

DEPARTMENT OF HEALTH AND HUMAN SERVICES
INDIAN HEALTH SERVICE
ROCKVILLE, MARYLAND 20857

INDIAN HEALTH SERVICE CIRCULAR NO. 2000-01

CONTRACT SUPPORT COSTS

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Section 1. PURPOSE.

This policy is intended to provide guidance to both tribal and agency 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 startup, direct, and indirect contract support costs (CSC);
- Allocating pools of Indian Health Service (IHS) funding available for CSC;
- Prioritizing tribal requests for funding of CSC; and
- Reporting by the IHS to all tribes and to the Congress.

These instructions are not regulations establishing program requirements.

Section 2. POLICY.

It is the policy of the IHS 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.

Section 3. AUTHORIZING LEGISLATION.

This Circular is authorized pursuant to the Transfer Act, Title 42 United States Code §2001, and implementing regulations in Title 42 of the Code of Federal Regulations (C.F.R.) §36.3. The development of this Circular has involved the active participation of representatives from Indian tribes. The procedures discussed in this Circular will be applied to contracts awarded pursuant to Title I of the Indian Self-Determination and Education Assistance Act (ISDEAA) and to compacts awarded to tribes that have been selected to participate in the Tribal Self-Governance Demonstration Project (SGDP) pursuant to Title III of P.L. 93-638, as amended. Section 106 of P.L. 93-638, as amended, authorizes funding for all Indian Self-Determination and Self-Governance agreements under the Act. Section 106 is provided as Exhibit 99-03-A to this Circular, and is cross-referenced to the pertinent sections or paragraphs where instructions or examples have been provided.

Section 4. DEFINITIONS.

- (A) Award. An agreement authorized under Title I (contract) or Title III (compact) of P.L. 93-638, as amended, including the associated Annual Funding Agreement (AFA).
- (B) Awardee. A tribe or tribal organization that is the recipient of an award as defined above.
- (C) CSC Available. Total CSC funding allocated to an awardee (including any portion of tribal shares that are available for CSC requirements pursuant to paragraph 5(A)(3) of this Circular).
- (D) CSC Requirement. The full amount of CSC need (Indian Self-Determination Fund [ISD] plus ongoing contracted or compacted programs) as determined under this Circular pursuant to section 106 of P.L. 93-638, as amended.
- (E) 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 (see definition at 25 C.F.R. Section 900.6). The requirements of a self-determination contract proposal can be found in 25 C.F.R. Section 900.8.
- (F) Indian Self-Determination (ISD) Fund. Funds specifically appropriated by Congress to pay CSC requirements associated with new or expanded programs under the ISDEAA. 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 Director, IHS, for providing CSC for new or expanded awards, to the extent not prohibited by law.

- (G) Programs, Functions, Services, and Activities (PFSA). PFSAs are those programs, functions, services, and activities that are contractible under the ISDEAA, 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).
- (H) ISD Programs. PFSAs associated with an ISD request that are eligible for ISD funding in accordance with paragraph 5(B)(1)(a) of this Circular.
- (I) Non-ISD Programs. All PFSAs operated by an awardee, exclusive of PFSAs associated with an ISD request that are operated by an awardee in accordance with paragraph 5(B)(1)(a) of this Circular.
- (J) Non-Recurring Funds. Funds that require a rejustification annually, 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).
- (K) Ongoing CSC Shortfall. This is the portion of the “total CSC shortfall” less CSC shortfall associated with awardees’ ISD programs.
- (L) Recurring Funds. Contract or compact funds that do not require rejustification 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.
- (M) 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 SGDP for the first time, including Title III; 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 AFA.

- (N) Total CSC Shortfall. The difference between the total CSC requirement and the total CSC allocated to the awardee.
- (O) Tribal Shares. A term that refers only to an awardee's equitable share of PFSAs associated with Area Office or Headquarters resources. This definition was originally adopted and utilized in negotiating and awarding AFAs, under Title III, P.L. 93-638, as amended, and is being consistently applied to Title I contracts as authorized under P.L. 93-638, as amended. This term does not refer to an awardee's equitable share of a service unit or program base, which may also be included in a negotiated funding agreement.

Section 5. PROCESS.

(A) Determining Amounts of Startup, Direct, and Indirect CSCs.

- (1) Overview. Sections 106 (a)(1) and 106(a)(2) and (a)(3) of the ISDEAA provide for funding of Indian Self-Determination 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.

- (2) 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.

Section 106(a)(3) authorizes awardees to be paid CSC costs, whether they are “indirect” in nature (benefiting multiple programs) or are 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 106(a)(1) costs in the CSC amounts, the IHS will review the CSC request to identify any costs that are duplicative of the amounts that have been incurred by the IHS in the operation of the program and included in the 106(a)(1) program funding to be transferred. When the PFSA to be contracted has not previously been operated by the IHS, the identification of the duplicative costs will be negotiated based on the program budget submitted by the awardee and a budget from the IHS reflecting the expenditure patterns of how the Secretary would have otherwise operated the PFSA.

For awardees with IDC rates, the IDC agreement and proposal will be analyzed and costs will be considered duplicative if the amounts historically utilized for specific categorical purposes 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.

(a) Startup and Pre-Award Costs. Sections 106(a)(5) and 106(a)(6) of the ISDEAA 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 startup 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.

Examples of startup and pre-award costs include, but are not limited to:

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

Review of pre-award and startup costs should ensure that there is no duplication with any costs funded under a Tribal Management Grant, when appropriate.

(b) 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.

Examples 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 and Commission Corp salaries;
- Insurance;
- Facilities support costs to the extent not already made available;
- Training required to maintain certification of direct program personnel; 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 the 106 (a)(1) amount.

DCSC funds are provided to the awardee on a recurring basis and need not be rejustified each year. In accordance with section 106(a)(3)(b) of the ISDEAA, however, the amount of funds needed for DCSC may be renegotiated on an annual basis at the option of the awardee. To the extent that a greater amount of DCSC need is agreed to, that additional requirement will be recognized as CSC shortfall and will be considered for funding under Pool No. 3 [see section 5(B)(3) below]. To the extent that the DCSC requirement is reduced, excess DCSC funds may first be used to fully fund the awardees IDC requirements before the IHS reduces any excess funds.

Startup costs and DCSCs must be justified as such and negotiated with the Area Office before recommendation to the IHS Headquarters, Division of Financial Management (DFM). Items not included as examples above, but requested and justified by awardees, shall be submitted by the Area office to Headquarters, DFM, for review. This will contribute to greater consistency from Area to Area (see also Roles and Responsibilities, paragraph 5(C) below).

- (c) 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(j) of P.L. 93-638, as amended, has made modifications to the OMB cost principles otherwise applicable to awardees.

