



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, DC 20240



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Memorandum

To: Regional Directors
Regional Finance Management Officers

From: Jerry Gidner
Director, Bureau of Indian Affairs

Grayford Payne
Chief Financial Officer

Subject: FY 2009 Contract Support Costs Shortfall Report

In May 2006, Indian Affairs adopted a standard policy on funding contract support costs authorized by the Indian Self-Determination and Education Assistance Act of 1975 (Pub. L. 93-638), as amended, to ensure consistent implementation. The comprehensive policy was developed over the course of several years, because all three categories of contract support costs (CSC), namely indirect costs, direct contract support costs, and start-up costs, are inextricably linked. Therefore, the comprehensive policy (see attachment) addresses all CSC issues in one document.

The policy was developed by a Federal-Tribal CSC Workgroup through intense negotiations. In order to address the CSC issues in context, and to continually improve Indian Affairs' approach toward CSC issues, the policy focuses on: the determination of CSC requirements for new and expanded contracts; the determination of both direct and indirect CSC requirements; and, the publication of an annual CSC Shortfall Report to the Congress. The policy mandates that Regions and OSG maintain a historical record of funds negotiated and awarded in CSC-related parameters.

The statutorily required CSC Shortfall Report to the Congress has not been published since FY 1998. The CSC policy established explicit deadlines; however, the BIA has not met these goals. The subsequent deadlines are temporary but critical. It is imperative that the FY 2009 CSC data be collected and submitted by the following deadlines:

A. **March 5, 2010**

Regions will have completed a draft FY 2009 CSC Shortfall report to share with awardees within the respective region by March 5, 2010. The report will reflect data elements used in previous reporting documents. The Division of Self-Determination Services will provide the necessary data collection tools, including tools to address Choctaw Decision contractors, to each Awarding Official.



B. March 8, 2010

Regions will share the completed draft FY 2009 CSC Shortfall report with each awardee within the respective region for review. Any corrections or changes to the data resulting from awardee review **must** be certified by the Regional FMO.

C. March 19, 2010

Regional Directors and Regional FMOs will submit a FY 2009 CSC Shortfall report certified as complete and accurate to the Division of Self-Determination Services by close of business on March 19, 2010.

D. March 24, 2010

The Division of Self-Determination Services will consolidate all reports into a single BIA CSC Shortfall Report. In doing so, the Division will provide a projection of the CSC shortfall for the current and subsequent fiscal years, together with a summary of the most recently completed fiscal year.

These are firm deadlines and you are required to adhere to them. The report is necessary to distribute nearly \$19 million of newly appropriated contract support funding. The new appropriation is the remainder of increased contract support funding over the prior year. Since Indian tribes' contract support costs are required to operate and manage Pub. L. 93-638 contracts, Indian tribes are compelled to reduce contracted program operations through staffing and service reductions, in order to cover the contract support costs that the BIA will not distribute until the completion of the FY 2009 CSC Shortfall Report.

If you have any questions, please direct them toward Mr. Terrence Parks, Chief, Division of Self-Determination Services at (202) 513 – 7625.



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IN REPLY
REFER TO:

National Policy Memorandum

Number: NPM-SELFD-1

Title: CONTRACT SUPPORT COST

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Standards For Review and Approval of Contract
Support Costs in the Bureau of Indian Affairs

1. Purpose

This policy is intended to provide guidance to both tribal, and Bureau of Indian Affairs (BIA) and Office of Self-Governance (OSG) personnel in the preparation and negotiation of requests for contract support funding in support of new and continuing Public Law (P.L.) 93-638 compacts and contracts. It will provide instructional guidance on:

- Determining amounts of start-up, direct, and indirect contract support costs (CSC);

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- Allocating pools of Bureau of Indian Affairs (BIA) funding available for CSC;
- Prioritizing tribal requests for funding of CSC; and
- Reporting by the BIA to all tribes and to the Congress.

These instructions are not regulations establishing program requirements and are issued in accordance with 25 CFR section 900.5, which states:

Except as specifically provided in the Act, or as specified in subpart J, an Indian tribe or tribal organization is not required to abide by any unpublished requirements such as program guidelines, manuals, or policy directives of the Secretary, unless otherwise agreed to by the Indian tribe or tribal organization and the Secretary, or otherwise required by law.

The goals of this policy, including section 6, are to: 1) stabilize funding to each tribe from year to year; 2) expedite payment to each tribe; and 3) respect the Act's prohibition against reducing contract amounts from one year to the next.

