

## **Indian Affairs Manual (IAM) Chapter**

**Number: XX IAM XX**

**Title: Contract Support Costs**

### **1. Purpose**

When a tribe enters into an agreement under the ISDEAA, the tribe is entitled to receive contract support costs as provided by law pursuant to 25 U.S.C. § 450j-1. Congress has determined that the single greatest impediment to the success of tribal self-determination was the failure to pay contract support costs (CSC). In 2006, the BIA and tribes collaboratively developed National Policy Memorandum NPM-SELFD-1, Contract Support Costs. This chapter updates that policy.

The purpose of this policy is to provide guidance for the full payment of CSC and to ensure that the payment of CSC is accurate, timely, and meets 100 percent of the tribe's CSC need as calculated under this policy. Further, this policy simplifies and streamlines CSC calculation to expedite payment.

This policy explains how BIA calculates and pays contract support costs, as required by the ISDEAA. ~~This policy is not a regulation establishing program requirements.~~

This policy is not legally binding on a tribe unless otherwise agreed to by the tribe and the Secretary or otherwise required by law.

### **2. Scope**

This policy applies to all Indian Affairs (IA) employees and to agreements made under Title I and Title IV of the ISDEAA.

### **3. Policy**

Section 106 of the ISDEAA (25 U.S.C. § 450j-1) authorizes funding for four types of CSC: pre-award, startup, direct, and indirect. Pre-award CSC are costs incurred before the start of an agreement (25 U.S.C. § 450j-1(a)(6)). Startup CSC are costs incurred on a one-time basis during the initial year that the agreement is in effect (25 U.S.C. § 450j-1(a)(5)). Direct CSC are costs incurred in connection with direct administration of the program. (25 U.S.C. § 450j-1(a)(3)(A)(i)). Indirect CSC are “any additional administrative or other expense[s] related to the overhead incurred by the tribal contractor in connection with the operation of” the program. (25 U.S.C. § 450j-1(a)(3)(A)(ii)). All costs associated with a program, including CSC, shall be reviewed for reasonableness, allowability, and allocability based on the terms of the agreement and applicable cost principles. Further, all costs associated with a program, including CSC, shall be reviewed for duplication of funding for cost among cost categories (Secretarial Amount, Direct Contract Support Costs, Indirect Contract Support Costs, Pre-Award Costs and Startup Costs). (25 U.S.C. § 450j-1(a)(3)(A)). This policy shall be liberally construed for the benefit of the tribe.

#### **4. BIA CSC Workgroup**

The BIA CSC Workgroup is comprised of Federal and Tribal individuals who possess knowledge of CSC issues. The BIA shall convene the Workgroup at least annually via teleconference, webinar, or on-site meeting. The Workgroup provides advice and guidance to the BIA in the development of BIA CSC policy and proposed common language (if any) for funding agreements, and in the ongoing management of CSC issues. The Workgroup is not a substitute for Tribal consultation and provides technical advice for the benefit of both Tribes and the BIA.

#### **5. Definitions**

Definitions can be found at 25 U.S.C. § 450b; 25 C.F.R. §§ 900.6 and 1000.2; and in the *DOI/HHS Internal Agency Procedures Handbook for Non-Construction Contracting Under Title I of the Indian Self-Determination and Education Assistance Act* (1999) available at <http://www.bia.gov/cs/groups/xois/documents/collection/idc013271.pdf>.

#### **6. Pre-Award CSC (25 U.S.C. § 450j-1(a)(6))**

*Pre-award CSC* are incurred to plan, prepare for, and assume the operation of a program that is the subject of a new or expanded agreement. *See attachment for examples.* To recover pre-award CSC, a tribe must notify the Awarding Official (for self-determination contracts) or the Office of Self-Governance (OSG) (for self-governance funding agreements) in writing, detailing the nature and extent of the costs, before incurring the costs and before the initial year of the agreement. Pre-award costs shall be reimbursed only if the tribe gives the Awarding Official or OSG, as applicable, prior written notice of the nature and extent of the costs before they are incurred. Tribes are encouraged to collaborate with Awarding Officials or OSG for technical assistance to discuss eligible pre-award CSC.

