



## 2019 National Advisory Committee and Workgroup Report

### Contract Support Cost Workgroup (CSC)

#### PHOENIX AREA REPRESENTATIVE:

Mr. Arlan Melendez  
Chairman  
Reno-Sparks Indian Colony

#### CHARGE or PURPOSE OF the Contract Support Cost Workgroup Advisory Committee (CSC):

The Contract Support Costs (CSC) Workgroup meets to further the federal government's administration of CSC within the IHS and works to improve the Agency's overall business practices as they relate to CSC by assuring a fair and consistent approach in calculating each Tribe's CSC.

#### SUMMARY OF ACTIVITY, ACCOMPLISHMENTS AND/OR ACTIONS (Brief one page bulleted points):

- Newly Revised Indian Health Service Contract Support Costs Policy

The Indian Health Service (IHS) announced an update to Indian Health Manual, Part 6 – Services to Tribal Governments and Organizations, Chapter 3 – Contract Support Costs (CSC), also referred to as the “CSC policy.” The changes to the updated policy are found in two sections of the policy – the section of the policy regarding Alternative Methods for Calculating Indirect Costs Associated with Recurring Service Unit Shares (also known as the “97/3 Method” or “97/3 Split”) and the introductory guiding principles. The IHS previously updated and revised the CSC policy in 2016. After a year of implementing the revised CSC policy, the IHS became aware that the 97/3 method may not conform in all cases with the statutory authority of the Indian Self Determination and Education Assistance Act (ISDEAA). This significant and critical finding was shared with Tribal Leaders by letter dated December 21, 2017, and the relevant section of the CSC policy was rescinded. Subsequently, on April 13, 2018, the IHS initiated a tribal consultation on this issue.

For more information on the revised policy and a summary of consultation comments, please see the Dear Tribal Leader Letter posted at IHS.gov:  
<https://www.ihs.gov/newsroom/triballeaderletters/>.

The IHS publishes its policies in the Indian Health Manual. You may access the policy on the IHS Web site at: <https://www.ihs.gov/ihtm/pc/part-6/p6c3/>.



AUG 8 2019

Indian Health Service  
Rockville, MD 20857

Mr. Arlan Melendez  
Chairman  
Reno-Sparks Indian Colony  
34 Reservation Road  
Reno, NV 89502

Dear Chairman Melendez:

I am writing to inform you of the results of Tribal Consultation on Indian Health Service (IHS) Indian Health Manual (IHM), Part 6 - *Services to Tribal Governments and Organizations*, Chapter 3 - *Contract Support Costs (CSC)* ("CSC policy"), section 6-3.2E(3)-*Alternative Methods for Calculating Indirect Costs Associated with Recurring Service Unit Shares* (also known as the "97/3 Method" or "97/3 Split").

Today, I signed an updated IHM CSC Chapter. The CSC policy serves as a guide for the IHS and Tribes in the preparation, negotiation, determination, payment, and reconciliation of CSC funding used to support new, expanded, and ongoing services provided through contracts and compacts pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA).

In April 2018, the IHS engaged in Tribal Consultation on section 6-3.2(E) of the CSC policy as a result of the decision in December 2017 to temporarily rescind the section of the policy to evaluate its conformance with the statutory authority of the ISDEAA at 25 U.S.C. § 5325(a). Given the technical nature of the section, the IHS sought advice and recommendations from the IHS CSC Workgroup. This led to formal initiation of Tribal Consultation with a 30-day comment period to gather input on replacing existing language within section 6-3.2E(3) of the policy. From the initial comment period, the IHS received 37 comments from Tribes and Tribal Organizations. Please refer to the Tribal Consultation Summary Report enclosed with this letter.

The significance and importance of the CSC policy provision attracted attention from the highest levels of government. The input helped to inform internal deliberations. I would like to point out key updates in section 6-3.2E(3), as well as, technical edits made to the guiding principles found in section 6-3.1(B). For your reference, I have enclosed a copy of the updated section 6-3.2E(3).

**Clarification to Applicability Date of the Provisions of Section 6-3.2E(3) by Reference to Fiscal Year (FY) (Section 6-3.2E(3)):** The updated section replaces "in or after FY 2016" with "for ISDEAA agreements entered into in or after FY 2017."

**Explanation:** When the IHS initiated activities to update the CSC policy in 2016, the IHS intended for the new CSC policy to apply to ISDEAA agreements with performance periods of FY 2016 or later, in order to align with implementation of the updated CSC policy. Tribes and Tribal Organizations expressed concern that applying changes of an updated policy could negatively impact CSC already awarded under agreements from prior years. The IHS conducted Tribal Consultation on the draft CSC policy in FY 2016 with the goal to have the published policy completed in FY 2016. However, publication of the CSC policy occurred in FY 2017. The failure

to change 2016 to 2017 was an oversight. The revision to this section makes the technical correction, consistent with its original intent and comments from Tribes and Tribal Organizations.

**Clarification to Alternative A to Underscore Mutual Agreement on Method Used for Calculating Indirect Costs (JDC) for Service Unit Shares (Section 6-3.2E(3)(a)):** The updated section clarifies that the awardee and the Area Director or his or her designee shall jointly determine, on a case-by-case basis, the appropriate method for calculating IDC associated with recurring Service Unit shares and the remaining IDC that may be eligible for CSC funding.