It accomplishes these goals by requiring that a tribe be paid the precise same amount it was paid in the preceding year (subject to an annualization adjustment for partial-year awards first made in the preceding year). Such a payment can be made very early in the fiscal year. The only limitation is that the BIA must ensure that the tribe is not going to receive over 100% of its total CSC requirements (as could happen if, for instance, the tribe experienced a large reduction in its indirect cost rate).

2. Scope

This policy applies to the following twelve BIA Regional Offices: Alaska, Navajo, Midwest, Great Plains, Northwest, Southwest, Pacific, Southern Plains, Western, Eastern, Eastern Oklahoma, and Rocky Mountain.

3. Policy

It is the policy of the BIA to provide for a uniform and equitable system of distributing CSC funds to new and existing P.L. 93-638 compacts and contracts, and to preserve and support each awardee's right to contract under P.L. 93-638.

4. Authorizing Legislation

This Policy is authorized pursuant to the Snyder Act and other legislation authorizing programs for the benefit of Indians. The development of this Policy has involved the

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active participation of representatives from Indian tribes. The procedures discussed in this Policy will be applied to contracts awarded pursuant to Title I of the Indian Self-Determination and Education Assistance Act (the Act) and to compacts awarded to tribes that have been selected to participate in the Tribal Self-Governance Program pursuant to Title IV of P.L. 93-638, as amended. Section 106 of P.L. 93-638, as amended, specifies funding for all Indian Self-Determination and Self-Governance agreements under the Act.

5. Roles and Responsibilities

Director, Bureau of Indian Affairs (BIA). The BIA Director is responsible for the development of National Indian Self-Determination Policy.

Deputy Director, Field Operations, BIA. The BIA Deputy Director of Field Operations is responsible for overseeing the Regional Directors and disseminating policy to them.

Deputy Director, Tribal Services, BIA. The BIA Deputy Director of Tribal Services is responsible for assisting in the dissemination of Self-Determination policy and information to the Regional Directors.

Regional Directors, BIA. The BIA Regional Directors are responsible for carrying out policy as directed, and for overseeing the implementation of policy either directly or via Agency Superintendents.

Awardees and BIA staff. Awardees and BIA staff have distinct roles and responsibilities in facilitating the determination of tribal CSC requirements and in the allocation of CSC resources. The BIA staff responsibilities shall be set forth in a separate delegation of authority.

(A) Other CSC Responsibilities.

- (1) Disputes. Disputes over CSC should be handled as either a formal declination appeal or as a Contract Disputes Act (CDA) claim. An informal conference (25 C.F.R. Section 900.153) or other alternative disputes mechanism (25 C.F.R. Section 900.217) may also be useful in resolving disagreements over CSC issues.
- (2) Pre-Award Declination Appeals. Declination appeals might arise out of a pre-award decision to decline a proposal, in whole or in part; a pre-award decision to decline a proposed amendment to an award; or any of the other reasons cited at 25 C.F.R. Subpart L, Section 900.150. Declination appeals involving CSCs are most likely to occur as a result of disagreements over an awardee's ISD request, although declination appeals involving DCSCs and indirect CSCs are

also possible. Declination appeals must be processed pursuant to 25 C.F.R. Subpart L, Sections 900.150 – 177.

- (3) Post-Award Contract Disputes Act Claims. CDA claims arise out of a post-award dispute regarding an awarding official's decision relating to a Self-Determination award. Post-award contract disputes are likely to occur as a result of the parties failing to agree concerning the renegotiation of DCSC, the renegotiation of indirect type costs, or the allocation of CSC (although all these decisions can also arise in the declination setting). Post-award contract disputes must be handled pursuant to 25 C.F.R. Subpart N, Sections 900.215 – 230.
- (B) BIA CSC Workgroup. The BIA shall annually convene the BIA CSC Workgroup, comprised of Federal and Tribal individuals who possess knowledge of CSC issues. This workgroup may provide advice and guidance to the BIA in the development of agency CSC policy, developing proposed common language (if any) for funding agreements, and in the ongoing management of CSC issues. Although the workgroup is not a substitute for Tribal consultation, it will continue to be used to provide technical advice for the benefit of both Tribes and the BIA.

