2013, we only had three claims settled, 60 claims with settlement offers from IHS on the table, and 82 claims analyzed. Based on our data from May 2, 2014, we now have 729 claims that have analyses either completed or in progress, settlement offers made on approximately 300 claims, and 181 claims with settlement agreements finalized or in the process of being finalized, for a total settlement value of \$289 million.

One major reason for the accelerated progress is a recent increase in resources and staff involved in the claims settlement process. IHS has also recently adopted a more efficient approach to the settlement process that is helping us make further progress. Our goal is to extend settlement offers to as many Tribes as possible by the end of calendar year 2014.

Therefore, the next steps for IHS is to make settlement offers on pending claims as soon as possible, to continue our more efficient settlement approach, to continue to accelerate the pace of settlement offers, and to address claims both before the Agency and courts. As part of our more efficient approach, we are coordinating activities at the IHS Area level by holding meetings in each IHS Area to address claims for several Tribes over the course of a week. This worked well for us recently in Alaska, and we plan to extend this approach to other IHS Areas soon. So the good news is that we have made significant progress, have now adopted a more efficient approach, and are committed to putting these claims in the past as soon as possible.

With regard to CSC appropriations and payments in FY 2014, the FY 2014 Consolidated Appropriations Act included funding to implement the Indian Self-Determination and Education

Assistance Act of 1975 for both the Bureau of Indian Affairs (BIA) and IHS. The Act provided a \$304 million increase to IHS, and Congress indicated that IHS should fund the following priorities in the IHS services account: a \$77 million increase in Purchased/Referred Care (PRC) (formerly known as Contract Health Services); an amount for staffing and operating costs for facilities scheduled to open this year; and full funding for CSC. The Act did not specify a limit on the total amount of funds available for the payment of CSC, nor did it include a cap on the CSC amounts available for each Tribal compact or contract. IHS submitted an operating plan to Congress as required by the Act that fully funded CSC and the other two priorities, which required a \$10 million reduction in other items in the budget. Based on consultation with Tribes during the development of the operating plan, IHS chose reductions that were not tied to Tribal shares. The reductions were taken in the Director's Emergency Fund, Indian Health Professions, Tribal Self-Governance and Tribal Management Grants. IHS plans to review its budget later in the year to see if funds are available to minimize the impact of these reductions.

The FY 2014 Consolidated Appropriations Act further directed BIA and IHS to consult with Tribes and work with the House and Senate Committees of jurisdiction, the Office of Management and Budget, and the Committees on Appropriations to formulate long-term accounting and budget strategies to produce solutions on determining CSC amounts going forward. A workplan for how to consult with Tribes on a long-term solution is due to Congress for both BIA and IHS by May 17. IHS and BIA held a consultation session on this topic at the National Congress of American Indians Executive Council Winter Session in March and at the Annual Tribal Self-Governance Consultation Conference in May. IHS is also discussing our plans to discuss this issue with the IHS CSC Workgroup, Tribal Self-Governance Advisory Committee, Direct Service Tribes Advisory Committee, and the IHS Budget Formulation Workgroup. We will provide notice of additional consultation opportunities in the next few months.

With regard to payment of FY 2014 CSC funding, IHS heard during several recent Tribal consultation sessions that Tribes wanted IHS to make full payment of the estimated CSC amounts a priority. The IHS CSC Workgroup emphasized the need to make payments as expeditiously as possible and provided recommendations for IHS to update CSC data in a consistent manner in order to accomplish the payments by April 30. The CSC Workgroup recommended that Tribal CSC data be updated as follows: apply where necessary the projected FY 2014 non-medical inflation rate to negotiated direct CSC amounts, update the pass through and exclusion amounts, update indirect cost rates, and incorporate recurring program increases into the base funding. IHS concurred with the recommendations of the CSC Workgroup, and I am pleased to report that the FY 2014 CSC payments have been made and most Tribes should have received their full estimated CSC for FY 2014. IHS will continue to work with Tribes on additional adjustments between now and the end of the FY as new information becomes available. We encourage Tribes to contact their IHS Area Director if they have questions or concerns.

There is also good news on CSC in the FY 2015 President's Budget Request of \$4.6 billion, which includes an increase of \$200 million, or 4.5 percent, over the FY 2014 enacted funding level. The request includes the following priority increases: 1) \$63 million for medical inflation; 2) \$70.8 million to staff and operate four newly constructed health facilities; 3) \$15.4 million for a program increase for the PRC program, which results in a total increase of \$50.5 million for PRC when added to the \$32.5 million for medical inflation for PRC and a program increase of \$2.6 million for new Tribes; 4) \$2.5 million for pay increases for federal and Tribal health program staff; 5) \$8 million to provide services for five new Tribes; 6) \$10 million to restore funding reductions made in FY 2014 to fund priority increases; and 7) \$29.8 million to fully fund CSC, primarily for the estimated need associated with new and expanded contracts in FY 2015. The budget proposal also includes \$85 million for the construction of three health care facilities and one youth regional treatment center.

The Administration's decision to fully fund the estimated amount of CSC in FY 2014 in its operating plan, the Administration's decision to include full funding for CSC in the FY 2015 President's Budget, and our recent progress on settlement of past CSC claims represents our commitment to self-determination and self-governance and is certainly good news for Indian Country and IHS. I want to express my appreciation for all the input received from Tribes and IHS' advisory committees and workgroups over the past few months, which has helped us make significant progress on CSC appropriations and payments as described in this letter. I will continue to provide updates as we make additional progress. You are welcome to provide comments and input at [consultation@ihs.gov](mailto:consultation@ihs.gov) or by writing to me at IHS Headquarters, 801 Thompson Ave, Suite 440, Rockville, MD 20852. Thank you for helping us change and improve IHS.

Sincerely,

/Yvette Roubideaux/

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