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BILL ANOATUBBY
GOVERNOR

May 14, 2018

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

Dear Admiral Weahkee:

On behalf of the Chickasaw Nation, we are pleased to offer comments on the Indian Health Service Indian Health Manual, Part 6 – Services to Tribal Governments and Organizations, Chapter 3 – Contract Support Costs, specifically, section 6-3.2E(3) – Alternative Methods for Calculating Indirect Costs Associated with Recurring Service Unit Shares. Our comments are included with this letter.

If you have any questions, please contact Dr. Judy Goforth Parker, secretary of the Chickasaw Nation Department of Health, at judy.parker@chickasaw.net or at (580) 436-3980.

Sincerely,

Bill Anoatubby, Governor
The Chickasaw Nation

BJA: sms

Enclosure

CHICKASAW NATION COMMENTS ON INDIAN HEALTH SERVICE INDIAN HEALTH MANUAL, PART 6 – SERVICES TO TRIBAL GOVERNMENTS AND ORGANIZATIONS, CHAPTER 3 – CONTRACT SUPPORT COSTS, SPECIFICALLY, SECTION 6-3.2E(3) – ALTERNATIVE METHODS FOR CALCULATING INDIRECT COSTS ASSOCIATED WITH RECURRING SERVICE UNIT SHARES

The Chickasaw Nation appreciates the opportunity to provide comments on Indian Health Service (IHS) Indian Health Manual, Part 6 – Services to Tribal Governments and Organizations, Chapter 3 – Contract Support Costs, specifically, section 6-3.2E(3) – Alternative Methods for Calculating Indirect Costs Associated with Recurring Service Unit Shares.

Importance of Tribal Consultation

As you mention in your letter, the 2016 policy was developed after years of Contract Support Cost (CSC) Workgroup meetings and only after a period of tribal consultation in which tribal comments were not only considered, but also incorporated into the policy. The policy represented a compromise between the tribes' views of what the law commands and the agency's competing views at the time. It was a collaboration. While neither the agency nor tribes found it perfect, both recognized that it respected the differing perspectives on certain key issues—including duplication—and was developed in accordance with the government-to-government relationship. Both sides also recognized that trust would be integral to effective implementation. Importantly, both sides also committed in the new manual to a collaborative process for future changes.

The actions—both in unilaterally rescinding certain policy provisions in December 2017 and now, in sending out options for tribal consultation that were never formally proposed by the full CSC Workgroup—fail to respect this collaborative process and the government-to-government consultation.

97/3 Method and IHS Alternatives

The 97/3 option is meant to avoid, or at least minimize, duplication between indirect CSC and indirect cost funding in the secretarial or program amount. When a tribe assumes a new or expanded program, function, service or activity, or adds staff associated with a joint venture, the policy requires a duplication review when determining the amount of CSC associated with the expansion. The rescinded provision gave tribes a choice between two methods:

1. A "case-by-case detailed analysis" of indirect costs transferred in the secretarial amount;

2. A 97/3 split, in which 97% of the expansion would be deemed part of the direct cost base (and thus generate indirect CSC), while 3% would be deemed indirect cost funding (and thus be excluded from the direct cost base and offset against indirect CSC otherwise due).

Recommendations

The Chickasaw Nation recommends IHS reinstate the original language agreed to by tribes and the IHS in October 2016. In the alternative, the Chickasaw Nation would be comfortable with the revised language recommended by the IHS CSC Workgroup on March 6-7, 2018.

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 FY 2017." This would be a mistake. The current language indicates the policy applies to negotiations taking place in FY 2016 or later, including negotiations on funding due in earlier years that have yet to be closed out. IHS has not completed the reconciliation process for many tribes going back to FY 2016, 2015, and even 2014. The new policy should continue to apply to these negotiations, as the former policy provides little guidance on duplication and lacks a streamlined option like the 97/3 method.

Again, thank you for the opportunity to provide these comments and we look forward to continuing to work with Indian Health Service in promoting tribal self-determination and self-governance and advance health care in our tribal communities. The Chickasaw Nation is committed to ensuring the highest quality of health care for our citizenry and we support Indian Health Service in its endeavors to do the same.