6. Definitions

- (A) Award. An agreement authorized under Title I (contract), Title IV (compact) of P.L. 93-638, as amended, including the associated Annual Funding Agreement (AFA) or Funding Agreement (FA). The term "award" may be used here interchangeably with the term "contract" to mean both self-determination contracts and self-governance compacts.
- (B) Awardee. A tribe or tribal organization that is the recipient of an award as defined above.
- (C) Awarding Official. Means any person, pursuant to the Act, who by appointment or delegation in accordance with applicable regulations has the authority to enter into and administer contracts on behalf of the United States of America and to make determinations and findings with respect thereto. For purposes of this Policy, this term also includes negotiators awarding compacts from the Office of Self-Governance.
- (D) Contract Support Costs (CSC). Costs for activities as described in Sections 106(a) (2) and (3) of the Act, which include start-up, direct, and indirect contract support costs.
- (E) CSC Available. Total CSC funding allocated to an awardee.

- (F) CSC Requirement. The full amount of CSC need (associated both with new or expanded contracts and compacts, and with ongoing contracts and compacts) as determined under this Policy pursuant to section 106 of P.L. 93-638, as amended.
- (G) CSC Shortfall. The difference between the total CSC requirement and the total CSC allocated to the awardee.
- (H) Contract Support Fund (CSF). An appropriation from which the Bureau of Indian Affairs pays contract support needs of awardees.
- (I) Contract Proposal. A proposal for programs, functions, services, or activities that the Secretary is authorized to perform but which the Indian tribe or tribal organization is not now carrying out. The content of a self-determination contract proposal can be found in 25 C.F.R. Section 900.8.
- (J) Direct Contract Support Costs (DCSC). Direct Contract Support Costs are costs incurred for activities that are necessary to operate a federal program under the Act and that are not contained in either the indirect cost (IDC) pool or the amount computed pursuant to section 106(a)(1).
- (K) Indian Self-Determination (ISD) Fund. Funds specifically appropriated by Congress to pay CSC requirements associated with new or expanded programs under the Act. In fiscal years where the Congress does not specifically appropriate funds for an "ISD Fund," the ISD Fund will consist of those CSC funds that are identified by the Assistant Secretary for Indian Affairs for providing CSC for new or expanded awards, to the extent not prohibited by law.
- (L) Indirect Costs. Costs incurred for a common or joint purpose benefiting more than one contract objective, and which are not readily assignable to the contract objectives specifically benefited, without effort disproportionate to the results achieved.
- (M) ISD Programs. The Programs, Functions, Services, and Activities (PFSAs) associated with an ISD request that are eligible for ISD funding in accordance with paragraph 6(A)(1)(a) of this Policy.
- (N) Line Officer. Generally, the agency official at the most local level of the PFSA under contract, who has the delegated authority to approve or decline a tribe's or tribal organization's contract proposal. In the case of self-governance, the appropriate line official is the Assistant Secretary for Indian Affairs or the Director, Office of Self-Governance.

- (O) Non-ISD Programs. All PFSA's operated by an awardee, exclusive of PFSA's associated with an ISD request that are operated by an awardee in accordance with paragraph 6(A)(1)(a) of this Policy.
- (P) Non-Recurring Funds. For purposes of this Policy (and without regard to how this term is used in the BIA tribal budget system), funds that require an annual justification, and are awarded based upon an annual resource allocation methodology that considers or is dependent upon other factors (e.g., an indirect cost rate applied to a direct program base that may change the amount to be reimbursed from a single agency as the programs under contract continue to increase).
- (Q) Programs, Functions, Services, and Activities (PFSA). The PFSA's are those programs, functions, services, and activities that are contractible under the Act, including those administrative activities supportive of, but not included as part of, service delivery programs that are otherwise contractible, without regard to the organizational level within the department that carries out such functions (as authorized under P.L. 93-638, as amended).
- (R) Recurring Funds. For purposes of this Policy (and without regard to how this term is used in the BIA tribal budget system), contract or compact funds that do not require justification each year to the Secretary. Annual increases are provided through mandatory increases or other resource allocation methodologies applicable to the respective funding category of the award.
- (S) Secretary. The Secretary of the Interior (DOI), or the person to whom the Secretary has delegated authority to carry out the Act.
- (T) Self-Governance Request. A Self-Governance request is defined as any one of the following:
- (1) An application from a tribe or tribal organization to enter into the Self-Governance Program for the first time, including Title IV; or
 - (2) An application from a tribe or tribal organization to join an existing self-governance compact; or
 - (3) An application from a tribe or tribal organization to negotiate for new or expanded programs in a subsequent year's compact or FA.

