

Part 6 - Services To Tribal Governments And Organizations
Chapter 3 - Contract Support Costs

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Exhibit	Description
Manual Exhibit 6-3-A	Title 25, Chapter 14, Miscellaneous, Subchapter II, Indian Self-Determination and Education Assistance, Part A "Indian Self-Determination," Section 450j-1 and Section 450j-2
Manual Exhibit 6-3-B	Contract Support Cost Calculation Based on a Detailed Analysis
Manual Exhibit 6-3-C	Contract Support Cost Calculation Using the 80/20 Method
Manual Exhibit 6-3-D	Allocation of Indian Self-Determination Funds Against Annual Contract Support Costs Requirements for New Cost Calculation Tool (ACC) with instruction and Expanded Awards supporting worksheets
Manual Exhibit 6-3-E	Allocation of Pool No. 3 Funds Against Overall Contract Support Costs Shortfall for Ongoing Contracts (Bottom-up Plus Proportionate Distribution) Currently proposed pilot Projects Including E1 - Fixed CSC Implementation Guidelines E2 - Fixed 15% DCSC Implementation Guidelines E3 - IHS reconciliation Pilot Project Guidelines
Manual Exhibit 6-3-F	Fiscal Year 2007 Contract Support Costs Shortfall Report
Manual Exhibit 6-3-G	Fiscal Year 2007 Indian Self-Determination Funding Request
Manual Exhibit 6-3-H	Standards for Review and Approval of Contract Support Costs in the Indian Health Service

6-3.1 INTRODUCTION

A. **Purpose.** This chapter provides guidance to both Tribal and Agency personnel in the preparation, negotiation, payment, and reconciliation and closeout of requests for contract support costs funding in support of new and continuing Indian Self-Determination and Education Assistance Act (ISDEAA), Public Law (P.L.) 93-638, as amended, contracts and compacts. The chapter provides instructional guidance on the following:

1. determining amounts of pre-award, startup, direct, and indirect contract support costs (CSC);
2. allocating pools payment of Indian Health Service (IHS) funding available for CSC to awardees;
3. prioritizing Tribal requests for reconciliation and closeout of CSC funding payments to awardees; and
4. reporting by the IHS to all Tribes and to ~~the~~ Congress.

These instructions are not regulations establishing program requirements and are issued in accordance with 25 Code of Federal Regulations (CFR) Section 900.5, which states:

“Except as specifically provided in the Act, or as specified in subpart J, an Indian Tribe or Tribal organization is not required to abide by any unpublished requirements such as program guidelines, manuals, or policy directives of the Secretary, unless otherwise agreed to by the Indian Tribe or Tribal organization and the Secretary, or otherwise required by law.”

The development of this chapter has involved the active participation of representatives from Indian Tribes. The procedures discussed here will be applied to contracts awarded pursuant to Title I of the ISDEAA, as amended, and to compacts awarded ~~to Tribes that have been selected to participate in the Tribal Self-Governance Program~~ pursuant to Title V of P.L. 93-638, as amended.

This policy was drafted in accordance with the following guiding principles:

1. The process should be simple and efficient.
2. Costs incurred do not have to be reconciled to a single fiscal year.
3. This Policy assumes full funding of contract support costs.
4. To the maximum extent practicable, this Policy should align with BIA contract support cost policy.
5. This Policy is designed to assure that the perfect does not become the enemy of the good.
6. This Policy assures accountability.
7. This Policy is intended to minimize future litigation.
8. This Policy avoids putting at risk past contract support cost settlements.
9. This Policy assures that post year-end reconciliation will not take several years
10. This Policy has been developed and will be implemented in accordance with the government-to-government relationship.
11. This Policy provided needed certainty for the agency and Tribes and tribal organizations.
12. This Policy has received broad support across Tribes and tribal organizations.
13. This Policy is designed to minimize burdens imposed upon Tribes and IHS.
14. This Policy is designed to assure consistency.
15. This Policy is designed to assure transparency.
16. This Policy is designed to assure integrity in the government-to-government relationship.
17. This Policy has been built on trust amongst the IHS, Tribes, and tribal organizations.
18. This Policy will be supplemented with regular training for IHS and tribal personnel to assure consistency in its application.
19. This Policy will be reassessed on a regular basis.

Nothing in this Chapter is intended to limit a contractor's right to be paid its full contract support cost requirement. If a contractor concludes that it has not been fully paid, it may invoke the remedies available in section 110 of the Act. This chapter does not reflect the IHS position on damages in any pending claims for underfunding as of the date that this policy is enacted.

B. **Background.** All policies and circulars concerning the administration of CSC in the IHS have been developed and revised through coordination and consultation with Tribes and Tribal organizations. The CSC policies and circulars developed and revised to date include:

1. Indian Self-Determination Memorandum No. 93-02, "Contract Support Cost Policy," signed by Dr. Everett Rhodes, February 27, 1992.
2. Indian Health Circular No. 96-04, "Contract Support Cost," signed by Dr. Michael Trujillo, April 12, 1996.
3. Indian Health Circular No. 2001-01, "Contract Support Cost," signed by Dr. Michael Trujillo, January 20, 2000.
4. Indian Health Circular No. 2001-05, "Contract Support Cost," signed by Dr. Michael Trujillo (Michael E. Lincoln. for), July 6, 2001.
5. Indian Health Circular No. 2004-03, "Contract Support Cost," signed by Dr. Charles W. Grim, September 1, 2004.

~~The change in this chapter, developed through consultation with Tribes and Tribal organizations, affects only the allocation methodology for CSC associated with new or expanded awards under the ISDEAA, P.L. 93-638, as amended, at Section 6-3.3A(3) and Manual Exhibit 6-3-D. All other aspects are unchanged.~~

~~The change is being temporarily implemented for the fiscal year (FY) 2007-2010 funding periods. To ensure responsiveness to the needs of Tribes in administering their health programs, and continued support of the IHS's commitment to the Federal Government's policy of Indian Self-Determination, the change will be monitored and fully evaluated during the FY 2010 funding period to determine if the change should be made permanent.~~

~~This chapter is the successor to the IHS Circular No. 2004-03.~~

- ~~6. Indian Health Service Manual, Part 6, Chapter 3, "Contract Support Costs," signed by Dr. Charles Grim, April 6, 2007.~~

~~The changes in this chapter are provided to streamline and simplify CSC determination, payment and reconciliation and to accommodate the payment of full Contract Support Costs as required by the ISDEAA. The IHS CSC Workgroup will continue to reassess the policy, but further changes will only be implemented after tribal consultation and tribal concurrence.~~

C. **Policy.** The IHS will provide for a uniform and equitable system of computing, distributing, and reconciling CSC funds to new and existing P.L. 93-638 compacts and contracts and preserve and support each awardee's right to contract under P.L. 93-638.