In determining the amount of CSC required, Areas should 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 utilizing rates negotiated with the cognizant Federal agency, will be determined by applying the negotiated rate(s) to the appropriate direct cost base amount subject to special provisions relating to any tribal shares included in the direct cost base, as explained in paragraph 5(A)(3) below. The amount determined as the awardee’s CSC requirement will be consistent with the individual awardee’s rate agreement, reflecting any exclusions required by the IDC agreement.
- (ii) Awardees Without Negotiated IDC Rates (Guidelines for Agency Negotiators). A lump sum amount for “indirect types of costs” may be computed for awardees that do not have formally negotiated agreements with their cognizant Federal agency for reimbursement under an IDC rate. This annual 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.

Examples of indirect or indirect type costs are:

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		

(3) Alternative Methods for Calculating CSC Associated With “Tribal Shares.” If an awardee’s contract includes tribal shares, the awardee shall elect the method for determining the CSC associated with those tribal shares in one of two ways.

- (a) Alternative A. The awardee and the Area Office shall conduct a case-by-case detailed analysis of the “purpose for which the [tribal share] funds were utilized by the Secretary.” Tribal shares will be reviewed to identify types of costs that are duplicative of those costs that are already included in the awardee’s IDC pool or are proposed to be funded as DCSC. Those costs that are already in the awardee’s IDC pool or DCSC budget will be considered as duplicative of the tribal shares for purposes of funding IDC for administrative or “overhead” purposes [Section 106(a)(3)(A)(ii)].

In determining whether such costs are duplicative, the review will consider both the cost category labels (travel, supplies, etc.) and how the funds were spent by the IHS.

- (b) Alternative B. The awardee and the Area Office will apply the following "split" of total tribal shares: Eighty percent of the tribal shares amounts will be considered as part of the awardee's direct program base [section 106(a)(3)(A)(i)] and 20 percent of the tribal share amounts will be retained by the awardee to be considered as available funding for administrative or "overhead" purposes [section 106(a)(3)(A)(ii)].
- (c) If the amount set aside for CSC requirements (20%) exceeds the awardee's negotiated CSC requirements, the awardee shall retain these funds for program purposes.

Once these two amounts are computed, they will be used in accordance with the terms of the rate agreement (or alternative method provided herein) for calculating the amount required for CSC. The balance of the tribal shares not considered as part of the direct program base will be considered as available for CSC. Any excess CSC requirements not funded by the portion of the tribal shares considered available for CSC will be eligible for payment as provided herein, and the processes specified in this Circular for allocation of funding in this pool will apply.

Exhibit 99-03-B illustrates how Alternative A (a detailed analysis) would be calculated, and Exhibit 99-03-C illustrates how Alternative B (the "80/20 method") would be calculated.

(B) Allocating Funding Available for CSCs.

In theory, CSC funding is composed of three "pools." The first pool is composed of any funding increase appropriated for CSCs associated with new and expanded awards. The second pool is composed of the total amounts awarded by the IHS in the prior year for direct and indirect CSCs (the prior year's "base"). The third pool is composed of amounts, if any, appropriated for increases on the prior year "base" such as mandatory increases or shortfall funds. Each pool has separate funding priorities and eligibility requirements.

(1) Pool No. 1 - ISD Fund.

- (a) The ISD Fund will cover CSC requirements associated with the following awards:
- i) An initial transfer of a PFSA previously operated by the IHS to an awardee;

- ii) Expansion of a PFSA through the assumption of additional shares of PFSA's previously operated by the IHS, regardless of the organizational level at which the expanded PFSA was operated;
 - iii) Assumption of programs previously operated under awards to other awardees; or
 - iv) New or expanded PFSA's available due to new appropriations, excluding mandatory increases.
- (b) When an awardee withdraws PFSA's from an existing award between the IHS and another awardee who has been operating that PFSA on behalf of the first awardee, the existing CSC is subject to reallocation between the two awardees. In the absence of an agreement between the awardees, the existing CSC will be divided as follows:
- DCSC is directly associated with the direct program funds and therefore should be reallocated proportionately between the awardees on the same basis as the direct program funds are being reallocated.
 - Conversely, IDC funding should be first applied to the existing awardee up to the full amount that can be justified by that awardee. Excess IDC funds should then be transferred to the new awardee. The new awardee is then eligible for ISD funds to recover whatever additional IDC requirements it has in accordance with the Pool No. 1 allocation process. If IDC funds were not sufficient even for the first awardee, its additional IDC need shall be treated as shortfall and eligible for funding under Pool No. 3. The full IDC requirement of the new awardee should be considered for funding under its ISD request.
- (c) Initial Funding Period - New and Expanded Contracts. CSC funds for new and expanded programs will be allocated by IHS Headquarters as expeditiously as possible. To the extent available funding is provided to each CSC request on the ISD list for the current fiscal year, CSC funding requests on the ISD list (known as "ISD requests") will be determined as follows:
- (i) First, subject to paragraph 5(c)(iv) below, the initial distribution of the ISD Fund will be made subsequent to July 3rd of each fiscal year, based on contract proposals being received by July 3rd of the current fiscal year. If the IHS and the tribe have failed to reach an agreement on the amount of the ISD request by the time of the initial distribution of the

ISD Fund, an appropriate amount will be identified and reserved for a subsequent distribution.

- (ii) Second, ISD requests will be funded by first paying the full startup and pre-award cost requirement negotiated under each ISD request. If the ISD Fund is not sufficient to fully fund the total startup/pre-award costs of all ISD requests negotiated, then the amount available will be proportionately divided against the total negotiated startup and pre-award costs of all negotiated requests.
- (iii) Third, the overall CSC requirement of each awardee, excluding startup or pre-award costs, that has an ISD request pending will be computed. The IHS will then allocate greater ISD funding to awardees with the lowest percentage of overall CSC need currently being funded. This process will raise the minimum level of CSC being funded to the maximum percentage possible. See Exhibit 99-03-D for a description and an example of this funding methodology. The ISD payment will not exceed the total amount of the computed ISD request.

NOTE: In the event an awardee does not submit an ISD request in time for the initial distribution of the ISD Fund, there is a risk that an award will not be able to be made within the current fiscal year or that ISD funds will have been fully allocated and no ISD funds will be available for a subsequent distribution. Requests received after July 3rd that do not receive ISD funds will be considered for funding in the next fiscal year.

