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| **Recorder Form** |
| **Onsite Contact Tami Snow 918.388.7428** |
| Recorder: Linda Austin | Date: 04/24/18 |
| Session Title: Contract Support Costs Update and Overview |
| Panelists: Rebecca Patterson, Sonosky, Chambers, Sachse, Miller and Monkman; Steve Osborne, Hobbs, Straus, Dean and Walker, LLP; Roselyn Tso Director, Office of Direct Service Tribes, IHS |
| Summary of Issues and Items Discussed: Roselyn Tso IHS-CSC Update Self Governance MeetingPresentation Covered Following Topics* CSC Fund Status Table depicts funds yet to be distributed or allocated among all areas--CSC Fund Needs Table from FY ’14 thru ‘18
* CSC Need Methodology—Accurate and Current data extremely important to calculating CSC
	+ Overview of Base Funding
	+ Additional CSC generated by funding increases
	+ Direct CSC Inflation (clarified that now a medical inflation rate is utilized)
	+ New and Expanded PSFAs and Renegotiation Amounts
* IHS CSC Policy Updates
	+ Startup and Pre Award payments on a one-time basis w/ a 12-month time frame to spend
	+ Medical Inflation Rate used for DCSC calculation (higher than the non-medical rate of past)
	+ Indirect CSC-Review the tribe’s total health care costs in the prior year to determine accurate amount spent. This expedites reconciliation process
	+ Closeout of 90 days after contract term expires
	+ Incorporates alternate methods of calculating IDC associated with recurring service unit shares. Options included to elect a simplified method (97/3 split, 3% of the service unit funding will be considered IDC) *This option is currently under tribal consultation as IHS has suspended this option from the current policy*
	+ Outlines closeout procedures for 2016 forward
* Tribal Consultation
	+ Alternate methods for calculating IDC associated with recurring service unit shares-simplified method and use 97/3, 3% of the service unit funding will be considered IDC.
	+ On 12/21/17: IHS notified tribes that it was necessary to suspend this option. IHS determined that this option may not conform in all cases with the ISDEAA
	+ IHS committed to seek input from the CSC Workgroup and intiitate Tribal Consultation prir to making final decision
	+ March 7th CSC Workgroup made a recommendation to ISH Acting Director along with HIS additional options in a DTL letter dated April 13th for 30 day consultation—May 18th
	+ IHS will review comments with the CSC Workgroup prior to issuing a final decision.
	+ IHS remains committed to our Tribal Consultation process and anticipates a workable solution.
* IHS Improvements
	+ Committed to a simplified and streamlined business process
	+ Refer to the “Guiding Principles” established in the IHS CSC Policy
	+ Strive for consistency in ISDEAA negotiations
	+ Improve regular communication with internal communication to IHS negotiators
	+ Implement ISDEAA team’s improvements
* Training
	+ Website videos available on various CSC calculation process
* Other
	+ New policy online at ihs.gov
	+ New CSC calculation template

**CSC Workgroup Updates** (Rebecca Patterson & Steve Osborne)* Suspension of Policy Option regarding duplication (97/3 split) Dec. 2017
* March ’18 meeting focused on duplication
* Consultation Period currently—April 13, DTLL; Comments due May 18th; Workgroup offered proposal language and 2 other IHS only options
	+ Technical workgroup to address IDC-type costs
* Appropriations Update 2018
	+ CSC Amounts to be available will be such amounts as may be necessary
	+ Estimate is $717,970,000
* Separate appropriation for CSC
* Committee language on grants encourage IHS to transfer funds through ‘638 agreements rather than separate grants to ensure admin costs will be covered thru the CSC process. Ex. Substance Abuse and Suicide Prevention; Domestic Violence Prevention and Zero Suicide Initiative
* 2019 CSC Appropriations
	+ Estimate is $797,000,000
* Separate appropriation for CSC
* Carryover clause proposed (Raises accounting concerns if no direct funds are carried over)
* Notwithstanding clause proposed (grant related) are to be distributed at the discretion of the director
* Past Year CSC Claims
	+ Mostly Settled
	+ Contract Disputes Act Process
	+ Six-year statute of limitations: FY 2012 still viable
	+ Full funding since ’14 so claims decreasing
* Recent Litigation: the Sage Case
	+ Two Major issues: 1. Whether tribe can cover CSC on the 3rd party revenue funded portion of its health program; 2. Duplication: whether the law refers to duplicating amounts or duplicating categories of funding
	+ District court found in favor of tribe but IHS appealed to 10th Circuit (look for decision in a year)
* Recent Litigation: Seminole Case
	+ Tribe proposes to allocate 98.93% of program funding to salaries, wages, and fringe
	+ IHS imposes 80% cap on allocation of appropriated $ to salaries/fringe (IHS spends 71% on salaries/fringes in direct services)
	+ IHS argues tribe’s reallocation authority under ISDEAA, for purpose of CSC calculation, is limited by reasonableness requirements
	+ Complaint just filed; decision not likely until late 2018
* Other CSC Issues
	+ CSC on CHEF
	+ CSC on grants (SASP, DVPP)
	+ Sub-workgroup for developing estimates for budgeting
	+ Review and standardize training for startup cost negotiations
	+ Update CSC negotiation template
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| Questions from the Audience:* Section 6-3 1d6 97/3 method—IHS will continue to assess policy on a regular basis. There is concern about hitting the pause on this policy section. Does this pause also apply to the consultation? Why didn’t we continue with the policy while consolation on this issue ensue?
	+ IHS response was that the concerns were significant enough to reach decision to suspend
	+ IHS wants to resolve this as soon as possible and IHS is probing into how to calculate the impact on the 97/3
* How does this support the premise of self-governance? Re-Budgeting Seminole Case in capping salaries?
	+ Encouragement to tribes to submit written comments on current consultation
	+ CSC policy represents a compromise with tribes pushing for most control of self-determination. IHS concerns are that funding is accurate and fiscally responsible.
	+ Other comments already submitted if tribes want to review. Susanville Rancheria example
* Comment on concerns about private standing health facilities that refer to hospitals who charge excessively.
* Full funding w/ Seminole Case concern regarding the 80% cap is not in the statute or regulations. Question is how does IHS come up with that decision to cap salaries?
	+ According to tribal attorneys, the IHS made this cap up
* Committee language on grants—What will happen to this in 2019?
	+ IHS has not decided yet
* If the 97/3 option is suspended, what currently happens today?
	+ Triggers, new and expanded
	+ JV facility
	+ Did IDC rate change materially
	+ Did you request a renegotiations
* Hoopa Valley concerns with a current negotiation that has been suspended. Hoopa feels they are being treated unfairly with their negotiations.
* Requesting additional training for Navajo area for CSC due to renegotiation opportunities
* How is CSC monitored to prevent late payments?
	+ IHS has a tracking system with all areas reporting data.
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