D. **Authorizing Legislation.**

1. Transfer Act, Title 42, United States Code (U.S.C.) §2001
2. ~~Title 42 CFR §36.3~~

3-2. Title I of P.L. 93-638, as amended

4-3. Title V of P.L. 93-638, as amended

E. **Definitions.**

1. **Award.** An agreement authorized under Title I (contract) or Title V (compact) of P.L. 93-638, as amended, including the associated annual funding agreement (AFA) or funding agreement (FA).
2. **Awardee.** A Tribe or Tribal organization that receives an award as defined above.
3. **Annual CSC Report to Tribes.** Yearly summary of CSC data gathered for each Tribe of the funding provided for each of the categories listed in Section 3.6(A). This report is provided to every Tribe contracting under the ISDEAA.
4. **Annual CSC Report to Congress.** Report provided to Congress from the IHS Director pursuant to Section 106(c)1-5 of the ISDEAA; including "an accounting of any deficiency (or reprogramming necessary) in funds needed to provide required contract support costs to all contractors for the fiscal year for which the report is being submitted (the current fiscal year)."
5. **Buy-Back Services.** Services contracted by a Tribe, but provided by the IHS under an ISDEAA agreement through reimbursements, withheld amounts or other financial arrangements. Costs of Buy-back services are normally included in the program base.
- 3-6. **Contract Proposal.** A proposal for programs, functions, services, or activities (PFSAPSFA) that the Secretary, Department of Health and Human Services (HHS), is authorized to perform, but which a Tribe or Tribal organization is not currently carrying out. The requirements of a Self-Determination contract proposal are found in 25 CFR Section 900.8.
- 4-7. **Contract Support Costs Available.** Total CSC funding allocated to an awardee (including any portion of Tribal shares that are available for CSC requirements pursuant to paragraph 6-3.2F of this chapter).
- 5-8. **Contract Support Costs Requirement.** The full amount of CSC need for new and expanded programs ~~(plus ongoing contracted or compacted programs)~~, as determined under this chapter pursuant to Section 106 of P.L. 93-638 as amended. (Manual Exhibit 6-3-A)
6. **Indian Self-Determination Fund.** ~~Funds specifically appropriated by Congress to fund CSC requirements associated with new or expanded programs under the ISDEAA, as amended. In a FY where the Congress does not specifically appropriate funds for an ISD Fund, the ISD Fund will consist of those CSC funds identified by the Director, IHS, to provide CSC for new or expanded awards to the extent not prohibited by law.~~
9. **Direct Cost Base.** The program base minus any pass-through expenditures and exclusions.
10. **Exclusions.** Direct expenditures excluded from the program base in order to calculate the direct cost base to which the indirect cost rate is applied. These types of expenditures vary by Tribe and are defined in the indirect cost rate agreement. In the absence of other information, exclusions will be applied consistent with the CSC Exclusions Matrix.

Commented [r1]: The CSC Exclusions Matrix needs to be an attachment to the policy.

- ~~7-11.~~ **Indian Self-Determination Programs. (ISDEAA Programs).** The PFSAPSFAs associated with an ~~ISD Fund request~~ISDEAA award that are eligible for ISD funding in accordance with paragraph 6-3.3A of this chapter.
- ~~8-12.~~ **Non-Indian Self-Determination Programs.** All awardee-operated PFSAPSFAs, exclusive of PFSAPSFAs associated with an ~~ISD Fund request~~ISDEAA award, that are operated by an awardee in accordance with paragraph 6-3.3A of this chapter~~not eligible for CSC funding.~~
13. **Non-Recurring Funds.** Funds that require an annual ~~rejustification~~justification and are awarded based on an annual resource allocation methodology~~a one-time basis.~~ Non-recurring funds provided for ISDEAA programs are normally included in the program base.
14. **Pass Through Expenditures** – Similar to exclusions in that ~~consider~~they are excluded from the main program base to which the IDC rate is applied, but they may be assigned a lower nominal IDC rate or is dependent on other factors (e.g., ~~an~~be excluded consistent with the approved IDC agreement. If assigned a Pass through IDC rate, indirect cost rate applied to a direct program base that may change the amount to be reimbursed from a single agency as the programs ~~costs on~~those expenditures shall be computed using the pass-through rate.
- ~~9-15.~~ **Program Base**-Includes all ISDEAA funds in the award eligible for indirect CSC, and is comprised of all program recurring amounts, plus Area Tribal Shares, plus Headquarters Tribal Shares, plus non-recurring program amounts, plus the Tribe's DCSC requirement, minus 20% of Area and Headquarters Tribal Shares (or the alternative deduction calculated under ~~contract continue to increase~~).Alternative A in Section 6-3.2(F)(2).
- ~~40.~~
11. **Ongoing CSC Shortfall.** This is the remainder of the total CSC shortfall after subtracting the CSC shortfall associated with the awardee's ISD programs.
- ~~12-16.~~ **Programs, Services, Functions, Services, and Activities.**~~The PFSA (PSFA). PSSA~~ are those programs, services, functions, ~~services~~, and activities that are contractible under the ISDEAA, as amended. Including those administrative activities that support, but are not a part of, service delivery programs that are otherwise contractible without regard to the organizational level within the HHS that carries out such functions (as authorized under P.L. 93-638, as amended).
17. **Reconciliation.** Final review of a Tribe's total CSC requirement and payments made by IHS, normally completed within 90 days of the end of the fiscal year or award period, whichever comes later, which incorporated the most current IDC rate in effect on the last day of the contract period and all applicable adjustments or amendments to the program base of the awardee.
- ~~13-18.~~ **Recurring Funds.** Contract or compact funds that do not require annual ~~rejustification~~justification to the Secretary are recurring funds. Annual increases may be provided through congressional increases or other resource allocation methodologies applicable to the respective funding category of the award.
19. **Retained Services.** Funding which is eligible to be contracted but for which the awardee has chosen not to contract, and thus, for which the IHS has retained associated funding to provide. Funds for Retained Services are normally not included in the program base or direct cost base in computing CSC requirements.
- ~~14-20.~~ **Self-Governance Request.** A self-governance request is any one of the following requests ~~from~~from a Tribe or Tribal organization. A request:
- a. to enter into the Self-Governance Program for the first time, including Title V; or

- b. to join an existing Self-Governance compact; or
- c. to negotiate for new or expanded programs in a subsequent year's compact or FA from a tribe with an existing self-governance agreement.

~~15-21.~~ **Total CSC Shortfall, or Overpayment.** The difference between the total CSC requirement and the total CSC ~~allocated~~available to the awardee.

~~16-22.~~ **Tribal Shares.** Refers only to an awardee's equitable share of PFSAPSFA associated with Area Office or Headquarters resources (including Tribal shares of discretionary IHS grants). This definition was originally adopted and used in negotiating and awarding an AFA under Title III, P.L. 93-638, as amended, and is being consistently applied to Title I contracts and Title V compacts 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 FA.

NOTE: The term "Tribal shares" is used in this chapter to refer only to Area Office and Headquarters PFSAPSFA, notwithstanding the definition of Tribal shares set forth in Title V, Section 501(a)(8) of the ISDEAA, as amended.