- (iv) An allocation will be made as expeditiously as is practical, based on all ISD requests received and negotiated. An interim payment in advance of the initial distribution described in paragraph 5(c)(i) above may be made to awardees earlier in the fiscal year if the IHS determines that sufficient funds will be available to fund all expected new and expanded contracts or compacts to at least that same level during the balance of the fiscal year.
- (v) If there are no ISD funds to be distributed in the current fiscal year to pay ISD requests, all unfunded requests will be considered a part of the overall CSC shortfall for funding under Pool No. 3 in the current year and will not be considered for ISD funds in the subsequent fiscal year.
- (vi) If an awardee proposes to start a new or expanded activity for less than a full year, an annual amount for the ISD requirement will need to be computed consistent with the methodologies included in this Circular. Startup and pre-award costs should be identified at their full amount and all other costs should be prorated to reflect the reduced

award period in the first year of the award. When computing the requirement for the subsequent year the IHS shall ensure, to the greatest extent possible, that funds to cover the same proportionate share of the annual ISD request amount as was paid on the partial year amount, are available for the subsequent year.

(vii) If ISD appropriations are not available to pay all awardees 100% of their ISD requests, the remaining unpaid DCSC and IDC will be recorded as part of the overall CSC shortfall used in the allocation of Pool No. 3.

(viii) 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 be distributed according to the methodology described in paragraph 5(B)(3) below.

(2) Pool No. 2 - Prior Year CSC Funding That Remains Justified in the Subsequent Fiscal Year (Ongoing Awards).

(a) The amount of CSC funds paid to an Area in any year will be paid to that Area as a recurring amount. Adjustments will only be made in subsequent years as new funds are made available or as Areas return CSC funds that they no longer require.

(b) As stated in paragraph 5(C)(2)(a), DCSC funding is provided on a recurring basis. Mandatory increases provided by Congress on DCSC funding should be added to Pool No. 2 and provided to awardees without further justification.

(c) All indirect CSC funds will be paid to the awardee as non-recurring funds. Each awardee's requirement for indirect CSCs shall be determined by calculating changes, if any, in indirect cost rates, bases, and pools. Prior year funding for an awardee's indirect CSC will not be reduced in subsequent years as long as the CSC funding for indirect CSC in the subsequent year does not exceed 100% of the awardee's total CSC requirement. [See paragraph 5(C)(2)(c) below.]

(d) If CSC funds (direct or indirect) are available within an Area due to reductions in tribal CSC requirements, those funds shall be redistributed to awardees within that Area according to the methodology described in paragraph 5(B)(3) below. Notwithstanding any Area redistribution of CSC, if an awardee's current 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 according to the methodology provided in Exhibit 99-03-E.

(3) Pool No. 3 - Mandatory Increases/ Shortfall Funds. Prior year funds provided for indirect CSCs to each awardee, if justified in subsequent years, shall not be reduced by the IHS, except as authorized in section 106(b) of the ISDA. Awardees should expect to receive these funds continuously, if they continue to justify at least the same or greater annual need. If an awardee's current 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 according to the methodology provided in Exhibit 99-03-E. Several sources of revenue may be available to fund these ongoing shortfalls in CSC. These include:

- Funds returned from non-recurring startup funding from the prior year, to the extent that they are available. (Such funds may not be available under Pool No. 3 if the Director has used the funds to address existing CSC obligations or significant inequities in CSC funding.)
- Funds remaining (if any) from the ISD appropriations after funding the total negotiated ISD requests for the fiscal year, to the extent not prohibited by law.
- Funds appropriated by Congress for mandatory increases on IDC.
- Funds appropriated by Congress for CSC Shortfalls.

Funds received from any of the sources above shall be allocated to contractors in the ongoing Pool No. 3 to reduce their CSC shortfalls according to the methodology provided in Exhibit 99-03-E. The intent of this allocation is to provide Pool No. 3 funding to all awardees in proportion to their overall CSC shortfall.

The distribution of funds from Pool No. 3 shall be made as expeditiously as possible, but no later than March 30th of any fiscal year.

(C) Roles and Responsibilities.

Awardees as well as IHS staff have distinct roles and responsibilities in facilitating the determination of tribal CSC requirements and in the allocation of CSC resources. This subsection will describe those activities associated with the determination of initial tribal CSC (ISD) requirements, those activities associated with ongoing management of CSC requirements, and some of the ancillary CSC activities carried out by the IHS.

(1) Initial ISD Request Responsibilities.

- (a) Initial ISD Request. Awardees will provide a detailed ISD request to the Area Director or his/her designee. Awardees should be encouraged to complete their ISD requests on forms developed by the IHS for that purpose [see Exhibit 99-03-G]. The request must include a clear description of the requested CSC amounts to be negotiated (as specified at 25 C.F.R. Sec.

900.8), the date that the PFSAs are to be assumed, and an identification of the amount of program funding to be transferred. Additionally the awardee is encouraged to provide a detailed line item tribal budget for the 106(a)(1) amount in order to facilitate CSC negotiations. The Area Director or his/her designee will provide a copy of the negotiated ISD request to the IHS Headquarters DFM, and in the case of Title III, to the Office of Tribal Self-Governance .

- (b) ISD Negotiation. The Area Office has primary responsibility for negotiating the ISD request with the awardee and forwarding a recommendation to Headquarters DFM for review and approval. Headquarters DFM shall have responsibility to review and approve the request. If Headquarters DFM raises an objection to the request, they shall communicate their objection in writing to the Area Director or his/her designee and request re-negotiation with the awardee. The Headquarters DFM may assist the Area in this renegotiation. If the Area and the awardee cannot agree on an item(s) of cost, the Area shall issue a (partial) declination of the awardee's contract proposal in accordance with 25 C.F.R. Section 900.20 – 33. The declination must be issued within 90 days of receipt of the awardee's proposal unless the awardee has provided a written extension in accordance with 25 C.F.R. Section 900.17.
- (c) ISD Request List. The list of pending ISD requests for each fiscal year for the ISD Fund will be maintained by the Headquarters DFM and distributed quarterly to the Area Offices and to awardees on the list for the current fiscal year. The list will include the name of the awardee; the proposed start date; the date of request or proposal; an estimated amount of the program costs to be awarded, i.e., the 106(a)(1) amounts; the estimated amount of CSC approved; the estimated percentage of the approved CSC requirement to be awarded; and an estimate of any remaining ISD funds anticipated after subtracting all existing ISD requests. The Headquarters DFM will update the list of estimated amounts of CSCs as additional data becomes available through negotiations. As soon as possible after the appropriation is signed, but not later than the 15th day of the month following the end of each quarter, the IHS will notify all of the awardees with pending ISD requests of the total amount of negotiated ISD requests that are eligible for payment in the initial distribution of ISD funding, and the awardee's calculated proportion of the ISD request, if any, that can be expected to be paid by the IHS based on ISD requests received to date.
- (d) Changes in Start Date. Prior to actual startup, any awardee has the right to delay its startup date, if in its sole discretion and absent a declination issued by the IHS, the expected amount of CSC funding to be received by the awardee is insufficient to properly carry out the program. If an awardee makes such an election, the Area Office will contact the awardee in order to

acknowledge the change and to determine a new proposed start date. Delay of the startup date to a subsequent fiscal year shall not require an awardee to submit a new or revised CSC proposal, although it may require a revision or renegotiation of the CSC amounts, depending upon the circumstances.

