

**2008 ANNUAL SELF-GOVERNANCE CONFERENCE**  
***20<sup>th</sup> Anniversary of Tribal Self-Governance: Celebrating Excellence***  
**Riviera Hotel & Casino; Las Vegas, Nevada**  
**Tuesday, April 29, 2008**

**BREAKOUT SESSION 7:**  
**IHS CONTRACT SUPPORT COSTS**

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Panelists: Micah McCarty, Chair, Makah Tribe; Rhonda Butcher, Self-Governance Director, Citizen Potawatomi Nation; Gerald Moses, Senior Counsel for Vice Chairman Lisa Murkowski, Senate Committee on Indian Affairs; Ronald Demaray, Acting Director, Office of Tribal Programs, HHS

Rhonda Butcher – report on Contract Support Cost Workgroup

CSC for FY 2008 actually less than FY 2007 due to the rescission. FY 2008 shortfall projected to be \$132.4 million; \$158.3 million for FY 2009.

CSC is funding currently at 69.4% of need.

Indian Self Determination (ISD) funding at the national average has not been implemented because no ISD funds have been allocated.

More frequency of tribes seeking to renegotiate their Direct Contract Support Costs is being seen. If the indirect cost rate is over 3 years old, tribes must negotiate with the National Business Center for an “Indirect-Like” rate. NBC no longer accepts the “50% of Tribal Council Costs” rule.

Cherokee Nation – Shoshone Paiute case (2005) Supreme Court ruled that CSC contracts were enforceable just like any other contract.

Southern Ute tribe was told that they would not get a contract with IHS unless they waived their right to receive CSC. Supreme Court ruled that CSC could not be withheld, but IHS continues to use similar language on new contracts.

Refer to NCAI policy papers on Contract Support costs for further information on pending litigation.

Micah McCarty:

Shared Micah experience when contracting for Self-Governance. They were asked to waive CSC, then told they would be funded at 17% after the first year, when they would no longer be considered a ‘new’ program.

Despite gaining corrected language from Congress and \$5 million transferred to the CSC funding, they received only \$3,000.00.

The only consultation received on the shortfall report was 3 e-mails.

Ron Demaray:

Presented a history of CSC funding from 1998 – 2009. Shortfall increases each year, projected to be \$153,004 million by 2010.

Tribal needs are stable. It is the amount of new programs added each year that drives the need up.

CSC Shortfall Report (based on 2007 figures): (332 Total):

- Total # of Tribes funded at IHS level (76.3%) or LESS – 101
- Total # of Tribes funded at IHS level or more – 231
- Total # of Tribes funded at LESS THAN 70% - 66
- Total # of Tribes funded at LESS THAN 60% - 19
- Total # of Tribes funded at LESS THAN 50% - 5
- Total # of Tribes with CSC funding in excess of 110% - 15

Q: How can IHS level the playing field between tribes getting less than 50% and those getting over 110%?

A: Under policy, IHS would take back from Tribes receiving over 110% and reallocate to Tribes with the greater shortfalls.

FY 2008 CSC appropriation received a rescission of -1.56% for a net decrease of -.86%.

Total % of Total CSC Need funded by Areas in FY 2007: 76.30%. Projected to be 67.84% in FY 2008.

STMT: Feds have got to stop presenting numbers and consider the PEOPLE who are not going to receive health care because of these shortfalls.

Shortfall reports should go out to the Tribes by November 15<sup>th</sup> for the previous year' data.

IHS is considering a policy to the effect that, if IHS and a tribe cannot agree on lack of CSC funding, the agency will no longer refuse to contract, but will use language declining CSC (which the Tribe can appeal).

STMT: The only way IHS will get an increase in funding is by negotiations with OMB and Congress. Only 1% of the current spending overseas would cover the shortfall needs.