6-3.2 PROCESS

- A. **Determining Amounts of Pre-award, Startup-, Direct, and Indirect CSC.** Sections 106(a)(1), (a)(2), and (a)(3) of the ISDEAA, as amended, provide for funding of ISD awards~~an award~~ 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 CSC 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.”

B. Determining CSC Requirements. Throughout the operation of the program by the awardee, total contract costs (including CSC) 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 “Federal Agency cognizant agency” as identified under the applicable Office of Management and Budget (OMB) Circular regulations at 2 C.F.R. Part 200. The procedures below are intended to ensure that CSC requirements are accurately identified while avoiding any duplication of funding between CSC and PFSAPSFA funding amounts.

When awardees choose to use sub-awards with Tribes or Tribal organizations (that meet in all respects the requirements to contract directly with the IHS, but choose, through Tribal resolution, to subcontract to carry out IHS PFSAPSFA), to carry out all or part of the PFSAPSFA transferred, the eligible CSC costs of the Tribal sub-awardee may also be included in the CSC requirement of the awardee.

Section 106(a)(3) authorizes awardees to be paid CSC costs whether they are “indirect” in nature (benefitting multiple programs) or 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 there is no duplication of costs in the CSC amounts, the IHS will review the CSC request to identify any costs that duplicate costs incurred by the IHS in the operation of the program and included in the Section 106(a)(1) program funding to be transferred, or that may have been duplicated within the CSC amount. When the PFSAPSFA to be contracted have 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. ~~On rare occasions, the IHS has provided general health services to Indian beneficiaries by purchasing care as opposed to providing services directly in an IHS facility. When Tribes contract to assume control of these types of programs, the IHS must develop a profile to show indirect types of costs that are funded within the program amount. PSFA.~~

~~This profile is used as a basis to show the historical costs and amounts transferred with the program, and for the purposes of determining whether duplication exists between amounts requested as CSC and amounts provided as a part of the program.~~

For awardees with Indirect Costs (IDC) rates, the IDC agreement and proposal will be analyzed and costs will be considered duplicative only if the amounts historically ~~used for specific categorical purposes~~ expended and provided under Section 106(a)(1) for administrative costs are duplicated in the IDC pool. Costs that exceed the amount historically expended and provided in the Section 106(a)(1) amounts will not be considered duplicative. The Indian Health Service will provide documentation of all duplicative costs within the Section 106(a)(1) amounts.

For CSC on sub-awards, the costs and amounts requested for the sub-awardee will be analyzed. Amounts may be considered duplicative to the extent that CSC funding for these costs has already been included in the CSC requirement of the awardee.

When duplicative costs are determined and agreed on between the awardee and the Agency, they will be deducted from the negotiated CSC requirement. This adjusted CSC requirement is the Section 106(a)(2) amount that the awardee is eligible to receive, subject to available appropriations.

C. Startup and Pre-Award Costs.

1. Section 106(a)(5) of the ISDEAA, as amended, states:

“Subject to paragraph (6), during the initial ~~year~~that 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 to plan, prepare for, and assume operation of the PFSAPPSFA that is the subject of the contract; and to ensure compliance with the terms of the contract and prudent management.”

2. Section 106(a)(6) of the ISDEAA, as amended, states:

“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.”

NOTE: Examples of startup and pre-award costs are described in the standards for the review and approval of CSC in Manual Exhibit 3-6-H.

Startup costs for PFSAPPSFA will only be provided to an awardee one time ~~in the initial year of transfer, and not on a non-recurring basis.~~ Expenditure of start up costs may occur over two award years as long as they are made within the first 12 months of operation. No additional startup costs will be justified for that Awardee if the PFSAPPSFA is subsequently transferred to a sub-awardee. Pre-award costs will be paid in their entirety in the initial award year of transfer.

Pursuant to Section 106(a)(6) of the ISDEAA, as amended, notification from awardees for pre-award costs must clearly indicate the nature and extent of the costs to be incurred and such notification must be provided in writing before any of the costs are actually incurred. Tribes should provide a pre-award notice to the appropriate IHS Area Director as soon as they anticipate contracting or compacting a PFSAPPSFA, and before they incur any of the costs. If such a notice is received by any other IHS Area Office, it should be immediately forwarded to the appropriate IHS Area Director. IHS must acknowledge receipt and sufficiency of this notice. The review of pre-award and startup costs by Area Office staff should ensure that there is no duplication with any costs funded under a Tribal management grant, when appropriate.— See also Manual Exhibit 6-3-H for Sample Pre-Award letters.

- D. **Direct CSC.** Direct contract support costs (DCSC) pay for ~~activities~~costs that are not contained in either the IDC pool (or indirect-type cost budget) or the amount computed pursuant to Section 106(a)(1) Direct contract support costs may be incurred directly by the awardee or by an eligible sub-awardee. Direct contract support costs amounts are awarded on a recurring basis.

1. Examples of DCSC are described in the standards for the review and approval of CSC in Manual Exhibit 3-6-H. These may include, but are not limited to:
 - a. unemployment taxes on direct program salaries,
 - b. workers compensation insurance on direct program salaries,

- c. cost of retirement for converted civil service and United States Public Health Service Commissioned Corps Officer salaries,
 - d. insurance,
 - e. facilities support costs to the extent not already made available,
 - f. training required to maintain certification of direct program personnel, and
 - g. 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 Section 106(a)(1) amount.
2. Funds for DCSC are recurring and need not be ~~rejustified~~justified each year and will be provided to the awardee on a recurring basis. Notwithstanding this provision, if the awardee has an expanded contract due to either a new program or transfer of IPA/MOA federal employees to direct hire the awardee may negotiate an incremental increase in DCSC on the new or expanded portion of the award without requesting a renegotiation of the entire recurring DCSC amounts. If a cost that has previously been funded as a DCSC is moved to the Indirect Cost Pool (See Section 6-3.2 E), the DCSC requirement shall be reduced. The amount of each awardee's DCSC need shall be adjusted annually at the beginning of each contract year by the ~~OMB non-most recent national CPI~~ medical inflation rate in order to account for the normal increased DCSC need.

In accordance with Section 106(a)(3)(B) of the ISDEAA, as amended; however, the amount of funds needed for recurring DCSC may be renegotiated on an annual basis at the option of the awardee. ~~To be considered in the CSC shortfall report the proposal to renegotiate. Renegotiated DCSC must be received prior to the end of the requirements become effective for the entire fiscal year for in which the shortfall report is being completed DCSC renegotiation request was submitted based on the final negotiated adjustment and DCSC re-negotiations with the appropriate area office must be completed by November 1st of the succeeding fiscal year. 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 6-3.3C). Funded on this basis.~~ To the extent that the DCSC requirement is reduced, excess DCSC funds may first be used to fully fund the awardee's IDC requirements before the IHS reduces any excess funds.