In the alternative, if an awardee believes it cannot operate the PFSAs that it is contracting due to the delay in CSC funding under the initial ISD allocation made after July 3rd, that tribe may delay its startup date until the initial allocation can be made. At that time the awardee will receive a prorated share of its CSC allocation in accordance with paragraph 5(B)(1)(c)(vi) above. In the subsequent year, the IHS will then be required to provide this same proportionate share of the initial payment, to the greatest extent possible, annualized for the entire fiscal year.

(2) Subsequent Funding Periods.

- (a) Beginning in year 2, DCSC requirements will first be funded up to the total amount of the original ISD request for DCSCs. DCSC, along with other section 106(a)(1) funds, will be considered part of the recurring base of the award. Mandatory funding increases will be paid based on congressional appropriations. The amount of the DCSCs is provided to the awardee on a recurring basis and will not be reduced but may be renegotiated annually at the option of the awardee.
- (b) IDC funding paid in connection with an ISD request will be transferred to Pool No. 2, the "Ongoing Pool" in year 2. Thereafter it will be paid on a non-recurring basis to the awardee, and will recur in subsequent years to the extent it does not exceed 100% of the awardee's calculated IDC requirement.
- (c) In situations where an awardee's IDC rate is reduced, either because a Provisional rate is made final or because a lower subsequent Fixed w/Carry Forward rate is approved, the Area is required to determine if the reduction has resulted in the awardee receiving more IDC funds than is otherwise permissible under the new rate. If available IDC funding exceeds this new IDC requirement, excess IDC funds may first be used by the awardee to fully fund existing DCSC shortfall requirements before the IHS reduces any excess funds. Areas are required to collect excess CSC funds back from awardees for redistribution to other tribal shortfalls within that Area. If the awardee refuses to execute a bilateral modification to return these funds, then the Area Office is expected to file a claim against the awardee in the amount of the overpayment in accordance with the Contract Disputes Act (P.L. 95-563, as amended, and 25 C.F.R. Section 900.216).

- (d) Each Area Director or his/her designee will report to Headquarters DFM any shortfalls in funding of direct or indirect contract support and such shortfalls should be included in the required reports to the Congress and be reported to tribes (see Section 6. below).
- (e) Startup funding does not recur to the awardee in year 2. Instead, to the extent available, such funds shall be added to Pool No. 3 in the subsequent year. Startup costs that are not funded in the initial year of the award will not be carried forward and will not be included in subsequent CSC shortfall reports.

- *Note: The IHS has interpreted Section #314 of the fiscal year (FY) 1999 Omnibus Appropriations bill as prohibiting the payment of startup costs for fiscal years prior to FY 1999. As a result of this interpretation, a number of tribes were not paid for startup costs that had been negotiated as a part of an approved ISD request. As a transitional step toward the adoption of this new Circular, the FY 2000 IHS CSC Shortfall Report shall include a separate schedule detailing, tribe by tribe, the total amounts of startup costs that were approved but not paid in FY 1999. These amounts will not be included in the FY 2000 CSC Shortfall estimate but will be reflected in the report for the purpose of informing the Congress of startup costs that were not paid due to the passage of Section #314.*

A graphic illustration of CSC is provided as follows:

-- Startup (Non-recurring to Area and awardee in year 2)

--DCSC** <i>(Recurring to awardee and Area in Year 2)</i>
--IDC* <i>(Non-recurring to awardee, recurring to Area)</i>
--Program Base** <i>(Section 106(a)(1) amount)</i> <i>(Recurring to awardee and Area)</i>

**IDC base amount in subsequent years is described above. Pool No. 2. Increases/decreases to IDC base amount are governed by Pool No .3, also described above.*

*** Treated as recurring, i.e., not adjusted except pursuant to P.L. 93-638 in subsequent years.*

(3) Other CSC Responsibilities.

- (a) 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.

When it is unclear whether a dispute should be handled as a declination or a CDA claim, the Director of Self-Determination Services in the IHS Headquarters Office of Tribal Programs should be contacted for possible referral to the IHS Headquarters Leadership Team.

- (i) 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 are most likely to occur as a result of disagreements over an awardee's ISD request [Paragraph 5(C)(1)(b) above]. Declination appeals must be processed pursuant to 25 C.F.R. Subpart L, Sections 900.150 – 177.
- (ii) 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 [paragraph 5(A)(2)(b) above], the renegotiation of indirect type costs [paragraph 5(A)(2)(c) above], or the allocation of CSC [paragraph 5(B)(2) or (3) above]. Post-award contract disputes must be handled pursuant to 25 C.F.R. Subpart N, Sections 900.215 – 230.
- (b) CSC Pilot Projects and Base Budgets. There are currently several CSC Pilot Projects ongoing (including CSC Base Budgets) that are intended to incorporate innovative approaches to CSC funding issues. Upon completion and evaluation of these projects, this Circular may be amended to incorporate new provisions.
- (c) CSC Budget Projections. Each Area Director or his/her designee shall survey tribes and tribal organizations within that Area to develop accurate CSC need projections on an annual basis. This will include an identification of amounts required for the ISD Fund and projections for the total ongoing CSC requirement for the following fiscal year as well as estimates for the next two fiscal years. This information will be consolidated by the Headquarters DFM and provided to tribes and tribal organizations. This information will also be generated in a report on or before September 30th of each fiscal year and will be used by the IHS in conjunction with the agency's budget formulation process.

- (d) IHS CSC Workgroup. From time to time the IHS will convene a workgroup of Federal and tribal individuals who possess an extensive knowledge of CSC issues. This workgroup has historically provided advice and guidance to the IHS in the development of agency CSC policy and in the ongoing management of CSC. The workgroup is not a substitute for tribal consultation but will continue to be used in an advisory capacity for the benefit of both tribes and the IHS.

Section 6. IHS CSC SHORTFALL REPORT.

- (A) Requirements for Reporting and Documenting Amounts of CSC Available, Needed, and Requested. Areas shall maintain a historical record of funds negotiated and awarded in each of the categories listed below. A detailed sample of the data base to be maintained by each Area is provided in Exhibit 99-03-F.
- Direct program funds;
 - Startup 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
 - Indirect CSC requirements
- (B) Areas shall provide a report to the Headquarters DFM 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 Area Finance Management Officer (FMO) and the Area Director or his/her designee.
- (C) A copy of the Area's data shall be provided by the Area Director or his/her designee to the awardees within that Area by November 15th as well. Any corrections or changes to the data resulting from awardee review must be certified by the Area FMO and submitted to the Headquarters DFM through the Area Director or his/her designee by December 15th of each fiscal year.
- (D) The Headquarters DFM shall consolidate all Area reports into the IHS CSC Shortfall Report. In doing so, the Headquarters DFM shall, in consultation with the Office of Tribal Programs and the Office of Tribal Self-Governance, provide a projection of the CSC shortfall for the current and subsequent fiscal year.

