

DEPARTMENT OF HEALTH AND HUMAN SERVICES

STATEMENT

OF

MICHEL E. LINCOLN, DEPUTY DIRECTOR
OFFICE OF THE DIRECTOR
INDIAN HEALTH SERVICE

BEFORE THE

HOUSE COMMITTEE ON RESOURCES

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STATEMENT OF THE INDIAN HEALTH SERVICE
OVERSIGHT HEARING ON CONTRACT SUPPORT COSTS

February 24, 1999

Good morning. I am Michel Lincoln, Deputy Director of the Indian Health Service (IHS).

Today, I am accompanied by Mr. Douglas Black, Director, Office of Tribal Programs; and Ms. Paula Williams, Director, Office of Tribal Self Governance. We welcome the opportunity to testify on the issue of contract support costs in the Indian Health Service. Contract support cost funding is critical to the provision of quality health care by Indian tribal governments and other tribal organizations contracting and compacting under the Indian Self-Determination and Education Assistance Act ((ISDEA), Public Law (P.L.) 93-638).

The IHS has been contracting with Tribes and Tribal Organizations under the Act since its enactment in 1975. We believe the IHS has implemented the Act in a manner consistent with Congressional intent when it passed this cornerstone authority that re-affirms and upholds the government-to-government relationship between Indian tribes and the United States.

At present, the share of the IHS budget allocated to tribally operated programs is in excess of 40%. Over \$1 billion annually is now being transferred through self determination agreements to tribes and tribal organizations. Contract support cost funding represents less than 20% of this amount. The assumption of programs by tribes has been accompanied by significant downsizing at the IHS headquarters and Area Offices and the transfer of these resources to tribes.

Contract support costs are defined under the Act as an amount for the reasonable costs for those activities that must be conducted by a tribal contractor to ensure compliance with the terms of the

contract and prudent management. They include costs that either the Secretary never incurred in her direct operation of the program or are normally provided by the Secretary in support of the program from resources other than those under contract. It is important to understand that, by definition, funding for contract support costs is not already included in the program amounts contracted by tribes. The Act directs that funding for contract support costs be **added to** the contracted program to provide for administrative and related functions necessary to support the operation of the health program under contract.

The requirement for contract support costs has grown significantly since 1995 due to the increasing assumption of IHS programs. In the fiscal years 1996 and 1997 appropriations committee reports, the IHS was directed to report on Contract Support Cost Funding in Indian Self Determination Contracts and Compacts. In the development of this report, IHS consulted with tribal governments, the Bureau of Indian Affairs (BIA) and the Office of Inspector General within the Department of the Interior. The report detailed the accelerated assumption of IHS programs by tribes beginning in 1995 as a result of the 1994 amendments to the ISDEA and authorization of the Self-Governance Demonstration Project for the IHS. The report showed that despite the significant growth in self-determination contracting and compacting, contract support cost appropriations have remained relatively flat. This has resulted in under-funding of contract support costs. The report also highlights that the rates for tribal indirect costs, which are the major component of contract support costs, have averaged around 23% of direct program costs over this same period of time.

In addition, pursuant to the statutory requirements of the ISDEA, the IHS gathers contract support cost data annually as a part of its annual "Contract Support Cost Shortfall Report to Congress." This report details, among other things, the total contract support cost requirement of tribes contracting and compacting under the ISDEA and how these funds are allocated among the tribes.

As a result of the increase in contract support cost appropriations in FY 1999, the IHS will be able to fund, on average, approximately 80% of the total contract support cost need associated with IHS contracts and compacts. No tribe will be funded at less than 70% of their overall contract support cost need. Although the IHS projects future need for contract support costs on an annual basis, there are many variables associated with these projections that are outside the control of the IHS. These variables include: the fact that self-determination is voluntary and solely at the initiative of tribes and that indirect cost rates can fluctuate. The contract support costs shortfall at the beginning of fiscal year 1999 was approximately \$52 million.

The IHS adopted a contract support cost policy in 1992 in an attempt to address many of the issues surrounding the determination of tribal contract support cost needs authorized under the Act and the allocation of contract support cost appropriations from the Congress. This policy was subsequently revised in response to the 1994 amendments to the Indian Self-Determination Act. In response to concerns expressed by the Congress, the IHS is currently working on a third version of the policy. We will work with Congress, the tribes, and BIA to develop contract support costs solutions that are more in line with the budget cycle, in order to better predict

future CSC needs. In concert with Departmental and IHS tribal consultation policies, the IHS is working closely with tribal representatives in the development of this revised policy.

Before any agency policy on contract support costs is adopted, tribal leadership is consulted and the significant procedures under consideration are discussed in great detail. While we do not always arrive at the same conclusion as tribal leadership, the process is mutually beneficial and has always resulted in a more harmonious relationship. We first engaged tribes with the need to modify the IHS contract support cost policy last fall.

Since then, we have met with tribal technicians and administrators on three occasions. We are continuing the process and will be meeting again in early March. We anticipate having a final draft of the policy available for tribal leaders to review and comment on in late spring. The policy should be finalized by mid-summer for implementation in advance of FY 2000.

In addition to the specific IHS contract support cost policy work, the IHS and the Bureau of Indian Affairs have also collaborated with the National Congress of American Indians (NCAI) on the contract support cost study they have undertaken. It is my understanding that the NCAI will forward an interim report on contract support costs to the Congress in the near future. In addition to the NCAI study, the IHS is presently providing data and information to the General Accounting Office (GAO) to assist that organization in its ongoing review of contract support costs. As you know, the Congress has directed the GAO to undertake a comprehensive study of contract support costs in the IHS and BIA. We look forward to the results and findings of that study, which will be delivered to the Congress in June.

Thank you for this opportunity to discuss contract support costs in the IHS. We look forward to working with the Congress in addressing this important issue. We are pleased to answer any questions that you may have.