- E. **Indirect Costs.** Guidelines for the Principles Involved in Negotiating Indirect and Indirect-Type Costs. A plan for the allocation of IDC is required to support the distribution of any IDC related to the awardee's program. All IDC included in the plan are required to be supported by accounting records that 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~~ Title 2, CFR- Part 200 establishes principles and standards for determining IDC rates applicable to the awardee. Section 106(k), P.L. 93-638, as amended, has made modifications to the OMB cost principles otherwise applicable to awardees. See also the standards for the review and approval of CSC in Manual Exhibit 6-3-H.

In determining the amount of CSC required, Areas should review the awardee's cost allocation plan, its associated IDC proposal, and approved IDC negotiation agreement. The allowable indirect costs of an eligible sub-awardee may also be included in the CSC requirement of the awardee when the sub-awards are excluded from the IDC base of the awardee, or are subject to a pass-through IDC rate. The awardee shall be responsible for providing documentation of these costs to the IHS.

1. **Awardees with Negotiated IDC Rates.** The amount of IDC expected to be incurred by awardees using rates negotiated with the cognizant Federal agency will be determined by applying the most recent negotiated IDC 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 6-3.2F. Exceptions to utilization of an approved rate may only occur pursuant to a bilateral agreement, in accordance with pilot projects and negotiated lump sum amounts.

The amount determined as the awardee's CSC requirement will be consistent with the individual awardee's IDC rate agreement, and reflect any exclusions required by the IDC rate agreement.

Awardees may receive modifications from time to time providing program or DCSC increases for new and expanded programs or for other reasons, such as inflation, population increases, and distributions from the Indian Health Care Improvement Fund. Additional indirect CSC will be calculated and paid with each amendment to the awardee's agreement to ensure full funding of indirect CSC throughout the award year. Specifically, any amendment or modification to the funding agreement during the award year resulting in an increase to the direct cost base will also include an increase in indirect contract support cost funding, calculated by applying the most recent approved indirect cost rate to the increased amount of the direct cost base.

If an awardee's IDC rate is applicable to an FY that is more than three-years old, the IHS will not provide IDC associated with the application of that IDC rate. In these cases, the Area will negotiate "indirect-type costs" with the awardee (see paragraph 6-3.2E(32) that follows). The rate applicable, to the current FY is considered current, and the rate applicable to the previous FY shall be considered one-year old. Final reconciliation of indirect CSC will be based on the most recent rate in effect as of the last date of the award period and indirect CSC required may be adjusted to reflect these rates consistent with section 6-3.4.

When an IDC rate application has been pending with the DOI Interior Business Center or the DHHS Cost Allocation Services for at least 90 days, the IHS shall use the proposed IDC rate as a "provisional rate" until such time as a final IDC rate is approved.

2. **Awardees Without Negotiated IDC Rates (Guidelines for Agency Negotiators).** A lump sum amount for "indirect type costs" may be computed for awardees that do not have formally negotiated agreements with their cognizant ~~Federal~~ agency for reimbursement under an IDC rate or at the request of a Tribe with a negotiated rate. This annual lump sum amount may be calculated by negotiating a fixed amount for "indirect-type costs;" adjusted annually by the all items CPI inflation rate until renegotiated. Additional indirect CSC will be calculated and paid with each amendment to the awardee's agreement to ensure full funding of indirect CSC throughout the award year. Specifically, IHS will take the ratio of (a) the lump sum for indirect type costs to (b) the initial direct cost base used to negotiate that lump sum amount, and multiply that ratio against the increased amount of the direct cost base. Categories of costs often considered "overhead" or "indirect-type" are generally in the categories of:

Management and Administration; Facilities and Facilities Equipment; and General Services and Expenses. Indirect-type costs must be renegotiated not less than once every four years, but they can be renegotiated more frequently at the Tribe's option. Examples of indirect and indirect type costs ~~are~~ include but are not necessarily limited to the following:

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	—	—

F. **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 the Tribal shares in one of two ways:

1. **Alternative A.** The awardee and the Area Director or his or her designee shall conduct a case-by-case detailed analysis (Manual Exhibit 3-6-B) 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 costs that are already included in the awardee's IDC pool, or are proposed to be funded as DCSC. The costs 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 106a(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 IHS expended the funds.
2. **Alternative B.** The awardee and the Area Director or his or her designee will apply the following "split" of total Tribal shares, the 80/20 method (Manual Exhibit 3-6-C):
 - i. 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)).
 - ii. Twenty percent of the Tribal shares amounts will be ~~retained by the~~ awardee computed and considered as available funding for administrative or "overhead" purposes (Section 106(a)(A)(ii)).
 - iii. If the amount set aside for CSC requirements (20 percent) exceeds the awardee's negotiated CSC requirements on tribal shares, the awardee shall retain the excess funds for program purposes.

~~NOTE: The IHS and Tribes conducted a cost study of Area and Headquarters Tribal shares in FY 2000 and FY 2001 and found that the 80/20 split between program type costs and CSC type costs remains an appropriate allocation method. The IHS CSC Workgroup concluded that there was not sufficient data to warrant modifying the allocation methodology in FY 2002, but it recommended a periodic review of this issue to determine if a subsequent change to the allocation methodology is warranted. It was agreed if the split is modified in the future, it would not be retroactively applied because the 80/20 split was determined to be accurate for Tribal shares being transferred under this chapter and previous IHS CSC policies.~~

Once these 80/20 amounts are computed, they will be used in accordance with the terms of the rate agreement (or alternative method provided herein) for calculating the CSC requirement. The balance of the Tribal shares not considered as part of the direct program base will be considered 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; ~~the processes specified in this chapter for the allocation of funding in this pool will apply.~~ Manual Exhibit 6-3-B illustrates how Alternative A (a detailed analysis) is calculated and Manual Exhibit 6-3-C illustrates how Alternative B (the 80/20 method) is calculated.

6-3.3 FUNDING

Funding for CSC is subject to the availability of appropriations as stated in Section 106(b) and Section 519(b) of the Indian Self-Determination and Education Assistance Act, as amended. In theory, CSC funding is composed of three "pools." The first pool (Pool No. 1) is any funding increase appropriated for CSC associated with new and expanded awards. The second pool (Pool No. 2) is the total amounts awarded by the IHS in the prior year for direct and indirect CSC (the prior year's "base"). The third pool (Pool No. 3) is amounts, appropriated for increases on the prior year "base," such as mandatory increases or shortfall funds. Each pool has separate funding priorities and eligibility requirements.

A. Pool No. 1- ISD Fund

Funding for CSC is to reflect the payment of full Contract Support costs as specified in the ISDEAA.