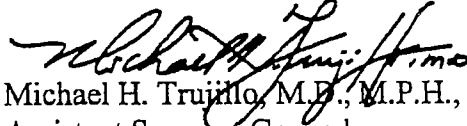
- (E) The Headquarters DFM shall finalize the *IHS CSC Shortfall Report*; obtain concurrence from the Director, Office of Tribal Programs, and the Director, Office of Tribal Self-Governance; and then send it to the Director, IHS, for approval by February 1st of each fiscal year.
- (F) After the report is approved by the Director, IHS, the Headquarters DFM will provide copies to each Area Director or his/her designee, who shall then be responsible for providing a copy of the report to all awardees compacting or contracting within that Area.

Section 7. SUPERSEDURE.

Indian Health Service Circular No. 96-04, "Contract Support Costs," dated April 12, 1996, and any policies or instructions previously issued regarding the allocation of CSC funds, are hereby superceded.

Section 8. EFFECTIVE DATE.

The policy and procedures contained in this Circular are effective upon signature by the Director, IHS.


Michael H. Trujillo, M.D., M.P.H., M.S.
Assistant Surgeon General
Director, Indian Health Service

Circular Exhibit 99-03-A

Indian Self-Determination and Education and Assistance Act
Public Law 93-638, As Amended
Section 106: [Contract Funding] [25 USC Sec. 450j-1]

SEC. 106 [25 USC 450j-1]. (a)(1) 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.

(2) 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 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.

(3)(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 subsection 106(a)(1) of this section.

(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

Circular Exhibit 99-03-A
(Continued)

funds that the tribe or tribal organization is entitled to receive under such contract pursuant to this paragraph.

(4) For each fiscal year during which a self-determination contract is in effect, any savings attributable to the operation of a Federal program, function, service, or activity under a self-determination contract by a tribe or tribal organization (including a cost reimbursement construction contract) shall—

- (A) be used to provide additional services or benefits under the contract; or
- (B) be expended by the tribe or tribal organization in the succeeding fiscal year, as provided in section 8.

(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 startup 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.

(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 such costs are incurred.

(b) The amount of funds required by subsection (a)—

(1) shall not be reduced to make funding available for contract monitoring or administration by the Secretary;

(2) shall not be reduced by the Secretary in subsequent years except pursuant to—

- (A) a reduction in appropriations from the previous fiscal year for the program or function to be contracted;
- (B) a directive in the statement of the managers accompanying a conference report on an appropriation bill or continuing resolution;
- (C) a tribal authorization;
- (D) a change in the amount of pass-through funds needed under a contract; or
- (E) completion of a contracted project, activity, or program;

Circular Exhibit 99-03-A
(Continued)

(3) shall not be reduced by the Secretary to pay for Federal functions, including, but not limited to, Federal pay costs, Federal employee retirement benefits, automated data processing, contract technical assistance or contract monitoring;

(4) shall not be reduced by the Secretary to pay for the costs of Federal personnel displaced by a self-determination contract; and

(5) may, at the request of the tribal organization, be increased by the Secretary if necessary to carry out this Act or as provided in section 105(c)[450j(c)].

Notwithstanding any other provision in this Act, the provision of funds under this Act is subject to the availability of appropriations and the Secretary is not required to reduce funding for programs, projects, or activities serving a tribe to make funds available to another tribe or tribal organization under this Act.

(c)(1) Where a tribal organization's allowable indirect cost recoveries are below the level of indirect costs that the tribal organizations should have received for any given year pursuant to its approved indirect cost rate, and such shortfall is the result of lack of full indirect cost funding by any Federal, State, or other agency, such shortfall in recoveries shall not form the basis for any theoretical over-recovery or other adverse adjustment to any future years' indirect cost rate or amount for such tribal organization, nor shall any agency seek to collect such shortfall from the tribal organization.

(2) Nothing in this subsection shall be construed to authorize the Secretary to fund less than the full amount of need for indirect costs associated with a self-determination contract.

(d) Indian tribes and tribal organizations shall not be held liable for amounts of indebtedness attributable to theoretical or actual under-recoveries or theoretical over-recoveries of indirect costs, as defined in Office of Management and Budget Circular A-87, incurred for fiscal years prior to fiscal year 1992.

(e) Any right of action or other remedy (other than those relating to a criminal offense) relating to any disallowance of costs shall be barred unless the Secretary has given notice of any such disallowance within three hundred and sixty-five days of receiving any required annual single agency audit report or, for any period covered by law or regulation in force prior to enactment of Chapter 75 of title 31, United States Code, any other required final audit report. Such notice shall set forth the right of appeal and hearing to the board of contract appeals pursuant to section 110 [450m-1]. For the purpose of determining the 365-day period specified in this paragraph, an audit report shall be deemed to have been received on the date of actual receipt by the Secretary, if, within 60 days after receiving the report, the Secretary does not give notice of a determination

**Circular Exhibit 99-03-A
(Continued)**

by the Secretary to reject the single-agency report as insufficient due to noncompliance with chapter 75 of title 31, United States Code, or noncompliance with any other applicable law.

Nothing in this subsection shall be deemed to enlarge the rights of the Secretary with respect to section 16 of the Indian Reorganization Act of June 18, 1934 (25 USC 476, 48 Stat. 984).

(f) Upon the approval of a self-determination contract, the Secretary shall add to the contract the full amount of funds to which the contractor is entitled under section 106(a), subject to adjustments for each subsequent year that such tribe or tribal organization administers a Federal program, function, service, or activity under such contract.

(g) In calculating the indirect costs associated with a self-determination contract for a construction program, the Secretary shall take into consideration only those costs associated with the administration of the contract and shall not take into consideration those moneys actually passed on by the tribal organization to construction contractors and subcontractors.

(h) On an annual basis, the Secretary shall consult with, and solicit the participation of, Indian tribes and tribal organizations in the development of the budget for the Indian Health Service and the Bureau of Indian Affairs (including participation of Indian tribes and tribal organizations in formulating annual budget requests that the Secretary submits to the President for submission to Congress pursuant to section 1105 of title 31, United States Code).

(i) Notwithstanding any other provision of law, a tribal organization may use funds provided under a self-determination contract to meet matching or cost participation requirements under other Federal and non-Federal programs.

(j) Without intending any limitation, a tribal organization may, without the approval of the Secretary, expend funds provided under a self-determination contract for the following purposes, to the extent that the expenditure of the funds is supportive of a contracted program:

(1) Depreciation and use allowances not otherwise specifically prohibited by law, including the depreciation of facilities owned by the tribe or tribal organization.

(2) Publication and printing costs.

