



HOOPA VALLEY TRIBAL COUNCIL

Hoopa Valley Tribe

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Chairman Ryan Jackson

May 18, 2018

RADM Michael D. Weahkee, MBA, MHSA
Assistant Surgeon General, U.S. Public Health Service
Acting Director
Indian Health Service
5600 Fishers Lane
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Rockville, MD 20857

Subject: CSC "97/3 Method" Tribal Consultation

Dear RADM Weahkee:

Thank you for this opportunity to comment on the 97/3 method (Dear Tribal Leader Letter of April 13, 2018). Tribal Consultation is critically important and I was very disappointed in IHS' unilateral action to suspend a provision of the IHS CSC Policy that had been included as a result of considerable effort and direct consultation with Tribes. After reviewing the options presented in your Dear Tribal Leader Letter, I strongly recommend that IHS reinstate the original language agreed to by Tribes and IHS in October 2016. That language took into account the differing positions of IHS and Tribes but attempted to strike a compromise that would facilitate continued Contracting and Compacting. The original language adopted by IHS was based on the 80/20 process that IHS had successfully used for over 20 years. That policy had respected Tribal sovereignty and allowed Tribes the right to elect which method to use.

If not the original language in the 2016 policy, we recommend enacting the language proposed by the IHS CSC Workgroup on March 7, 2018. If tribes and IHS have previously negotiated and agreed to a specific level of duplication reflected in a prior funding agreement, a renegotiation of that agreement seems reasonable. The other options in the Dear Tribal Leader Letter are clearly one sided, it was not prepared nor even presented to the CSC Workgroup for discussion and consideration. One significant guiding principle of the policy is: "(1) The process should be simple and efficient." Neither option proposed supports this guiding principle, they are not simple nor efficient. We vehemently disagree that IHS should be able to force all Tribes into a



detailed line-by-line negotiation when a previously agreed to and reasonable alternative like the 97/3 method exists. The so-called “options” presented are clearly intended to force the line-by-line negotiation method no matter which path is chosen. The options presented by IHS will debilitate what is often an already extremely painstakingly slow process.

Finally, we oppose IHS’s proposal to change the applicability of the duplication options in subsection E(3). Currently they apply “to the negotiation of indirect CSC funding in or after FY2016.” Your letter proposes that they apply “to the negotiation of indirect CSC funding **for ISDEAA agreements entered into in or after FY2017**” (new language in bold). This language would pose a significant disservice to Tribes. The current language indicates the policy applies to negotiations taking place in FY2016 or later, including negotiations on funding due in earlier years that have yet to be closed out. IHS has not completed or simply refused to complete the reconciliation process for many tribes, including the Hoopa Valley Tribe, going clear back to FY 2014.

We are currently waiting to hear from IHS to continue our negotiations that began in early 2017, nearly a year and a half ago. We have been told repeatedly that we will be given a response to further or complete our negotiations, yet there has been no good faith effort to agree to anything that has been discussed at the numerous negotiation meetings. At the Self-Governance Conference in Albuquerque (April 23-28, 2018) the Lead Negotiator said he would provide a response at the end of the week, we still have not received anything. We would definitely not be supportive of any policy that could potentially slow Tribes in concluding negotiations of CSC.

We sincerely hope that IHS will return to a more respectful partnership in addressing and dealing with Tribes and hope that we can move forward with the original policy as soon as possible.

Sincerely,

HOOPA VALLEY TRIBAL COUNCIL

Ryan Jackson, Chairman