A. CSC Funding for New or Expanded PSFAs

1. **Eligibility.** ~~The ISD Fund~~This section covers CSC requirements associated with the following awards:
 - a. An initial transfer of a PFSAPSFA previously operated by the IHS to an awardee, including the initial transfer of each Intergovernmental Personnel Act (IPA) agreement/memorandum of agreement (MOA) position to direct-hire, whether or not such transfer of the IPA agreement/MOA position to direct-hire occurs in the first year of the associated program transfer.
 - b. Expansion of a PFSAPSFA through the assumption of additional shares of PFSAPSFA previously operated by the IHS, regardless of the organizational level at which the expanded PFSAPSFA was operated.
 - c. Assumption of programs previously operated under awards to other awardees.
 - ~~d. Expanded staffing funding for new IHS or JVCP facilities.~~
 - ~~e. New or expanded PFSAPSFA available due to new appropriations, excluding general program increases and increases for inflation, pay costs, population growth, and the Indian Health Care Improvement Fund.~~
2. **Withdrawal.** When an awardee withdraws a PFSAPSFA from an existing award between the IHS and a second awardee, who has been operating that PFSAPSFA 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:
 - a. The DCSC is directly associated with the direct program funds and should be reallocated proportionately between the awardees on the same basis as the direct program funds are reallocated.
 - ~~b. Conversely, IDC funding should be applied first to the be split on the same basis as the direct program funds are reallocated. The existing awardee up to the full amount that can be justified by that awardee. Excess IDC funds should then be transferred to will retain the amount associated with the direct program funds retained, and the new awardee.~~
 - ~~e. b. The will receive the amount associated with the direct program funds transferred. Both the new awardee is and existing awardees are then eligible for IDC CSC funds to recover any additional IDC indirect CSC requirements it has in accordance with the Pool No. 1 allocation process. If IDC funds were not sufficient for the first awardee, its additional IDC need shall be treated as shortfall and eligible for they have consistent with full funding under Pool No. 3. The full IDC requirement of the new awardee should be considered for funding under its ISD Request. CSC and reconciliation of final payments~~
3. **Initial Funding Period—New and Expanded Contracts.** Contract support cost funds for new and expanded programs will be allocated by IHS Headquarters ~~as expeditiously as possible. Funding is provided to the extent available to each CSC request on the ISD list. The ISD list ("ISD Requests") contains a listing of all requests for CSC funding. The funding is based on along with the total amount associated with the PFSA awarded from the date award of~~

~~assumption through the end of the FA performance period, not to exceed 12 months. any 106(a)(1) program funds. Contract support costs funding will be determined as follows:~~

- ~~a. First, subject to paragraph 6-3.3A(3)g, the initial distribution of the ISD Fund will be made subsequent to July 3 of each FY; based on contract proposals received by July 3 of that FY. If the IHS and the Tribe fail 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. All ISD Requests received prior to July 3 of the FY, (or by August 17 for a Final Offer from a Title V compactor), must be finalized for distribution in that FY.~~
 - ~~b. For proposals submitted between April 1 and July 3 of each FY, or the PFSA awarded between July 3 and September 30 of each FY, an ISD Request must have been submitted on or before July 3, (or by August 17 for a Final Offer from a Title V compactor), to receive a portion of the ISD Fund distribution for that FY. If no ISD Request is submitted in the current FY, the awardee may submit an ISD Request against the subsequent year's ISD Fund if submitted before July 3 of that year, (or before August 17 for a Final Offer from a Title V compactor). If the awardee fails to submit an ISD Request before July 3 of the subsequent FY, (or before August 17 for a Final Offer from a Title V compactor), the program amount will be included in the awardee's ongoing shortfall calculation and CSC will only be funded through the next FY's Pool No. 3 shortfall distribution.~~
 - ~~c. For proposals submitted before April 1 and starting in the current FY, failure to submit an ISD Request before July 3 of that FY (or by August 17 for a Final Offer from a Title V compactor) will preclude the contractor from submitting an ISD Request in the subsequent year. Instead, the program amount will be included in the contractor's ongoing shortfall calculation, and CSC will be funded only through the next FY's Pool NO. 3 shortfall distribution.
NOTE: If an awardee does not submit an ISD Request in time for the initial distribution of the ISD Fund, the potential exists that an award will not be made within the current FY, or that ISD funds will have been fully allocated and no ISD funds will be available for a subsequent distribution.~~
- ~~All ISD Requests~~
- ~~d. a. All new and expanded CSC requests submitted independently of a contract proposal must be reviewed within 90-days of receipt (or within 45 days of receipt of a final offer from a Title V compactor). (See also 6-3.4A below).~~
 - ~~e. All ISD Requests will be funded by paying first 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, the amount available will be divided against the total negotiated startup and pre-award costs of all negotiated requests.~~
 - ~~f. New or expanded awards are funded at the average Level of Need Funded (LNF) paid to all existing, ongoing P.L. 93-638 awards (CSC associated with ongoing programs are not taken into consideration in this type of allocation). (See Manual Exhibit 6-3-D for a description and an example of this funding methodology.)~~
 - ~~g. An allocation will be made by IHS Headquarters as expeditiously as possible based on all ISD Requests received and negotiated. An interim payment in advance of the initial distribution described in paragraph 6-3.3A(3)a may be made to awardees earlier in the FY 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 FY.~~

h. ~~If there are no ISD funds in the current FY 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 FY.~~

If an awardee proposes to start a new or expanded activity for less than a full year, an annual amount for the ~~ISD~~CSC requirement will ~~be~~ computed consistent with the methodologies included in this chapter. ~~Startup, Direct and Indirect CSC will be pro-rated in the first award period and annualized in succeeding awards. Start up and pre-award costs should be identified at their full amount, and all other costs should be prorated to reflect the reduced award period. will be non recurring and paid entirely in the first year of the award. Funding of the pro-rated amount in the first award period will be based on the CSC need attributable to that FY only.~~

i. ~~When computing the amount to be paid for the subsequent year, the IHS shall first use any non-recurring funding provided to the tribe in the initial year of the contract to annualize the subsequent CSC requirement to ensure, to the greatest extent possible, that funds are available to cover the same proportionate share of the annual ISD Request paid on the partial year amount.~~

j. ~~If ISD funding is insufficient to fund all new or expanded awards at the average CSC LNF paid to all ongoing P.L. 93-638, as amended, awards, then the IHS will allocate a percentage to each awardee with an approved ISD Request until the funding is exhausted (CSC associated with ongoing programs is not taken into consideration in this allocation). The remaining unpaid DCSC and IDC will be recorded as part of the overall CSC shortfall used in the allocation of Pool No. 3.~~

k. ~~If excess ISD funds remain after paying all ISD Requests, as described in paragraphs 6-3.3A(3)e and 6-3.3A(3)f above, the remaining ISD funds will be added to Pool No. 3 (to the extent not prohibited by law) and be distributed according to the methodology described in paragraph 6-3.3C.~~

l.