- (U) Start-Up Costs. The reasonable, allowable, and allocable costs that have been incurred or will be incurred on a one-time basis pursuant to the contract necessary to plan, prepare for, and assume operation of the program, function, service, or activity that is the subject of the contract; and to ensure compliance with the terms of the contract and prudent management.

7. Process for Determining Amounts of Start-Up, Direct and Indirect CSC's.

- (A) Overview. Sections 106 (a)(1) and 106(a)(2) and (a)(3) of the Act provide for funding of ISD awards for program costs and CSC respectively.

Section 106(a)(1) provides that:

The amount of funds provided under the terms of self-determination contracts entered into pursuant to this Act shall not be less than the appropriate Secretary would have otherwise provided for the operation of the programs or portions thereof for the period covered by the contract, without regard to any organizational level within the Department of the Interior or the Department of Health and Human Services, as appropriate, at which the program, function, service, or activity or portion thereof, including supportive administrative functions that are otherwise contractible, is operated.

In addition, Section 106(a)(2) provides that:

There shall be added to the amount required by paragraph (1) contract support costs which shall consist of an amount for the reasonable costs for activities which must be carried on by a tribal organization as a contractor to ensure compliance with the terms of the contract and prudent management, but which –

- (A) normally are not carried on by the respective Secretary in his [her] direct operation of the program; or*
- (B) are provided by the Secretary in support of the contracted program from resources other than those under contract*

And finally, Section 106(a)(3) provides that:

- (A) The contract support costs that are eligible costs for the purposes of receiving funding under this Act shall include the costs of reimbursing each tribal contractor for reasonable and allowable costs of –*
 - (i) direct program expenses for the operation of the Federal program that is the subject of the contract, and*
 - (ii) any additional administrative or other expense related to the overhead incurred by the tribal contractor in connection with the operation of the Federal program, function, service, or activity pursuant to the contract, except that such funding shall not duplicate any funding provided under section 106(a)(1).*

(B) On an annual basis, during such period as a tribe or tribal organization operates a Federal program, function, service, or activity pursuant to a contract entered into under this Act, the tribe or tribal organization shall have the option to negotiate with the Secretary the amount of funds that the tribe or tribal organization is entitled to receive under such contract pursuant to this paragraph.

- (B) **Determining CSC Requirements.** Throughout the operation of the program by the awardee, total contract costs (including CSCs) are eligible to be paid as either direct or indirect costs. Since tribes often operate more than one program, many of the costs incurred by the awardee are paid through an indirect cost allocation process, usually negotiated by the “cognizant Federal agency” as identified under the applicable Office of Management and Budget (OMB) Circular. The procedures below are intended to ensure that CSC requirements are accurately identified while avoiding any duplication of funding between CSCs and PFSA funding amounts. See Appendix A - Standards for the Review and Approval of Contract Support Costs in the Bureau of Indian Affairs.

Section 106(a)(3) authorizes awardees to be paid CSC costs, whether they are “indirect” in nature (benefiting multiple programs) or are “direct” in nature (as additional costs associated with operating a single program), except that such funding shall not duplicate any funding provided under section 106(a)(1).

To ensure that there is no duplication of costs in the CSC amounts, the Secretary will review the CSC request to identify any costs that are duplicative of the amounts that have been incurred by the Secretary in the operation of the program and included in the 106(a)(1) program funding to be transferred, or which may have been duplicated within the CSC amount. When the PFSAs to be contracted have not previously been operated by the BIA (in the case of a newly recognized tribe or other special circumstance), the identification of the duplicative costs will be negotiated based on the program budget submitted by the awardee and a budget from the BIA reflecting the expenditure patterns of how the Secretary would have otherwise operated the PFSAs. For awardees with indirect cost (IDC) rates, the IDC agreement and proposal will be analyzed and costs will be considered duplicative if the amounts historically used for specific costs under 106(a)(1) are duplicated in the IDC pool.

When duplicative costs are determined and agreed to between the awardee and the agency, these amounts will be deducted from the negotiated CSC requirement. This adjusted CSC requirement is the 106(a)(2) amount that the awardee is eligible to receive subject to available appropriations.

(1) **Start-up Costs.** Sections 106(a)(5) and 106(a)(6) of the Act states:

(a)(5) Subject to paragraph (6), during the initial year that a self-determination contract is in effect, the amount required to be paid under paragraph (2) shall include start-up costs consisting of the reasonable costs that have been incurred or will be incurred on a one-time basis pursuant to the contract necessary—

(A) to plan, prepare for, and assume operation of the program, function, service, or activity that is the subject of the contract; and

(B) to ensure compliance with the terms of the contract and prudent management.”