**Explanation.** The IHS clarified the section to ensure consistency with the ISDEAA when choosing an option for calculating IDC associated with recurring Service Unit shares and the remaining IDC that may be eligible for CSC funding (Alternative A or Alternative B). The prior version of section 6-3.2E(3) stated that "the awardee shall elect the method" to determine the amount of IDC associated with the Service Unit shares. The policy clarification removes barriers to ensure consistency with the ISDEAA.

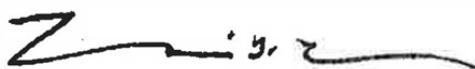
**Technical Edits to Guiding Principles (Section 6-3.I(B)(4) and (18)):** The revised section of the guiding principles removes guiding principle 4 in its entirety, "The chapter is designed to assure that the perfect does not become the enemy of the good." The revised section updates guiding principle 18 to read, "The chapter will be reassessed on a regular basis and updated as needed." The guiding principles have been renumbered accordingly 1-17.

**Explanation:** The IHS removed guiding principle 4 in its entirety. Additional revisions were made for clarity. The update to guiding principle 18 (now renumbered 17) to add, "... and update as needed," reflects the IHS commitment to review and update the CSC policy on an ongoing basis. The updates to this section support the strategic goals of the IHS to strengthen IHS management and operations through continuous quality improvement.

The IHS publishes its policies in the IHM. The updated CSC policy will be mailed to you soon. You may access the policy on the IHS Web site at: <https://www.ihs.gov/ihm/pc/part-6/p6c3/>.

If you have any questions, please contact the IHS Office of Direct Service and Contracting Tribes by telephone at (301) 443-1104.

Sincerely,



RADM Michael D. Weahkee, MBA, MHSA  
Assistant Surgeon General, U.S. Public Health Service  
Principal Deputy Director

Enclosures: *Updated Contract Support Cost Section 6-3.2E(3)*  
*Tribal Consultation Summary Report*

## INDIAN HEALTH MANUAL-PART 6, CHAPTER 3 -CONTRACT SUPPORT COSTS

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### UPDATED SECTION 6-3.2E(3)-CHANGES IN **BOLD FONT**

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- (3) Alternative Methods for Calculating IDC Associated With Recurring Service Unit Shares. The provisions of this section E(3) shall apply to the negotiation of indirect CSC funding **for ISDEAA agreements entered into in or after FY 2017** and to the calculation of duplication under 25 U.S.C. § 5325(a)(3), when: i) an awardee assumes a new or expanded PFSA or added staff associated with a joint venture (in which case the review is limited to those new or expanded PFSA or those additional staff); ii) an awardee includes new types of costs not previously included in the IDC pool that is associated with IHS programs, resulting in a change of more than 5% in the value of the IDC pool (in which case the review will be conducted under Alternative A and will be limited to those new types of costs); or iii) an awardee proposes and renegotiates the amount.

Pursuant to the above circumstances, the awardee **and the Area Director or his or her designee** shall **jointly determine, on a case-by-case basis, the appropriate method** for determining the amount of IDC associated with the Service Unit shares and the remaining IDC that may be eligible for CSC funding, to identify duplication, if any, pursuant to 25 U.S.C. § 5325(a)(3), using one of two options listed below, **or any other mutually acceptable approach.**

- a. Alternative A. The awardee and the Area Director or his or her designee shall conduct a case-by-case detailed analysis (Manual Exhibit 6-3-D) of Agency Service Unit share expenditures to identify any IDC transferred in the Secretarial amount. The IDC funded in the Service Unit shares will be deducted from the awardee's direct costs and total IDC, not to exceed the amount included for that same cost in the awardee's IDC pool that would be allocable to IHS under the IDC rate, to avoid duplication under 25 U.S.C. § 5325(a)(3) when determining the indirect CSC funding amount as described above in 6-3.2E(l).
- b. Alternative B. The awardee and the Area Director or his or her designee will apply the following "split" of total Service Unit shares, the 97/3 method (Manual Exhibit 6-3-E):
  1. 97% of the Service Unit shares amounts will be considered

## INDIAN HEALTH MANUAL-PART 6, CHAPTER 3 -CONTRACT SUPPORT COSTS

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- as part of the awardee's direct cost base.
- ii. 3% of the Service Unit shares amounts will be considered as IDC funding.
  - iii. If the amount considered IDC funding (3 percent) exceeds the awardee's negotiated CSC requirements, the awardee shall retain the excess funds for direct costs.

Once these **amounts** are computed, they will be used in accordance with the terms of the IDC rate agreement (or alternative method provided herein) for calculating the CSC requirement. The remaining IDC need associated with the IHS PFSA will be eligible for payment as indirect CSC, as provided in this chapter and 25 U.S.C. § 5325(a)(2)-(3). Manual Exhibit 6-3-D illustrates how Alternative A (a detailed analysis) is calculated and Manual Exhibit 6-3-E illustrates how Alternative B (the 97/3 method) is calculated.