B. Pool No. 2 - Prior Year CSC Funding that Remains Justified in the Subsequent FY and Ongoing CSC Awards.

1. The amount of CSC funds (excluding pre-award and startup costs) paid to an Area in any year will be paid to that Area as a recurring amount. ~~Adjustments to Area allocations will be made in subsequent years only as new funds are available, or as Areas return CSC funds that they do not require needed.~~
2. As stated in paragraph 6-3.2D, DCSC funding is provided: on a recurring basis ~~Pool No. 2 and~~ shall be increased ~~from appropriated CSC increases~~ by the amount needed to increase prior year DCSC funding by the national ~~OMB non-CPI~~ medical inflation rate ~~before adding funds to Pool No. 3.~~
3. All indirect CSC funds will be paid to the awardee as non-recurring funds. Each awardee's requirement for indirect CSC shall be determined by calculating any applicable changes in IDC 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 does not exceed ~~100 percent~~ 100 percent of the awardee's total CSC requirement in the subsequent year (see 6-3.4E)-2E).
4. ~~Upon receipt of its Pool No. 2 allocation, each Area shall only withhold amounts necessary to minimize the potential that an awardee will receive in excess of 100 percent of the awardee's total CSC requirement based on currently available CSC data. Any amount so~~

withheld shall be paid to the awardee if, prior to the end of the FY, the awardee has established that the payment of the amounts so withheld will not result in an overpayment for the current year. Any withheld amounts not so paid, shall be redistributed by the Area to Tribes with the greatest CSC needs so as to raise the minimum level of CSC being funded to the maximum percentage possible, given the available resources (bottom-up approach). If an awardee's CSC base is not adequate to meet all of the awardee's CSC requirements, following any Area redistribution of CSC, any shortfalls shall be considered for funding under Pool No. 3 according to the methodology provided in Manual Exhibit 6-3-E.

C. ~~Pool No. 3 – Contract Support Costs Increase/Shortfall Funds.~~

~~4.4.~~ Prior year funds provided for CSC to each awardee (excluding pre-award and startup costs), if justified in subsequent years, shall not be reduced by the IHS except as authorized in Section 106(b) of the ISDEAA, as amended. Awardees should expect to receive these funds continuously, if they continue to justify the same or greater annual need. If an awardee's current CSC base is not adequate to meet all of the awardee's full CSC requirements, any shortfalls requirement, IHS shall be considered for make additional payments to ensure full CSC funding under Pool No. 3 according to the methodology provided in Manual Exhibit 6-3-E.

~~2.~~ Several sources of funding may be available to fund these ongoing shortfalls in CSC. These sources include the following:

- ~~a.~~ 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, IHS, has used the funds to address existing CSC obligations or significant inequities in CSC funding.
- ~~b.~~ Funds remaining, if any, from ISD appropriations after funding the total negotiated ISD requests for the FY, to the extent not prohibited by law (see Section 6-3.3A.)
- ~~c.~~ Funds appropriated by Congress for general increases of IDC.
- ~~d.~~ Funds appropriated by Congress for CSC shortfalls.
- ~~e.~~ Funds received from any of the sources above shall be allocated to contractors in the ongoing Pool No. 3 to reduce their CSC according to the methodology provided in Manual Exhibit 6-3-E.
- ~~f.~~ The intent of this allocation is to provide greater equity in Pool No. 3 funding and to allocate a portion of available CSC shortfall funds to each awardee in proportion to the awardee's CSC shortfall.
- ~~g.~~ In order to achieve a greater degree of equity in CSC funding among awardees and continue to move all awardees toward full funding of their CSC needs, the IHS will do the following: allocate 50 percent of the funds available under Pool No. 3 to Tribes with the greatest CSC shortfalls using a bottom up allocation methodology; allocate the remaining 50 percent of the funds available under Pool No. 3 proportionately to all Tribes with a CSC shortfall.
- ~~h.~~ The distribution of funds from Pool No. 3 shall be made as expeditiously as possible. No later than March 30 of any FY.

~~NOTE: The distribution of any excess ISD funding, if any, in Pool No. 3 will be made subsequent to July 3 of each FY.~~

5. Awardees may determine, consistent with 6-3.2, that the CSC provided under the award is not adequate to fully fund the CSC requirement due to an increase in IDC rates or changes in the program base, or exclusions provided in the indirect cost proposal applicable to the award. The awardee may request and negotiate an adjustment in the CSC by providing documentation of the increased requirement on the Annual Contract Support Costs Calculations (ACC) form and supporting documentation as required and provided in exhibit 6-3-D.

3.6. Areas must continually update the ~~shortfall~~CSC requirement information used for the distribution of the Pool No. 3 fund ~~(use CSC appropriations, including by using the most current IDC rate and changes to the direct program base in the current year)~~, before they provide any additional indirect CSC ~~shortfall~~ distributions in order to ensure that no awardee is funded in excess of ~~100 percent~~100 percent of its total CSC requirement. ~~It is not, however, intended that the shortfall report be re-calculated and the Pool No. 3 distribution altered, except to prevent such excess funding from occurring.~~

a. All CSC funds to be redistributed by an Area will be made in such a way as to raise the minimum level of CSC being funded to the maximum percentage possible, given the available resources (the bottom-up approach described in Manual Exhibit 6-3-D).

6-3.4

6-3.4 RECONCILIATION

Reconciliation of payments will be conducted to ensure full funding of CSC as required by the ISDEAA. The IHS will reconcile all CSC payments after the end of the award consistent with the following process. This reconciliation shall be completed within 90 days of the end of the fiscal year.

A. **Program Base.** The program base will be adjusted to reflect all modifications or amendments to the award.

B. **IDC rate.** The IDC rate will be adjusted to reflect the most recent rate in effect on the final date of the award period. For awardees utilizing a lump sum amount or other rate as provided for in pilot projects, the indirect CSC will be adjusted as required in the award or the terms of the pilot project.

C. **Exclusions.** Exclusions will be reviewed to ensure exclusions are computed consistent with types of costs identified as exclusions in the IDC proposal.

D. **Duplication of costs.** To the extent duplication of amounts in the 106(a)(1) program have been documented, negotiated, and agreed to, adjustments may be made in the amount of CSC funding to be provided.

No additional adjustment or recalculations of the CSC requirement shall be done in the reconciliation process. Once reconciliation is complete, and both parties agree on the final amounts due and IHS has paid any shortfall or been reimbursed any overpayment each party may agree to a bilateral amendment for a release of claims for CSC on the award.

6-3.5 ROLES AND RESPONSIBILITIES

Awardees and IHS staff have distinct roles and responsibilities in facilitating the determination of Tribal CSC requirements and in the allocation of CSC resources. This section will describe the activities associated with the determination of initial Tribal CSC (~~ISD Fund~~New and Expanded) requirements; the activities associated with ongoing management of CSC requirements; and some of the ancillary CSC activities carried out by the IHS.