(a)(6) Costs incurred before the initial year that a self-determination contract is in effect may not be included in the amount required to be paid under paragraph (2) if the Secretary does not receive a written notification of the nature and extent of the costs prior to the date on which the costs are incurred.

- (i) Initial Year Sec. 106(a)(5) – Start-up costs for PFSA’s will only be provided to an awardee once in the initial year of transfer. No additional start-up cost will be justified if the PFSA is subsequently transferred to a sub-awardee. Start-up cost, payable from the ISD fund, do not include operational cost. Operational costs are paid for with funds furnished under Section 106(a)(1) of the Act. Start-up cost are normally defined in a budget request, negotiated and added to the Section 106(a)(1) amount.

Examples of start-up costs (excluding cost incurred before the contract award date) are described in Appendix A - Standards for Review and Approval of Contract Support Cost in the Bureau of Indian Affairs and include, but are not limited to:

- Purchase of administrative computer hardware and software;
- Required training and staff development;
- Systems development (including establishing required administrative and other management systems); and
- Equipment and furniture.

- (ii) Cost before the Initial Year of the Contract Sec. 106(a)(5) – These cost, pre-award costs, are cost incurred prior to the initial year that a contract is in effect; and, will only be provided once to an awardee to plan, prepare for, and assume the operation of

the program, function, service, or activity that is the subject of a new or expanded contract. These pre-award cost are incurred prior to the award date; and, are subject to notification and approval from the line officer.

These pre-award cost are computed on the basis of actual expended cost, are reimbursable, and are subject to review and approval by the Awarding Official. Pre-Award cost, payable from the ISD fund, do not include operational cost incurred during the operation of the contract. Prior notification is required pursuant to Sec. 106(a)(6). See item (iii) below.

Examples of pre-award costs (excluding cost incurred during the initial year of the contract award) are described in Appendix A - Standards for Review and Approval of Contract Support Costs in the Bureau of Indian Affairs and may include, but are not limited to:

- Planning tribal program standards, redesign standards, and or otherwise planning improved program delivery;
- Development of specialized financial systems to handle the program requirements;
- Program management development (including establishing required administrative and/or program management systems); and
- Specialized training which might otherwise not be appropriate for Start-up costs, i.e. Software and Hardware maintenance of the Safety of Dams Early Warning System.

- (iii) Pursuant to Section 106(a)(6) of the Act, notifications from Tribes for start-up costs to be incurred before the initial contract year that a new or expanded portion of a contract is in effect, must clearly indicate the nature and extent of the costs to be incurred and such notifications must be provided in writing before such start-up costs are actually incurred. A Tribe should provide its notice to the appropriate line officer as soon as it anticipates contracting or compacting a PFSA and before the Tribe incurs any such costs. If such a notice is received by any other office, it should be immediately forwarded to the appropriate line officer for the Tribe.

- (2) **Direct CSC.** Direct Contract Support Costs (DCSC) pay for activities that are not contained in either the IDC pool (or indirect type cost budget) or the amount computed pursuant to section 106(a)(1). DCSC amounts are awarded on a recurring basis.
- (i) Examples of DCSC are described in Appendix A - Standards For Review and Approval of Contract Support Costs in the Bureau of Indian Affairs. These may include, but are not limited to:
- Unemployment taxes on direct program salaries;
 - Workers compensation insurance on direct program salaries;
 - Cost of retirement for converted Civil Service salaries;
 - Insurance to the extent not already made available;
 - Facilities support costs to the extent not already made available;
 - Training required to maintain certification of direct program personnel to the extent not already made available; and
 - Any other item of cost that meets the definition of CSC at section 106 (a)(2) but is not included in the awardee's IDC pool or 106(a)(1) amount.
- (ii) DCSC funds are provided to the awardee on a recurring basis and need not be justified each year. Notwithstanding this provision, if a cost that has previously been funded as DCSC is moved to the awardee's Indirect Cost Pool, the DCSC requirement shall be reduced. In accordance with section 106(a)(3)(b) of the Act, however, the amount of funds needed for DCSC may be renegotiated on an annual basis at the option of the awardee.
- (iii) If, to the extent allowed by law, the DCSC requirement is reduced, DCSC funds in excess of the awardee's reduced DCSC requirement shall be retained by the awardee to the extent necessary to fund the awardee's IDC requirements. Any additional DCSC amount over and above such need shall be retained by the BIA.
- (iv) DCSC requirements shall be determined in negotiations between the awardee and a delegated BIA representative. The BIA representative shall compare the Sec. 106(a) budget, the Indirect Cost budget, and the proposed DCSC requirements for duplication of costs, consult Appendix A - Standards for Review and Approval of Contract Support Cost in the Bureau

of Indian Affairs, and applicable OMB circulars.