(3) Building, realty, and facilities costs, including rental costs or mortgage expenses.

(4) Automated data processing and similar equipment or services.

(5) Costs for capital assets and repairs.

Circular Exhibit 99-03-A
(Continued)

(6) Management studies.

(7) Professional services, other than services provided in connection with judicial proceedings by or against the United States.

(8) Insurance and indemnification, including insurance covering the risk of loss of or damage to property used in connection with the contract without regard to the ownership of such property.

(9) Costs incurred to raise funds or contributions from non-Federal sources for the purpose of furthering the goals and objectives of the self-determination contract.

(10) Interest expenses paid on capital expenditures such as buildings, building renovation, or acquisition or fabrication of capital equipment, and interest expenses on loans necessitated due to delays by the Secretary in providing funds under a contract.

(11) Expenses of a governing body of a tribal organization that are attributable to the management or operation of programs under this Act.

(12) Costs associated with the management of pension funds, self-insurance funds, and other funds of the tribal organization that provide for participation by the Federal Government.

(k)(1) The Secretary may only suspend, withhold, or delay the payment of funds for a period of 30 days beginning on the date the Secretary makes a determination under this paragraph to a tribal organization under a self-determination contract, if the Secretary determines that the tribal organization has failed to substantially carry out the contract without good cause. In any such case, the Secretary shall provide the tribal organization with reasonable advance written notice, technical assistance (subject to available resources) to assist the tribal organization, a hearing on the record not later than 10 days after the date of such determination or such later date as the tribal organization shall approve, and promptly release any funds withheld upon subsequent compliance.

(2) With respect to any hearing or appeal conducted pursuant to this subsection, the Secretary shall have the burden of proof to establish by clearly demonstrating the validity of the grounds for suspending, withholding, or delaying payment of funds.

(l) The program income earned by a tribal organization in the course of carrying out a self-determination contract—

**Circular Exhibit 99-03-A
(Continued)**

(1) shall be used by the tribal organization to further the general purposes of the contract; and

(2) shall not be a basis for reducing the amount of funds otherwise obligated to the contract.

(m) To the extent that programs, functions, services, or activities carried out by tribal organizations pursuant to contracts entered into under this Act reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings that have not otherwise been included in the amount of contract funds determined under subsection (a), the Secretary shall make such savings available for the provision of additional services to program beneficiaries, either directly or through contractors, in a manner equitable to both direct and contracted programs.

(n) Notwithstanding any other provision of law (including any regulation), a tribal organization that carries out a self-determination contract may, with respect to allocations within the approved budget of the contract, rebudget to meet contract requirements, if such rebudgeting would not have an adverse effect on the performance of the contract.

Circular Exhibit 99-03-B

**CSC Calculation
Based on a Detailed Analysis**

Assumptions:

1. Tribe B has \$100,000 in Area and HQs tribal shares
2. Detailed analysis indicates that \$10,000 of tribal shares is similar in nature to costs included in tribe B's indirect cost pool
3. Indirect cost rate = 30%
4. New budgeted tribal wages = \$48,000
5. DCSC fringe = XX % of new wages
6. Other DCSC = \$5,000
7. No excluded items

Expanded program base \$100,000-\$10,000	\$90,000
DCSC fringe \$48,000 x XX %	\$7,200
Other DCSC	\$5,000
Sub-total direct	\$102,200
Less excluded items	\$0
Total direct base	\$102,200
X 30% indirect cost rate	\$30,660
Total direct and indirect	\$132,860

ISD Calculation

DCSC recurring	\$12,200
ICSC non-recurring	\$30,660
TOTAL CSC	\$42,860
Less tribal shares available for CSC	\$(10,000)
TOTAL ISD request	\$32,860

Tribe B would receive \$100,000 from tribal shares and \$32,860 would be requested from the ISD Fund.

Circular Exhibit 99-03-C

CSC Calculated Using the 80/20 Method ^{1/2}

Assumptions:

1. Tribe A has \$100,000 in Area and Headquarters Tribal Shares
2. Indirect cost rate = 30%
3. New budgeted tribal wages = \$48,000
4. DCSC fringe = XX % of new wages
5. No excluded items
6. Other DCSC = \$5,000

Expanded program base \$100,000 tribal shares x 80%	\$80,000
DCSC fringe \$48,000 wages x XX %	\$7,200
Other DCSC	\$5,000
Sub-total direct	\$92,200
Less excluded items	\$0
Total direct	\$92,200
x 30% indirect cost rate	\$27,660
TOTAL direct and indirect	\$119,860

ISD Calculation

DCSC recurring	\$12,200
ICSC non-recurring	\$27,660
TOTAL CSC	\$39,860
Less tribal shares available for CSC	\$(20,000)
Total ISD request	\$19,860

Tribe A would receive \$100,000 from tribal shares and \$19,860 would be requested from the ISD Fund.

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^{1/2} The 80/20 Method was developed as a result of a joint Tribal/IHS cost study. The percentages used will not be changed until a subsequent cost study is completed, tribal consultation is undertaken, and this Circular is revised.

Circular Exhibit 99-03-D

**Allocation of ISD Funds Against CSC Requirements
For New and Expanded Awards
(Bottom-Up Approach)**

The purpose of the allocation of funding needed for new and expanded P.L. 93-638 compacts and contracts is to provide an equitable allocation of available resources and in doing so, to consider the overall level of CSC need currently being funded for each awardee eligible for ISD funding. Allocation of ISD funding by this methodology is intended to decrease variations in overall CSC shortfall percentages among awardees by directing ISD funds to those awardees having the lowest percentage of overall CSC need currently being funded.

ISD funds will be paid according to the following methodology:

- (1) The CSC requirement to fund a new or expanded contract will be negotiated according to the guidance provided in paragraphs 5(A)(1) – (3) of this Circular.
- (2) The full startup and pre-award cost need negotiated with the awardee for all requests received prior to July 3rd of the fiscal year will first be fully funded. If the ISD Fund is not sufficient to fully fund the total startup/pre-award costs of all ISD requests negotiated, then the amount available in the ISD Fund will be proportionately divided against the total negotiated startup and pre-award costs of all negotiated requests.
- (3) After funding startup and pre-award costs, the total amount of ongoing CSC requirements is computed from the data provided in Section 6 of this Circular (*IHS CSC Shortfall Report*), taking into account any CSC shortfall funding provided to the awardee through the allocation of Pool No. 3.
- (4) For each awardee having an ISD request for the current fiscal year that was submitted prior to July 3rd, the awardee's total overall CSC requirement (less startup and pre-award costs already paid) is computed including both the CSC requirements associated with the ongoing program and the ISD request.
- (5) The percentage of CSC available for each awardee, is computed by dividing the amount already available to the awardee for CSC funding, by the total CSC requirement computed in paragraph four (4) above (that is, before the award of any direct or indirect cost funding for the ISD allocation).
- (6) A CSC percentage "floor" is computed for purposes of paying awardees with ISD requests in the current year. The CSC floor is the lowest percentage of total CSC need to be funded for each awardee having an ISD request. The floor is set at the highest common level of CSC that can be funded given the total ISD funds available.