The Awarding Official or OSG, as applicable, shall (1) review the proposed-a funding request for pre-award costs for cost reasonableness, allowability, and allocability; (2) explain in writing which costs, if any, should be funded and recommend a funding amount; and (3) forward the request and the recommendation, within 30 days of receipt of the request, along with a written recommendation, to the Office of Indian Services (OIS). OIS shall review the request and recommendation, determine whether the costs are eligible pre-award costs and allocate funds for any award within 30 days of receipt of the recommendation. OIS will make a final decision to approve or decline a request after collaboration with the tribe and the Awarding Official or OSG. If a request for pre-award CSC funding is declined in whole or in part, OIS shall issue a declination letter to the requester identifying disapproved items within 90 days of the Secretary's receipt of the request. If a request for pre-award CSC funding is approved in whole or in part, the Awarding Official (for self-determination contracts) or OSG (for self-governance funding agreements) shall ensure that there is no duplication of funding for cost among cost categories (Secretarial Amount, Direct Contract Support Costs, Indirect Contract Support Costs, Pre-Award Costs and Startup Costs).

The tribe has the right to appeal the declination decision pursuant to 25 C.F.R. section 900.31.

Pre-award CSC shall be funded, by reimbursement, as a one-time, non-recurring payment and shall be calculated based on actual expended costs.

### **7. Startup CSC (25 U.S.C. § 450j-1(a)(5))**

*Startup CSC* are incurred on a one-time basis during the initial year that an agreement is in effect. *See attachment for examples.* To recover startup CSC, a tribe must provide the Awarding Official (for self-determination contracts) or OSG (for self-governance funding agreements) a written budget identifying such costs. Tribes are encouraged to collaborate with Awarding Officials or OSG for technical assistance to discuss eligible startup CSC.

The Awarding Official or OSG, as applicable, shall (1) review a funding request for startup costs for cost reasonableness, allowability, and allocability; (2) explain in writing which costs, if any, should be funded and recommend a funding amount; and (3) forward the request, within 30 days of receipt, along with a written recommendation, to OIS. OIS shall review the request and recommendation, determine whether the costs are eligible startup costs and allocate funds for any award within 30 days of receipt of the recommendation. OIS will make a final decision to approve or decline a request after collaboration with the tribe and the Awarding Official or OSG. If a request for startup CSC funding is declined in whole or in part, OIS shall issue a declination letter identifying disapproved items to the requester within 90 days of the Secretary's receipt of the request. If a request for startup CSC funding is approved in whole or in part, the Awarding Official (for self-determination contracts) or OSG (for self-governance funding agreements) shall ensure that there is no duplication of funding for cost among cost categories (Secretarial Amount, Direct Contract Support Costs, Indirect Contract Support Costs, Pre-Award Costs and Startup Costs).

The tribe has the right to appeal the declination decision pursuant to 25 C.F.R. section 900.31.

Startup CSC shall be funded as a one-time, non-recurring payment.

### **8. Direct CSC (25 U.S.C. § 450j-1(a)(3)(A)(i))**

*Direct CSC* (DCSC) need shall be calculated annually by the Awarding Official (for self-determination contracts) or OSG (for self-governance funding agreements) as follows: DCSC = (current tribally budgeted salary cost [not including fringe] of BIA- Indian Affairs 106(a)(1) programs, excluding fringe) x 15%. DCSC is part of the direct cost base from which IDC is calculated.

The DCSC amount of 15% of salary cost is calculated in lieu of negotiation of DCSC.

### **9. Indirect CSC (25 U.S.C. § 450j-1(a)(3)(ii))**

*Indirect CSC* shall be calculated by the Awarding Official (for self-determination contracts) or OSG (for self-governance funding agreements) based on the tribe’s current approved indirect cost (IDC) rate(s), as follows:

Indirect CSC = Current approved indirect cost rate(s) x (the section 106(a)(1) amount (“Secretarial Amount”) awarded to the tribe, minus exclusions and pass-through).

If the tribe has no approved IDC rate or has an approved IDC rate that is over four years old (e.g., in 2015, the latest approved rate issued for the years 2012, 2013, 2014, or 2015 is acceptable), BIA or OSG will negotiate with the tribe a lump-sum amount for indirect-type costs or the tribe can recover its total CSC need using the Simplified Method, if applicable. If the tribe does not initiate any of these options, IA will not pay the tribe any indirect CSC.