- (3) **Indirect Costs. Guidelines for the Principles Involved in Negotiating Indirect and Indirect Type Costs:** A plan for allocation of IDCs will be required to support the distribution of any IDC related to the awardee's program. All IDC included in the plan will need to be supported by accounting records that will substantiate the propriety of the indirect costs. The allocation plan should cover all IDC of the awardee, and contain, but not necessarily be limited to, the nature and extent of services provided and their relevance to the awardee's program, the item of expense to be included in the IDC pool, and the methods to be used in distributing costs.

Various OMB Circulars establish principles and standards for determining IDC applicable to the awardee. Section 106(k) of P.L. 93-638, as amended, has made modifications to the OMB cost principles otherwise applicable to awardees. See also Appendix A - *Standards For Review and Approval of Contract Support Costs in the Bureau of Indian Affairs*.

In determining the amount of CSC required, Awarding Officials shall review the awardee's cost allocation plan and its associated IDC proposal and approved IDC negotiation agreement.

- (i) **Awardees With Negotiated IDC Rates.** The amount of IDC expected to be incurred by awardees using rates negotiated with the cognizant Federal agency will be determined by applying the negotiated rate(s) to the appropriate direct cost base amount. The amount determined as the awardee's CSC requirement will be consistent with the individual awardee's IDC rate agreement, reflecting any exclusions required by the IDC agreement.

If an awardee's IDC rate is applicable to a fiscal year that is four or more years old, then the BIA shall not provide IDC associated with the application of that IDC rate. In these cases, the appropriate Awarding Official shall negotiate "indirect type costs" with the awardee (see paragraph (ii) below).

- (ii) **Awardees Without Negotiated IDC Rates (Guidelines for Awarding Officials).** A lump sum amount (lump sum agreement) for "indirect types of costs" may be computed for an awardee that does not have a formally negotiated IDC agreement. This lump sum amount may be calculated by negotiating a fixed amount for "indirect types of costs."

Categories of costs often considered “overhead” or “indirect type” are generally in the categories of Management and Administration, Facilities and Equipment, and General Services and Expenses. Indirect or indirect type costs may include:

Management and Administration	Facilities and Facilities Equipment	General Services and Expenses
Governing Body	Building Rent/Lease/Cost Recovery	Insurance and Bonding
Management and Planning	Utilities	Legal Services
Financial Management	Housekeeping/Janitorial	Audit
Personnel Management	Building and Grounds	General Support Services
Property Management	Repairs and Maintenance	Interest
Records Management	Equipment	Depreciation/Use Fees
Data Processing		
Office Services		

8. Process for Allocating Funding Available for CSC’s.

(A) Overview. CSC funding is composed of three “pools.” The first pool (Pool No. 1) is composed of any funding appropriated for CSCs associated with new and expanded awards (the “ISD Fund”). The second pool (Pool No. 2) is composed of the total amounts awarded by the BIA in the prior year for direct and indirect CSCs (the prior year’s “CSC base”). The third pool (Pool No. 3) is composed of amounts, if any, appropriated for increases on the prior year “CSC base” to pay additional CSC requirements (“CSC increase”). Under this system, each tribe receives a stable amount for DCSC and indirect costs, an amount which can increase up to the full CSC requirement. Differences among tribes are minimized by the “bottom-up” distribution of Pool 3. Under this system, each year’s CSC appropriation (other than the ISD fund, or “Pool 1”) is divided into two more pieces (Pools 2 and 3). The first piece (Pool 2) is paid out as just indicated: to provide each tribe at least the same amount it was paid in the preceding year. The second part (Pool 3) is then paid out later in the year after the collection of all data, to deal with existing shortfalls. Pool 3 is paid out to those tribes with the most severe shortfalls (a “bottom-up approach), so that the gap between the best and worst funded tribes is narrowed as much as Pool 3 funding permits.

(1) Pool No. 1 - ISD Fund.