A. **Overview - Initial ISD New and Expanded CSC Request Responsibilities.** Awardees must provide a detailed ISD Request CSC request to the Area Director or his or her designee. Awardees should be encouraged to complete their ISD Requests requests on forms developed by the IHS for that purpose (see sample ISD Request form in Manual Exhibit 6-3-G). The request must include a clear description of the requested CSC amounts to be negotiated (as specified at 25 CFR Sec. 900.8) along with supporting justification; the date that the PFSAPSFA 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 Section 106(a)(1) amount to facilitate CSC negotiations. The Area Director or his or her designee will provide a copy of the negotiated ISD Request request to the IHS Headquarters Office of Finance and Accounting (OFA), and a copy to the Office of Tribal Self-Governance (OTSG) in the case of a Title V compactor.

B. **Indian Self-Determination New and Expanded CSC Request Negotiation.** The Area Director or his or her designee (or the Agency Lead Negotiator in the case of a Title V Self-Governance award) has the primary responsibility for negotiating the ISD new and expanded CSC Request with the awardee and forwarding the approved request to the Headquarters OFA for allocation from the ISD fund funding. If the Area Director or his or her designee and the awardee do not agree on an item(s) of cost, the Area Director or designee shall issue a partial declination of the awardee's contract proposal in accordance with 25 CFR Sections 900.20 through 900.33. The declination must be issued within 90 days from the receipt of the awardee's proposal (or in the case of a Title V awardee, within 45 days of the submission of a Final Offer, if any) unless the awardee has provided a written request for an extension in accordance with 25 CFR Section 900.17. In the event CSC issues are unresolved at the time a program transfer or expansion goes into effect, the final resolution of CSC issues shall be retroactive to the start date of the transfer or expansion.

C. **Indian Self-Determination Request List.** The list of pending ISD Requests for each FY for the ISD Fund will be maintained by the IHS Headquarters Office of Tribal Programs (OTP) and distributed quarterly to the Area Director or his/her designee and to awardees on the list for the current FY. The list will include the following: 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 Section 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 IHS Headquarters OTP will update the list of estimated amounts of CSC 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 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 the ISD Requests received to date.

D. **Changes in Start Date.** Prior to actual startup, an awardee has the right to delay its start date, if in its sole discretion and absent a declination issued by the IHS, the expected amount of CSC funding to the awardee is insufficient to properly carry out the program. If an awardee elects to delay its start date, the Area Director or his or her designee will contact the awardee to acknowledge the change and to determine a new proposed start date. Delay of this start date to a subsequent FY 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 on the circumstances.

Alternatively, if an awardee believes it cannot operate the PFSFA that it is contracting for due to the delay in CSC funding under the initial ISD allocation made after July 3 the awardee may delay its start 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 6-3.3A(3)(d). In the subsequent year, the IHS will provide this same proportionate share of the initial payment, to the greatest extent possible, annualized for the entire FY (See also Section 6-3.3 A(3)).

E.C. **Subsequent Funding Periods.**

1. Beginning in year two, DCSC requirements will first ~~be~~ funded up to the total amount of the original ~~ISD Request~~ CSC request for the DCSC. The DCSC, along with other Section 106(a)(1) funds, will be considered part of the recurring base of the award. ~~Funding increases will be paid based on congressional appropriations.~~ The amount of the DCSC is provided to the awardee on a recurring basis and will not be reduced, but the amount may be renegotiated annually at the option of the awardee (See also Section 6-3.2D and Section 6-3.2D(2)).
2. All IDC funding paid in connection with ~~an ISDa~~ CSC request will be transferred to ~~Pool No. 2, the "Ongoing Pool,"~~ Area on a recurring basis in year two. 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 percent of the awardee's calculated IDC requirement (See also Section 6-3.2E, Section 6-3.3B(3) and (4)).
3. When an awardee's IDC rate is reduced, ~~either because a provisional rate is made final or because a lower subsequent fixed-with-carry-forward rate is approved,~~ the Area Director or his or her designee is required to determine if the reduction has resulted in the awardee receiving more IDC funding 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. The Area Director or his or her designee is required to collect excess CSC funds from awardees for redistribution to other Tribal contractors/compactors with identified shortfalls within that Area (see paragraphs 6-3.3B(3) and 6-3.3C(7)).

If the awardee refuses to execute a bilateral modification to return excess IDC funds, the Area Director or his or her designee will file a claim against the awardee in the amount of the overpayment in accordance with the Contract Disputes Act (CDA), P.L. 95-563, as amended, and 25 CFR Section 900.216.

4. Each Area Director or his or her designee will report to IHS Headquarters OFA on a quarterly basis any projected shortfalls in funding of full direct or indirect CSC. ~~Such shortfalls should be included in the required Reports to the Congress and reported to Tribes (See 6-3.5): from ongoing awards.~~

Startup ~~and pre-award~~ funding does not recur to the awardee in the second year two. Instead, to the extent available, such funds shall be ~~added~~ available to ~~Pool No. 3~~ the Area for funding CSC in the subsequent ~~year.~~ years.

5. _____

5. ~~Startup costs not funded in the initial year of the award will neither be carried forward nor included in subsequent CSC shortfall reports. A graphic illustration of CSC is provided as follows:~~

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6. ~~STARTUP~~ **and Pre-award (non-recurring to Area and Awardee in year 2)**

DCSC - (recurring to Area and Awardee in year 2)

This is treated as recurring, i.e., not and adjusted except pursuant to P.L. 93-638 in subsequent years annually for inflation and may be renegotiated annually at awardees

IDC - (non-recurring to Awardee, recurring to Area)

The IDC base amount in subsequent years is described above in Pool No. 2. Any increase/decrease to the IDC base amount are governed by Pool No. 3. This is also described above.

Program Base – (recurring to Area and Awardee)

This is treated as recurring, i.e., not adjusted except pursuant to P.L. 93-638 in subsequent years.

Program Base - (recurring to Area and Awardee)

This is primarily recurring, i.e., not adjusted except pursuant to modification of award

F.D. Other CSC Responsibilities.

1. **Disputes.** Disputes over CSC should be resolved as either a formal declination appeal or as a CDA claim. An informal conference (25 CFR Section 900.153) or other alternative dispute mechanism (25 CFR Section 900.217) may also be useful in resolving disagreements over CSC. When it is unclear whether a dispute should be resolved as a declination or a CDA claim, the Associate Director of Self-Determination Services, ~~OTPODSCT~~, should be contacted for possible referral to the IHS Headquarters Leadership Team.
2. **Pre-Award Declination Appeals.** Declination appeals may arise from 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 CFR Subpart L, Section 900.150. Declination appeals are most likely to occur as a result of disagreements over an awardee's ~~ISD Request~~ CSC request (paragraph 6-3.4B). Declination appeals must be processed pursuant to 25 CFR Subpart L, Sections 900.150 through 199.177.
3. **Appeals of Rejections of Final Offers.** Final Offer appeals may arise out of a pre-award decision by the IHS to reject, in whole or in part, a Final Offer submitted by a compactor when it is unable to reach agreement with the IHS on the terms of a compact or FA, including funding levels. Final Offer appeals must be processed pursuant to Section 507(C)(1) of the ISDEAA, as amended, and any regulations promulgated there under.
4. **Post-Award Contract Disputes Act Claims.** Disputes over CSC should be resolved as either a formal declination appeal or as a CDA claim. All CDA claims arise out of a post-award dispute regarding an awarding official's decision related to a Self-Determination award. Post-award contract dispute generally occurs as a result of the parties' failure to agree concerning the amount of DCSC due (paragraph 6-3.2D), ~~or~~ or the amount of indirect or indirect-type costs due (paragraph 6-3.2E), ~~or the allocation of CSC (paragraph 6-3.3B or 6-3.3C).~~ Post-award contract disputes must be handled pursuant to 25 CFR Subpart N, Sections 900.215 through 900.230.
5. **Pilot Projects ~~Contract Support Costs~~ and Base Budgets.** The IHS may adopt pilot projects to simplify and streamline the administration of CSC for Tribes and the IHS. The IHS director may approve these pilot projects without requiring revisions in this chapter. Pilot projects must be optional for awardees, of limited duration and are subject to evaluation and review. There are currently several ongoing CSC pilot projects (including proposed CSC base budgets) pilot projects (see

