



Enclosure No 1: Indian Health Service Guidance for Contract Support Costs on Expenditures of Third-Party Reimbursements

After Tribal Consultation and review of the final recommendations submitted by the Contract Support Costs Advisory Group (CSCAG), the Indian Health Service (IHS) has made the following decisions to support implementation of the *Becerra v. San Carlos Apache Tribe* and *Becerra v. Northern Arapaho Tribe* decisions by the Supreme Court of the United States.

The IHS is willing and able to engage in negotiations to start estimating needed Contract Support Costs (CSC) generated by the expenditure of program income.

1. Definition of Program Income

Indian Health Service policy will define program income as that term is defined at 2 CFR 200.1, and consistent with IHS authorities.

2. CSC are Paid to Reimburse Expenditures

Indian Health Service policy will allow for estimates utilizing the IHS CSC *Certification of Program Income Expenditures* form (discussed in more detail below), but final CSC payments will be based on actual expenditures, not on program revenue or estimates. Estimates using the certification form may be based on actual expenditures in the most recently completed budget year, or an approved, current-year budget.

3. Use of the IHS CSC Certification of Program Income Expenditures Form

In order to ease the initial data collection burden for Tribes and Tribal Organizations (T/TOs), the IHS is adopting Enclosure No. 2, the *CSC Certification of Program Income Expenditures* form. This form will serve as the primary document to be used by T/TOs and the IHS when calculating the initial estimate of CSC for expenditures of program income. Tribes and Tribal Organizations will be required to indicate where the information provided on the form is derived (e.g., Negotiated Indirect Cost Rate Agreement; Single Audit; General Ledger; Approved Budget; etc.). It will also be necessary to attest that all expenses fall under the general purposes of the contract as required by 25 U.S.C. § 5325(m) and 25 U.S.C. § 1641. The certification form will also be used as a tool in final reconciliations of CSC incurred by T/TOs for the expenditure of program income.

4. Calculation of Direct CSC (DCSC)

The IHS policy for Direct CSC, as currently defined in Chapter 3 of the *Indian Health Manual* (IHM), "Contract Support Costs," [Chapter 3 - Contract Support Costs | Part 6](#)," will be utilized to estimate DCSC for program income expenditures.

5. Payment of costs already included in third-party reimbursement (or no standardized credit for “duplication”)

The methodology does not apply any standardized credit to the IHS for costs that may be paid in third-party reimbursements, but the certification form does require a review of costs paid in 105(l) leasing agreements, as well as, for example, other costs that may already be compensated through CSC. This ensures that duplicative costs are excluded from the base when the certification form is submitted.

6. Exclusion of Ineligible non-Indians from CSC Calculations

The methodology will account for Ineligible non-Indians (persons receiving services pursuant to 25 USC § 1680c(c)(2) and certain others to whom services may only be provided subject to charges), and excludes expenditures on services to Ineligible non-Indians from the calculation for CSC. The CSC Negotiation Template has an additional tab to determine the adjustment.

7. Utilization of the CSC Negotiation Template

The IHS will adopt a revised CSC negotiation template that supports data entry of program income expenditures, DCSC for program income expenditures, and adjustments for Ineligible non-Indians as necessary. This CSC negotiations template will be utilized during the initial estimate at the beginning of the fiscal period, as well as during the reconciliation after the fiscal period is closed.

8. Other CSC Eligibility Requirements

All other statutory requirements for CSC eligibility apply to CSC generated by qualifying expenditures of third-party reimbursements. Tribes and Tribal Organizations may be paid for CSC expenses that satisfy both § 5325(a)(2) and § 5325(a)(3)(A). In other words, CSC may only be awarded for the reasonable, allowable, and necessary costs that T/TOs incurred to ensure compliance with the terms of the contract and prudent management, either for activities not normally carried on by the Secretary, or which are provided for by the Secretary in support of the contracted program from resources other than those under contract.