(a) The ISD Fund will cover CSC requirements associated with the following awards:

- (i) an initial assumption of a PFSA by an awardee (without regard to whether the PFSA was previously operated by a different awardee).
 - (ii) assumption of PFSAs available due to new appropriations (excluding general program increases and increases for inflation or pay costs).
- (b) **Initial Funding Period – New and Expanded Awards.** CSC funds for new and expanded awards will be allocated by the BIA Central Office as expeditiously as possible after July 2 of each year. To the extent available, funding is provided to each CSC request, after July 2 of each year, on the ISD list based on the total amount associated with the PFSAs awarded from the date of assumption through the end of the funding agreement's performance period, not to exceed 12 months. CSC funding requests on the ISD list (known as "ISD Requests") will be distributed: first, on a pro rata basis until all start-up costs have been fully paid; and second, on a pro rata basis by dividing the total of all remaining ISD requests by the available remaining ISD Fund, up to the national average percentage of CSC currently being paid.
- (i) If there are no (or insufficient) ISD funds to be distributed in the current fiscal year to pay ISD requests, all unfunded requests will be considered for funding from Pool No. 3.
 - (ii) If an awardee proposes to start a new or expanded activity for less than a full year, start-up costs shall be identified at their full amount and all other costs (i.e., other indirect and direct CSC) shall be prorated to reflect the reduced award period in the first year of the award.
 - (iii) If excess ISD funds remain after paying all ISD requests, the remaining ISD funding will be added to Pool No. 3 (to the extent not prohibited by law) and shall either be distributed according to the methodology described in paragraph 6(A)(3) below, or carried over to the next fiscal year if authorized by law.
- (2) **Pool No. 2 - Prior Year CSC Funding That Remains Justified in the Subsequent Fiscal Year.**

- (a) The amount of CSC funds (including the amount of ISD funds other than start up costs) that were allocated to a Region or to the Office of Self-Governance (OSG) in any year shall be provided to that Region and OSG as a recurring amount in the subsequent year. To these amounts shall be added amounts, if any, needed to annualize indirect CSC and DCSC funding that was paid to an awardee in the prior year from the ISD Fund on a partial year basis. The total of these amounts shall be called Pool No. 2. Subject to the terms of the award, Pool 2 amounts shall be awarded within 30 days of apportionment of funds. Amounts needed to fund Pool No. 2 shall be determined before funding Pool No. 3.
- (b) Each Region and OSG shall pay indirect CSC funds to the awardee as non-recurring funds, provided that prior year funding for an awardee's indirect CSC shall not be reduced in subsequent years so long as the CSC funding for indirect CSC in the subsequent year, when combined with the awardee's DCSC funding, does not exceed 100 percent of the awardee's total CSC requirement that year. If Congress reduces appropriations for CSC from the prior year, the Bureau will reduce each awardee's allocation *pro rata*.
- (c) Upon receipt of its Pool No. 2 allocation, each Region and OSG shall pay to each awardee no less than the awardee was paid in the prior year, except that, if Congress reduces appropriations for CSC from the prior year, the Bureau will reduce each awardee's allocation *pro rata*. In the case of a prior year 'partial year' payment, no less than the annualized amount of the awardee's CSC payment excluding start-up costs will be paid, except that appropriate amounts may be withheld to the extent necessary to minimize the risk that an awardee will receive in excess of 100 percent of the awardee's total CSC requirement based on currently available CSC data. Any amount so withheld shall be paid to the awardee if, prior to the end of the fiscal year, such awardee has established that the payment of the amounts so withheld will not result in an overpayment for the current year. Any withheld amounts not so paid shall be redistributed to other awardees, within the Region or OSG, with the greatest CSC needs so as to raise the minimum level of CSC being funded to the maximum percentage possible, given the available resources (a bottom-up approach). After any redistribution of CSC, if an awardee's CSC base is not adequate to meet all of the awardee's CSC

requirements, then any shortfalls shall be considered for funding under Pool No. 3.

- (d) Prior year funds provided for CSC to each awardee (excluding start up costs), if justified in subsequent years, shall not be reduced by the BIA, except as authorized in section 106(b) of the Act. Awardees should expect to receive these funds continuously if they continue to justify at least the same level of total CSC requirements. If an awardee's current CSC base is not adequate to meet all of the awardee's CSC requirements, then the shortfall shall be considered for funding under Pool No. 3.

(3) Pool No. 3 – CSC Increases / Shortfall Funds.

- (a) Several sources of revenue may be available to fund ongoing shortfalls in CSC. These include funds appropriated by Congress for general increases in the Contract Support Fund (CSF) and funds appropriated by Congress for CSC shortfalls. Such funds shall constitute Pool No. 3.
- (b) Pool No. 3 funds shall be allocated to awardees with the greatest CSC shortfall (a "bottom-up" approach).
- (c) The distribution of funds from Pool No. 3 shall be made within 180 days after apportionment.

