

TRIBAL CONSULTATION AND URBAN CONFER COMMENTS SUMMARY
INDIAN HEALTH SERVICE FUNDING FOR FISCAL YEAR 2019 § 105(I) LEASE
COST AGREEMENTS

A summary of comments received in response to the Tribal Consultation and Urban Confer initiated on March 12, 2019, with a comment period that closed on April 26, 2019, regarding funding for fiscal year (FY) 2019 Indian Self-Determination and Education Assistance Act section 105(I) lease cost agreements, follows below.

The IHS received a total of 18 written comments.

Tribal Consultation Input: The IHS received 17 letters representing the views of 9 Tribes, 6 Tribal Organizations (representing more than 300 Tribes and Tribal Organizations), and 2 IHS Tribal Advisory Committees.

Urban Confer Input: The IHS received one letter from a national representative of Urban Indian Organizations.

Summary of Comments on Short-Term Solutions

- Commenters recommend that the IHS request additional funds from Congress (i.e., a supplemental appropriation), with such sums as may be necessary for obligation through the end of the fiscal year.
- Commenters note that as a practical matter the supplemental appropriation request is unlikely to be granted and the IHS needs a solution that does not depend on congressional action.
- Commenters indicate disapproval of reprogramming funds identified for inflation, as was done in FY 2018. Reprogramming these funds is unpopular, potentially divisive, and is not in keeping with the statutory requirement to protect tribal shares and is unfair and inappropriate.
- Commenters share a concern that reprogramming erodes base budgets.
- Commenters recommend that the IHS hold Urban Indian Organizations harmless from reprogramming since they are not eligible for 105(I) leases, are already chronically underfunded, and depend on every Federal dollar available.
- Commenters recommend that the IHS consider all possible funding options, including any unspent or program balances on a one-time basis.
- If necessary to reprogram, commenters recommend that the IHS target Headquarters administrative funds rather than Tribal shares and consider a course of action similar to the approach taken in FY 2014 when funds were reprogrammed for Contract Support Costs. These commenters also request that the IHS primarily use Headquarters funds with some Area funds, but minimize the impacts on direct service tribes and tribal providers.
- Commenters recommend that the IHS tap into discretionary funds to make up the shortfall, such as the Director's Emergency Reserve, the Director's Management Initiative Fund, the OTSG Shortfall Fund, tribal management grants, and prior-year unobligated balances that may be reprogrammed.

- Commenters recommend that the IHS consider undisbursed increases meant for inflation as it did in FY 2018, but only as a last resort, noting this burdens health programs across the board.
- Commenters strongly oppose any reprogramming solution that cuts into direct service funding.

Summary of Comments on Projecting Costs

- Commenters recommend convening a workgroup, or using an existing one to develop a policy to assist the agency to estimate its ongoing 105(*l*) funding needs.
- Commenters recommend compiling a centralized list of all eligible tribally owned or leased spaced to inform cost projections and predictions.
- Commenters recommend that the IHS ask Area Offices to reach out to Tribes to inquire if any Tribes plan to propose new leases in the coming year and provide anticipated costs.

Summary of Comments on Longer-Term Solutions

- Commenters recommend that the IHS pursue with Congress a separate and indefinite appropriation for 105(*l*) lease payments similar to the appropriation for contract support cost (CSC) payments for ISDEAA agreements. This would address the unpredictability of 105(*l*) funding needs and protect Services funds so they could not be redirected through reprogramming.
- Commenters recommend a separate, indefinite appropriation in alignment with the Tribal Budget Recommendation to ensure that the IHS is taking adequate steps to fully anticipate and estimate its 105(*l*) leasing obligations while protecting other IHS programs for FY 2021 and work proactively with Congress to ensure its full payment as an indefinite appropriation.
- Commenters request funding for 105(*l*) lease costs separately from funding for village built clinics (VBCs), which have their own unique history and challenges. These commenters also request a separate appropriation line for 105(*l*) so that those funds are no longer commingled with funds intended to cover VBC needs.
- Commenters recommend that the IHS fully fund VBCs separately or develop legislation to treat VBC leases like 105(*l*) leases.
- Commenters recommend that the IHS provide Congress with the full projected cost of 105(*l*) leases and VBC funding.
- Commenters adamantly oppose any actions that would involve amending the ISDEAA to remove or limit section 105(*l*).
- Commenters request discontinuance of appropriations language proposals seeking to reduce or prohibit the statutory entitlement to fully-fund 105(*l*) leases.
- Commenters recommend that the IHS continue working with Tribes and Congress on a permanent solution for fully funding leases without harming health programs funded through IHS's Services appropriation account.
- Commenters recommend that IHS could reduce year one and mid-year funding impacts by funding leases from the proposal receipt date instead of retroactive to the beginning of the fiscal year in which they are proposed.

**Indian Health Service
FY 2019 Services Appropriation Reprogramming and ISDEAA § 105(I) Lease Costs**

| Services Budget Lines | FY 2019 Reprogramming Decisions <i>(dollars in millions)</i> | | |
|-------------------------------------|---|--|------------------------------|
| | Amount from Undistributed Funding for Inflation | Amount from Delays in Staffing of Newly Constructed Facilities | Total Amount Reprogrammed |
| Hospitals & Health Clinics | 15.000 | 31.252 | 46.252 |
| Dental Health | 2.000 | 4.023 | 6.023 |
| Mental Health | 1.000 | 2.776 | 3.776 |
| Alcohol & Substance Abuse | 3.600 | 6.845 | 10.445 |
| Purchased/Referred Care | 0.000 | 0.000 | 0.000 |
| Indian Health Care Improvement Fund | 0.000 | 0.000 | 0.000 |
| Total, Clinical Services | 21.600 | 44.896 | 66.496 |
| Public Health Nursing | 1.000 | 1.580 | 2.580 |
| Health Education | 0.549 | 0.261 | 0.810 |
| Community Health Representatives | 1.000 | 0.000 | 1.000 |
| Alaska Immunization | 0.069 | 0.000 | 0.069 |
| Total, Preventive Health | 2.618 | 1.841 | 4.459 |
| Urban Indian Health | 0.782 | 0.000 | 0.782 |
| Indian Health Professions | 0.000 | 0.000 | 0.000 |
| Tribal Management Grants | 0.000 | 0.000 | 0.000 |
| Direct Operations | 0.000 | 0.000 | 0.000 |
| Self-Governance | 0.000 | 0.000 | 0.000 |
| Total, Other Services | 0.782 | 0.000 | 0.782 |
| Total, SERVICES | \$25.000 | \$46.737 | \$71.737 |