Circular Exhibit 99-03-D
(Continued)

- (7) For all awardees with a current CSC requirement that is below the CSC floor, an ISD payment will be computed that brings the awardee to the CSC floor. This will be determined by multiplying the floor percentage by the entire CSC requirement of the awardee and subtracting the current CSC funding for the awardee.
- (8) Although the amount required by an awardee to reach the CSC floor may exceed the awardees ISD request, the amount funded from Pool No. 1 will be limited to the awardees ISD request.
- (9) Any shortfall remaining for an ISD awardee will be paid pursuant to Pool No. 3, along with all other awardees having such shortfalls, to the extent funds are available for ongoing CSC shortfalls, in accordance with Exhibit 99-03-E.
- (10) If ISD funding is sufficient to fully fund all ISD requests, 100% of the requests will be paid but no additional ISD funding will be provided from the ISD Fund to pay shortfalls associated with ongoing programs.

The allocation methodology for all awardees with ISD requests for new and expanded contracts can be describes mathematically as:

$$ISDF_n = (ACSC_r * \%CSC_{funded}) - ACSC_a$$

Where:

$ISDF_n$ = This is the amount of *new CSC funding* to be paid to an awardee on its ISD request. This amount is limited to the total amount of the ISD request.

$ACSC_r$ = The awardee's total CSC *requirement* (including the total ISD requirement in the current year)

$\%CSC_{funding}$ = The highest of either:

- The existing % of CSC *funding* (including the total ISD requirement in the current year), or
- The highest level CSC support that can be obtained for all the awardees in the ISD pool for the current year (i.e., the "floor").

$ACSC_a$ = The total CSC funding currently *available* in the contract or compact (inclusive of any distribution from Pool No. 3).

**Circular Exhibit 99-03-D
(Continued)**

A sample of this allocation methodology is provided below.

The following sample assumes that eight tribes have approved ISD Fund requests for the fiscal year totaling \$7,500,000 after the payment of their startup and pre-award costs and the ISD appropriation still had a balance of \$5,000,000 remaining.

All but one of the awardees on the list would receive some funding for their ISD request for the fiscal year. The single tribe that received no funding in the group would not lose any existing funds and thus would remain at 87% funded for CSC, the highest funding in the group. All of the remaining awardees would receive some ISD funding and would be funded, after ISD funding, at 84.96% of total need which is the highest % of need which could be reached with the appropriated dollars available except that funding for tribes 4 and 8 would not reach the floor since their requirements exceed the "cap" established by the amount of their ISD request.

Computation of ISD payment for Sample Fiscal Year

Tribe	CSC Need	% need before ISD	CSC Funding	Negotiated ISD Request	Total Need After ISD Request	% need W/O ISD Payment	ISD Payment	Total CSC after ISD	ISD Payment
Tribe 1	5,000,000	98%	4,900,000	1,000,000	6,000,000	82%	85%	5,097,418	197,418
Tribe 2	0	0%	0	2,550,000	2,550,000	0%	85%	2,166,403	2,166,403
Tribe 3	300,000	96%	288,000	500,000	800,000	36%	85%	679,656	391,656
Tribe 4	4,000,000	82%	3,280,000	200,000	4,200,000	78%	83%	3,568,193	200,000
Tribe 5	11,500,000	89%	10,235,000	1,165,000	12,665,000	81%	85%	10,759,800	524,800
Tribe 6	6,000,000	86%	5,160,000	450,000	6,450,000	80%	85%	5,479,724	319,724
Tribe 7	4,000,000	97%	3,880,000	435,000	4,435,000	87%	87%	3,880,000	0
Tribe 8	5,000,000	71%	3,550,000	1,200,000	6,200,000	57%	77%	5,267,332	1,200,000
	35,800,000	n/a	31,293,000	7,500,000	43,300,000	n/a	n/a	36,898,524	5,000,000
	Break point %		84.96%						
	ISD appropriation		5,000,000						

Circular Exhibit 99-03-E

**Allocation of Pool No. 3 Funds Against Overall
CSC Shortfall for Ongoing Contracts
(Weighted Need Allocation)**

The purpose of this allocation of funding needed for all P.L. 93-638 compacts and contracts is to provide for an equitable allocation of available appropriated resources when considering the overall level of CSC need currently being funded each awardee eligible for increased CSC funding. Allocation of Pool No. 3 funding by this methodology will:

- *Provide some increases to all P.L. 93-638 contractors and compactors which have a CSC shortfall, and*
- *Provide relatively larger increases to those with the greatest shortfalls thus decreasing variations in overall CSC shortfall percentages among all awardees by providing larger payments to those with the lowest percentage of overall CSC need funded, while at the same time moving all awardees closer to 100% funding.*

The allocation will be done according to the following methodology:

- (1) As soon as possible in the fiscal year, but not later than March 30th the amount of the ongoing CSC requirements will be computed from the data provided in Section 6 of this Circular (*IHS CSC Shortfall Report*).
- (2) The percentage of CSC funding available for paying CSC shortfalls is computed by dividing the total funding available for CSC shortfall by the requirement for ongoing CSC shortfall identified above.
- (3) The entire amount available for Pool No. 3 is allocated to all awardees with a shortfall in proportion to the size of the ongoing shortfall for each awardee. This is done by multiplying the percentage computed in paragraph three (3) by the ongoing CSC shortfall for each awardee.

Circular Exhibit 99-03-E
(Continued)

The allocation methodology for any awardee can be described mathematically as follows:

$$F_s = (ACSC_r - ACSC_a) * (\text{Pool 3} / (TCSC_r - TCSC_a))$$

Where:

F_s = New CSC shortfall funding to be received for any awardee

$ACSC_r$ = Total ongoing CSC requirement for the awardee

$ACSC_a$ = Total CSC funding available for the awardee

$TCSC_r$ = Total ongoing CSC requirement for all awardees

$TCSC_a$ = Total CSC funding available for all awardees

A sample of this allocation methodology is provided below.

The following sample assumes that eight awardees have approved total CSC requirements ($TCSC_r$) for the fiscal year totaling \$41,000,000. The total CSC shortfall ($TCSC_s$) for the eight awardees is \$9,459,500 and the total CSC funding available ($TCSC_a$) for CSC shortfalls under Pool No. 3 is \$5,000,000.

All of the awardees on the list would receive some funding for their CSC shortfalls for the fiscal year. Each awardee would receive funds in proportion to the existing shortfall of the awardee. The proportion of the total CSC fundable would be determined by dividing the total CSC available ($TCSC_a$ or \$5,000,000) by the total CSC shortfall ($TCSC_s$ or \$9,459,500) or 53%. The shortfall for each awardee would be funded at 53%.