To summarize, the Bureau shall administer the following pools of contract support cost funding:

Pool	Description	Methodology of Payment
Pool 1	ISD Fund	Pro rata (if insufficient to fully fund all CSC requirements associated with new and expanded contracts/compacts), with start-up costs paid in full first, followed by pro rata payment of combined DCSC and indirect CSC.
Pool 2	Prior year amounts paid for DCSCs and indirect CSCs, annualized for any 'partial-year' awards in the preceding year	Full payment of prior year amount of DCSC and indirect CSCs, so long as no overpayment results
Pool 3	Remainder of increased CSC appropriations over	'Bottom-up' payment to most severely underfunded awardees (if insufficient to fully

	prior year	fund all CSC requirements)
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- (4) OSG, Regions, Agencies, Field Offices, and appropriate line officials are expected to update the shortfall information used for the distribution of the Pool No. 3 fund (i.e., use most current IDC rate and changes to the direct program base in the current year) before they provide any CSC shortfall distributions in order to ensure that no awardee is funded in excess of 100% of its total CSC requirement.
- (5) CSF funds to be redistributed by OSG, or a Region, agency, field office, or appropriate line official are to be made in such a way as to raise the minimum level of CSC being funded to the maximum percentage possible, given the available resources (bottom-up approach).

9. BIA CSC Shortfall Report.

(A) Requirements for Reporting and Documenting Amounts of CSC Available, Needed, and Requested. Regions and OSG shall maintain a historical record of funds negotiated and awarded in each of the categories listed below.

- Direct program funds;
- Start-up costs;
- Direct contract support funds;
- Indirect cost funding;
- Indirect-type cost funding;
- Indirect cost rates;
- Types of bases;
- Pass through/exclusions;
- Total IDC Base (direct cost base)
- Direct CSC requirements (including the unduplicated DCSC requirement associated with sub-awards)
- Indirect CSC requirements (including the unduplicated IDC requirement associated with sub-awards)

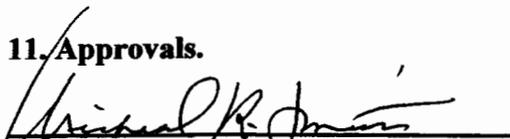
(B) Regions and OSG shall provide a report to Central Office by November 15th of each fiscal year that includes those data elements identified above for the previous fiscal year ended September 30. Before the report is submitted, the amounts included in the report shall be certified as accurate by the Regional Finance Management Officer and the Regional Director, and by OSG, respectively.

- (C) A copy of the Region's data and OSG's data shall be provided to the awardees within that Region and within OSG by November 15th. Any corrections or changes to the data resulting from awardee review shall be certified by the Regional FMO and by OSG, respectively, and submitted to the Central Office by December 15th of each fiscal year.
- (D) The Central Office shall consolidate all reports into the BIA CSC Shortfall Report. In doing so, the Central Office shall, in consultation with the Office of Tribal Services and the Office of Tribal Self-Governance, provide a projection of the CSC shortfall for the current and subsequent fiscal year, together with a recapitulation of the shortfall for the most recently concluded fiscal year.
- (E) The Central Office shall finalize the BIA CSC Shortfall Report and shall forward the Report to the Assistant Secretary for Indian Affairs for approval by February 1st of each fiscal year.
- (F) After the BIA CSC Shortfall Report is approved by the Assistant Secretary for Indian Affairs, the Office of Tribal Services shall provide copies to OSG and to each Region. Each Region shall be responsible for providing a copy of the report to all awardees contracting within that Region; and OSG shall be responsible for providing a copy of the report to awardees compacting with OSG. Consistent with Section 106(c) of the Act, the Assistant Secretary shall also forward the Report to Congress.

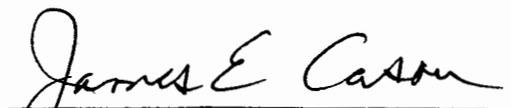
10. Effective Date.

The policy and procedures contained in this Policy are effective and applicable to awards made for fiscal year 2007 and subsequent fiscal years, upon signature by the Assistant Secretary for Indian Affairs.

11. Approvals.

for 
 William Pat Ragsdale
 Director, Bureau of Indian Affairs

5-8-06
 Date


 James Cason
 Associate Deputy Secretary

5-8-06
 Date

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