- **Negotiated Lump Sum Amount**

Tribes that met the single-audit threshold in the prior fiscal year and do not have an approved IDC rate that is four or fewer years old may negotiate with the Awarding Official or OSG, as applicable, a lump-sum amount for indirect-type costs. The amount negotiated will be effective for the entire contract year and the tribe will be required to have a new approved IDC rate or a new negotiated lump-sum amount for each succeeding contract year.

- **Simplified Method**

Tribes that did not meet the single-audit threshold in the prior fiscal year and do not have an approved IDC rate that is four or fewer years old, may have their indirect CSC calculated at 30% of the section 106(a)(1) amount (“Secretarial Amount”) that the tribe receives, minus exclusions and pass-through. The calculated amount will be independently assessed each year.

## **10. Overpayment of CSC**

A CSC overpayment is any amount paid over the amount calculated under this policy. [In order to facilitate equitable treatment and establish standard cutoff timeframes, a](#) CSC overpayment is determined at the end of the tribe’s fiscal year, without regard to the later issuance of a different IDC rate for that period. The Awarding Official or OSG will follow a process which allows tribes to respond to overpayment determinations or identify errors or corrections in CSC payment calculations [and a process for repayment](#). No overpayment determination shall result in a bill of collection until the procedure set out in the Financial Management Collection Procedures Handbook is completed.

## **11. Underpayment of CSC or Other Adjustments**

Tribes may notify Awarding Officials or OSG of possible CSC underpayments or other adjustments, errors or corrections, as they are identified.

In order to facilitate equitable treatment and establish standard cutoff timeframes:

1. The IDC rate that will be applied is the applicable rate at the end of the tribe’s fiscal year. No adjustments to that IDC rate will be made after the end of the tribe’s fiscal year, without regard to the later issuance of a different IDC rate for that period.

2. Section 106(a)(1) funds will generate CSC in the year in which they are awarded, regardless of the year for which they were appropriated.

## **12. CSC Annual Report to Congress**

25 U.S.C. § 450j-1(c) requires that the BIA provide Congress with a detailed report on the implementation of the ISDEAA no later than May 15 of each year.

For this report, by January 15 of each year:

- Regions and OSG shall provide each tribe within their jurisdiction a copy of the tribe’s data that appears in the report and at least 30 days to identify any errors or omissions in the tribe’s data.
- The Regional Director and OSG shall submit to OIS a certified report for the previous fiscal year ended September 30. OIS shall prepare the template for the report.

By March 15 of each year, the Regional Director and OSG shall submit to OIS certified corrections or changes to the data which result from tribal review.

The BIA shall forward the report to the Assistant Secretary – Indian Affairs for approval by April 15, so that the report can be submitted to Congress by May 15. After the report is submitted to Congress, OIS shall provide copies of the report to OSG and each Region. Each Region and OSG shall provide a copy of the report to all tribes within their jurisdiction.

## **13. Disputes**

Any unresolved disputes for any section within this policy will be handled according to the regulations at 25 CFR parts 900 and 1000.

## **14. Effective Date**

## **15. Approvals**

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Lawrence S. Roberts  
Acting Assistant Secretary-Indian Affairs

[Date]

**ATTACHMENT: Examples of Pre-award, and Startup, and Direct CSC**

This list is for illustrative purposes only. Each item of cost shall be reviewed for allowability, reasonableness, and allocability based on the terms of the agreement and applicable cost principles.

Pre-award CSC

- Costs of developing or redesigning program management standards
- Costs of planning program delivery
- Costs of developing specialized financial, procurement, and property management systems to handle program requirements
- Costs of administrative and/or program management systems

Startup CSC

- Cost of computer hardware and software purchased to plan, prepare for, and assume operation of the program
- Cost of providing discipline-specific training for staff to assume operation of the program

The DCSC amount of 15% of salary cost is an estimate calculated in lieu of negotiation of DCSC. Direct CSC funds are used to pay these type of costs:

Direct CSC

- Unemployment taxes on direct program salaries
- Workers compensation insurance on direct program salaries
- Cost of retirement for converted Civil Service salaries
- Insurance to the extent not already made available in the Secretarial amount
- Facilities support costs (rent, leases, security, maintenance and utilities) to the extent not already made available by the Secretary
- Training required to maintain certification of direct program personnel to the extent not already made available by the Secretary
- Any other item of cost that meets the definition of CSC at Section 106(a)(2) but that is not included in the awardee's IDC pool or Section 106(a)(1) amount, such as communications (long distance calls, telefax costs, internet, maintenance agreements) and postage (including express mail)