Circular Exhibit 99-03-E

(Continued)

After the shortfall allocation the range of funded shortfall for all awardees in the group narrows to between 65% and 99%.

Computation of CSC Shortfall Payments For Sample Fiscal Year

Tribe	CSC Need	% Need Funded	CSC Funding	CSC Shortfall	Shortfall Payment	Total CSC After Shortfall	% Need Funded after Payment
Tribe 1	5,000,000	98%	4,900,000	100,000	52,857	4,952,857	99%
Tribe 2	1,000,000	25%	250,000	750,000	396,427	646,427	65%
Tribe 3	500,000	58%	288,000	212,000	112,057	400,057	80%
Tribe 4	4,000,000	82%	3,280,000	720,000	380,570	3,660,570	92%
Tribe 5	12,500,000	82%	10,232,500	2,267,500	1,198,531	11,431,031	91%
Tribe 6	7,000,000	74%	5,160,000	1,840,000	972,567	6,132,567	88%
Tribe 7	5,000,000	78%	3,880,000	1,120,000	591,997	4,471,997	89%
Tribe 8	6,000,000	59%	3,550,000	2,450,000	1,294,994	4,844,994	81%
Totals	41,000,000	77%	31,540,500	9,459,500	5,000,000	36,540,500	

Circular Exhibit 99-03-F
CSC Shortfall Report Format

CSC SHORTFALL REPORT

Area _____

Date Submitted: _____

Title No. or III Awardee	Area	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
		Total FY Program (Recurring)	Total FY Program (Non-recurring)	LESS (.) Program amounts in the ISD Queue	LESS (.) FY Tribal Duplicative of CSC	FY DCSC Funding (Non-Recurring) (Memorandum Only)	FY DCSC Negotiated Need	FY DCSC Funding (Recurring)	FY DCSC Shortfall (Memorandum Only)
AREA									
1	I	0	0	0	0	0	0	0	0
2	I	0	0	0	0	0	0	0	0
3	I	0	0	0	0	0	0	0	0
4	I	0	0	0	0	0	0	0	0
5	I	0	0	0	0	0	0	0	0
6	I	0	0	0	0	0	0	0	0
7	I	0	0	0	0	0	0	0	0
8	I	0	0	0	0	0	0	0	0
9	I	0	0	0	0	0	0	0	0
10	I	0	0	0	0	0	0	0	0
11	I	0	0	0	0	0	0	0	0
12	I	0	0	0	0	0	0	0	0
13	I	0	0	0	0	0	0	0	0
14	I	0	0	0	0	0	0	0	0
15	I	0	0	0	0	0	0	0	0
16	I	0	0	0	0	0	0	0	0
17	I	0	0	0	0	0	0	0	0
18	I	0	0	0	0	0	0	0	0
19	I	0	0	0	0	0	0	0	0
20	I	0	0	0	0	0	0	0	0
21	I	0	0	0	0	0	0	0	0
TITLE I	Sub-Totals	0	0	0	0	0	0	0	0
1	III	0	0	0	0	0	0	0	0
2	III	0	0	0	0	0	0	0	0
3	III	0	0	0	0	0	0	0	0
4	III	0	0	0	0	0	0	0	0
5	III	0	0	0	0	0	0	0	0
TITLE III	Sub-Totals	0	0	0	0	0	0	0	0
AREA TOTALS		0	0	0	0	0	0	0	0

SLIDE 1 - These columns contain information relating to the Area Office awards and allow for information to be subtotalled by Title I and Title III.

SLIDE 2 - These columns contain information relating to the total program funding provided to the awardee under either Title I or Title III awards.

SLIDE 3 - These columns contain amounts against which CSC will be provided under the ISD and are not to be used as a duplicate of CSC.

SLIDE 4 - These columns contain information related to DCSC provided in the prior fiscal year and any DCSC shortfall experienced by the awardee.

Special Notes pertaining to the above report:
Columns highlighted in Yellow require data to be provided by the Area Offices.
Columns highlighted in Pale Blue contain formulas and will automatically calculate themselves.

Total CSC Advised by HQE: 0
Total CSC Awarded by Area: 0
Difference (Over) or Under: 0

ISD Starts		106(x) amounts associated with ISD Requests
I	Title A	0
I	Title O	0
III	Title K	0
Total		0

Prepared By: _____
Certified By CPLO: _____
Certified By FMO: _____
Approved by Area Director: _____

**Circular Exhibit 99-03-G
ISD Request Form**

DATE

FY ___ Indian Self-Determination Fund Request

Area Office /Tribe (Contractor): _____

Program: _____

Contract No. : _____

Program Start Date: _____

Proposal Date: _____

BUDGET CATEGORIES	Direct Program 106(a)(1) \$\$	Direct CSC Recurring	Direct CSC Non-Recurring
Salaries & Wages	\$ _____		
Fringe (FICA, Medicare, Insurance)	_____		
Fringe (FUTA, SUTA, W.C., Retirement)	_____	\$ _____	1/
Supplies: Office	_____		
Supplies: Medical	_____		
Supplies: _____	_____		
Supplies: _____	_____		\$ _____
Educational Materials	_____		
Travel	_____		
insurance	_____		
Postage	_____		
Printing & Duplication	_____		
Communications - Local Service & Equip.	_____		
Communications - Long Distance Only	_____		
Training - General	_____		
Training - Discipline Specific	_____		
Equipment Maintenance	_____	2/	
GS A / Private Vehicle Leases	_____		
Space/Rent	_____		
Utilities	_____		
Consultants/Contracted Services (minor <\$5000)	_____		
Other: _____	_____		
Other: _____	_____		
Other: _____	_____		
Sub-Total	\$0	\$0	\$0
Consultants/Contracted Services (major >\$5000)	_____		
Equipment - Program (Pass-Thru)	_____		3/
Equipment - Administrative (Pass-Thru)	_____		
Other: _____ (Pass-Thru)	_____		
Total Direct Costs:	\$0	\$0	\$0
Indirect Cost Rate =			
0.000%	\$0	\$0	\$0

Allocation of Area/HQ Shares (80/20 Formula)

Area Tribal Shares	0
HQ Tribal Shares	0
Total Tribal Shares	0
Tribal Shares available for program (80%)	0
Tribal Shares available for CSC (20%)	0

TOTALS APPROVED :

Direct Contract Support Costs (Recurring)	\$0
Direct Contract Support Costs (Non-recurring)	\$0
Indirect Contract Support Costs (Non-recurring) *	\$0
SUB - TOTAL :	\$0

Recommended: Area Contract Proposal Liaison Officer _____
 Area Financial Management Officer _____
 Area Director _____