Exhibits 6-3-E(1), E(2), and E(3)) that are intended to incorporate innovative approaches to CSC funding issues. Upon the approval and completion and evaluation of these projects, this chapter may be amended to incorporate new provisions implementing these projects on a permanent basis.

6. **Contract Support Costs Budget Projections.** Each Area Director or his or her designee shall survey Tribes and Tribal organizations within that Area to develop accurate projections of CSC need on an annual basis at the end of the second and fourth quarter. This will include identification of the amounts required for the ISD Fund and any new and expanded projects as well as projections for the total ongoing CSC requirement for the following FY as well as estimates for the next two FYs. The information will be consolidated by the IHS Headquarters OFA and provided to Tribes and Tribal organizations as expeditiously as possible. The information will also be generated in the “Contract Support Costs Budget Projections (for the appropriate FY),” and submitted to the Director, Headquarters OFA, on or before September 30 of each FY and will be used by the IHS in conjunction with the Agency’s budget formulation process.
7. **Common Language.** The IHS may from time to time propose common language for FA regarding CSC. This common language may be considered as an option for negotiations by the Tribes and IHS negotiators. Tribes and IHS negotiators should be made aware that specific CSC language in contracts, compacts, and FA is negotiable and cannot be imposed on tribal contractors as a condition of contracting.
8. ~~_____ **Contract Support Costs Meetings.** From time to time, the IHS will hold meetings that will be open to the public, in order to provide an opportunity for the free exchange of information related to the CSC and the IHS CSC policy. These meetings are not a substitute for Tribal consultation.~~
8. 6-3-5 IHS CSC Workgroup. An IHS CSC Workgroup, comprised of Federal and Tribal participants who possess knowledge of CSC issues, shall convene at least annually. The Workgroup will provide advice and guidance to the IHS in the development and annual evaluation of agency CSC policy, ongoing management of CSC issues, recommendations for and evaluation of CSC pilot projects and development of any proposed common language (if any) for funding agreements. The CSC Workgroup is not a substitute for Tribal consultation.

6-3.6 CONTRACT SUPPORT COSTS SHORTFALL REPORTS

- A. **Requirements for Reporting and Documenting Amounts of CSC Available, Needed, and Requested.** The Area Director or his or her designee shall maintain a historical record of funds negotiated and awarded in each of the categories listed below. Manual Exhibit 6-3-F contains a detailed sample of the database.
 1. Direct program funds
 2. Startup costs
 3. Direct contract support funds
 4. Indirect cost funding
 5. Indirect-type cost funding
 6. Indirect cost rates
 7. Types of bases

8. Pass through/exclusions
9. Total IDC base (direct cost base)
10. Direct CSC requirements (including the unduplicated DCSC requirement associated with sub-awards)
11. Indirect CSC requirements (including the unduplicated IDC requirement associated with sub-awards)
12. Funds required to be reprogrammed from other IHS sub activities to fully fund CSC costs.
13. CSC funds remaining unobligated from prior years.

B. Annual CSC Funding Report to Tribes. Area Directors shall provide a report to the Director, OFA, no later than November 15 of each FY that includes those data elements identified above on a Tribe-by-Tribe basis for the previous FY ending on September 30. Before the report is submitted, the amounts included in the report shall be certified as accurate by the IHS Area Finance Management Officer (FMO) and the Area Director or his or her designee.

1. A copy of the Area's data Area Director's report inclusive of all Area wide CSC funding information shall be provided by the Area Director or his or her designee to the awardees within that Area no later than November 15. Any corrections or changes to the data resulting from an awardee review must be certified by the Area FMO and a [revised / corrected] final Area Director's report shall be submitted to the IHS Headquarters OFA through the Area Director or his or her designee no later than December 15. A copy of this report shall also be provided by the Area Director or his or her designee to the awardees within that Area no later than December 15.
2. The IHS Headquarters Director, OFA, shall consolidate all Area reports into the "IHS CSC ShortfallFunding Report to Tribes." In doing so, the IHS Headquarters Director, OFA, shall, in consultation with the Director, OTPODSC, and the Director, OTSG; provide a projection of the full CSC shortfallRequirement for the current and subsequent FY.
3. The Headquarters Director, OFA, shall finalize the "IHS CSC ShortfallFunding Report, to Tribes" obtain concurrence from the Director, OTPODSC, and the Director, OTSG; and transmit the report to the Director, IHS, for approval no later than February 1.
4. After the "IHS CSC ShortfallFunding Report to Tribes" is approved by the Director, IHS, the Headquarters Director, OFA, will provide copies to each Area Director or his or her designee, who shall then be responsible for promptly providing a copy of the reportIHS CSC Funding Report to Tribes to all awardees compacting or contracting within that Area. The IHS CSC Funding Report shall be furnished to tribes on or before March 1 of the year following the close of the fiscal year that is the subject of the Report.

C. Annual CSC Report to Congress -The IHS also has a responsibility pursuant to Section 106(c)1-5 to provide a report to Congress on the implementation of the Indian Self-Determination and Education Assistance Act and its administration of CSC; including "an accounting of any deficiency in funds needed to provide required contract support costs to all contractors for the fiscal year for which the report is being submitted" [the current fiscal year]. The Director shall rely on the data gathered in the Annual CSC Funding Report to Tribes to develop a CSC Report to Congress. In developing the CSC Report to Congress the Director shall carefully consider any comments received from Tribes on the IHS CSC Funding Report to Tribes

| The Director, IHS or his / her designee shall also provide each Awardee with a copy of the CSC Report to Congress, once that report has been cleared by the Administration for submission to Congress.

Part 6, Chapter 3: Manual Exhibits

(ALL EXHIBITS WILL REQUIRE ADDITIONAL REVIEW AND CORRECTION AFTER POLICY REVIEW IS SUBSTANTIALLY COMPLETE)
