



MEMORANDUM

December 18, 2014

TO: Contract Support Cost Clients

FROM: HOBBS, STRAUS, DEAN & WALKER, LLP *Geoff Strommer by SDO*

RE: ***IHS Holds CSC Workgroup Teleconference; Workgroup Will Meet Early Next Year***

Yesterday the Indian Health Service (IHS) held a call for the agency's tribal-federal Contract Support Cost (CSC) Workgroup. The primary purpose was to schedule a meeting early next year and rough out an agenda. With the full-funding era proving as challenging as the days of CSC caps and shortfalls, the group has plenty of work to do.

Before scheduling the Workgroup session, however, Acting IHS Director Dr. Roubideaux began with an update on CSC appropriations. As we reported in our last memorandum, the news is good: no caps, and a healthy allocation of \$662,970,000 for CSC, well above the initial budget request of \$617,205,000 and probably enough to avoid a repeat of FY 2014's year-end scramble to reprogram funds to cover CSC shortfalls.¹

Dr. Roubideaux also updated the group on settlement of past-year CSC claims. As of December 2, 2014, IHS had settled 798 claims for \$663 million, had extended offers on 1,117 claims, and had completed analysis or was in the process of analyzing 1,295 claims. She contrasted these statistics with those from the end of 2013, by which time only a handful of claims had been settled. While many new claims are still likely to be filed, the vast majority of pending claims have been settled, had offers extended, or had at least undergone agency analysis.

IHS Deputy Director Elizabeth Fowler led the workgroup discussion of where and when to meet. The dates and location were narrowed to three possibilities, in order of preference: (1) January 15-16 in Denver (following a meeting on Purchased and Referred Care); (2) January 29-30 in Washington, DC (following the Self-Governance meetings); and (3) February 19-20 in Washington, DC. The agreed-on items for the agenda are as follows:

- **Pre-award estimates:** Developing tools (such as the exclusions matrix) to accurately estimate each tribe's CSC need for the fiscal year in advance.

¹ See our memorandum of December 11, 2014 for more details on the CSC provisions of the Consolidated and Further Continuing Appropriations Act, 2015.

- Projections of national CSC needs: Creating accurate forecasts of national CSC needs 1-5 years out.
- Reconciliation: Clarifying IHS's process and timing for ensuring each tribe gets paid 100% of CSC needs, but no more.
- Direct CSC (DCSC): Discussing renegotiation issues, including timelines and the tactics IHS has recently adopted to reduce DCSC requirements.²

Tribal representatives proposed adding CSC Policy revision to the list, but Ms. Fowler said this was premature since Congress did not adopt any of the proposed long-term solutions in the FY 2015 funding cycle, so we don't know what those solutions will end up being. While there is some truth to this, a revised policy—even if only an interim one for FY 2015—would provide more transparency and stability to the ever-evolving CSC landscape. Tribal representatives also pointed out the need for IHS to release its FY 2012 and 2013 shortfall data to help both tribes and IHS project needs and advocate for funding. Ms. Fowler said the reports are still under review.

We will continue to follow the IHS CSC Workgroup and other CSC developments on your behalf. If you have any questions about this memorandum, please do not hesitate to contact Joe Webster (jwebster@hobbsstrauss.com or 202-822-8282), Geoff Strommer, (gstrommer@hobbsstrauss.com or 503-242-1745), or Steve Osborne (sosborne@hobbsstrauss.com or 503-242-1745).

² See our memorandum of November 19, 2014, at 7 (discussing IHS's new approach in recent DCSC negotiations).