



# United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

SEP - 5 2023

Dear Tribal Leader:

I invite you to consult on the calculation and distribution process of Contract Support Costs (CSC) for Tribes with self-governance funding agreements with the Department of the Interior (Department) and Indian Affairs. The CSC is vital funding to Indian Country, and the Department is committed to ensuring calculations are accurate and paid according to law.

## **Background**

The Federal/Tribal CSC Workgroup developed the CSC Policy (IAM Part 13 Chapter 7, Indian Self Determination Contract Support Costs) to be applicable to Title I contracts as well as Title IV compacts. The overarching purpose is to provide for the full payment of CSC and to ensure that payment is accurate, timely, and meets 100 percent of a Tribe's CSC as calculated under the Policy. While drafting the CSC Policy, the Federal/Tribal CSC Workgroup also began drafting a Handbook with the intent to provide procedures that described in more detail the data collection and calculation processes, including providing standardized spreadsheets for Regions (Title I contracts) as well as OSG (Title IV compacts). Under Title I, Tribes submit current budgets, whereas under Title IV, Tribes do not. Therefore, while the Bureau of Indian Affairs (BIA) Regions has access to all the data elements necessary to complete CSC calculations, the Office of Self Governance (OSG) does not have access to all the data elements necessary to complete the calculations until Self Governance Tribes provide their data. The OSG has been collecting CSC data in a similar manner for almost 30 years.

In a number of discussions with Self Governance Tribes, OSG presented options on how to best meet the overarching purposes of full payment of CSC, while ensuring that payment is accurate, timely, and meets 100 percent of a Tribe's calculated CSC. The Tribal feedback received recommended continuing with OSG's practice of making an initial payment (80 percent of a Tribe's previous year's requirement of full CSC paid) and making an adjusted payment (100 percent of the current year's requirement of full CSC) upon receipt of the current year data necessary to calculate CSC in accordance with the Policy formulas.

## **Issues raised**

The initial payment in the methodology described above provides an advance payment and relies upon prior year requirement which is non-current year data. It has been noted this methodology provided 80 percent payment to Tribes that did not submit any data within the current year. It has been determined that the payment process should be changed to remedy CSC funds being provided to Tribes that have not provided current-year data and to ensure that any payment being provided is a 100 percent payment for that year.

## **Proposals**

In lieu of receiving full Tribal budgets to make CSC calculations as is the methodology for self-determination contracts, the Federal proposal is to request Self Governance Tribes submit two data calls for CSC calculations and payments each year.

The first data call would be released prior to the beginning of the fiscal year for the upcoming fiscal year CSC data on recurring base funding. Once funds are available to OSG, an initial allocation of 100 percent of CSC unmet need on recurring base funds would be distributed. The second data call would be released near the end of the fiscal year, requesting Tribal data on all CSC-eligible funds received by the Tribe during the year and make an adjusted allocation of the current year's unmet CSC need to ensure 100 percent payment. In summary, the data provided would be for the current year and payment made at 100 percent of that year's annual requirement. The requested data for both calls would provide the data elements not otherwise available to OSG (current year salaries, fringe, exclusion, and passthrough data as needed by the Tribe's indirect cost agreement for CSC calculation).

This proposal was presented to the Tribal Representatives of the BIA CSC Workgroup (Workgroup) in April 2023 during an in-person meeting in Phoenix, Arizona. Feedback and other options were discussed with Tribal Representatives, including concerns with the Department's interpretation of Policy pertaining to current data being annually supplied data.

The Workgroup Tribal Representatives recommended that when a Tribe elects not to supply CSC data annually, then the "best available" data should be used for CSC calculations. They recommend "best available" data include data reported up to four years old. Tribes then may voluntarily reconcile at the end of the year or throughout the year if things have changed.

### **Indian Affairs invites you to consult on the following topics:**

Indian Affairs would like to determine how to compensate Self Governance Tribes for CSC, when they are NOT required to submit budgets, yet certain data is necessary to calculate the amount of CSC due to the Tribe annually.

1. Is the Federal proposal of two data calls, one on recurring base funding and a second at the end of the year a viable proposal?
2. The Workgroup Federal representatives recommend that two data calls be released at least 30 days prior to due dates. The recommended due dates for base funding CSC data are September 1 for fiscal year funding agreements and November 1 for calendar year funding agreements. The recommended due date for full-year data is July 1 for fiscal year funding agreements and October 1 for calendar year funding agreements. Should this or another calculation and payment schedule be considered?
3. There are a small number of Self Governance Tribes that have not submitted year-end CSC data, therefore the annual 100 percent requirement is unknown. What is the Tribal recommendation regarding this matter?

4. In lieu of negotiating Direct CSC line by line, the CSC Policy formula for ALL tribes is below.

**DCSC = (current Tribal budgeted salary cost [not including fringe] of section 106(a)(1) programs) x 18%.**

The DCSC need cannot be calculated in accordance with the CSC Policy, and in the same equitable manner as Tribes entering into contracts under Title I, without receipt of a Tribe's "budgeted salary cost." The CSC Policy would need to be changed to allow the use of "best available" data or data that is 4 years old.

- a) Is there support for changing the CSC Policy to utilize "best available" data or salaries up to four years old for DCSC?  
How would the Department reconcile ensuring equitable treatment with Title I contracts submitting current budgets (with salary and fringe) that equal the current year contract amounts?

5. Section 1.10 of the CSC Policy outlines the formula for calculating Indirect CSC:

**Indirect CSC = Current approved IDC rate(s) x (the Secretarial Amount awarded to the Tribe, minus exclusions and pass-through).**

The CSC Policy explicitly clarifies that a "current" IDC rate can be up to four years old. If a Tribe has no approved IDC rate or has an approved IDC rate that is over four years old, the Tribe may negotiate a lump sum amount for indirect-type costs or may utilize the Simplified Method, if applicable. Furthermore, Section 1.10 of the Policy states, "[i]f a Tribe does not initiate any of these options, IA will not pay the Tribe any indirect CSC."

While the CSC Policy allows for an IDC rate that is up to four years old, it does not allow for use of previous years' salary, fringe, exclusion or passthrough data to calculate the current year 100 percent CSC need. The CSC Policy would need to be changed to allow the use of "best available" data.

- a) Does the Tribe support changing the CSC Policy to utilize "best available" data?  
b) If so, what sources should be considered "best available" data for calculations of CSC for the data elements of 1) Tribal Budgeted Salary 2) Tribal Budgeted Fringe (if necessary); and 3) Exclusions and pass-throughs?  
c) If a Tribe does not submit current year data, at what point would IA utilize "best available" data for calculation and payment?

6. Section 1.12 of the CSC Policy outlines cutoff timeframes for IDC rates as below.

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

- **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.**

Under the “best available” data or data reported up to four years old proposal, what would be the standard cutoff timeframe for Tribal Budgeted Salary, Tribal Budgeted Fringe (if necessary); and Exclusions and pass-throughs)? The end of Tribe’s fiscal year?

The Policy is available at this link:

[https://www.bia.gov/sites/default/files/dup/assets/public/raca/manual/pdf/13\\_IAM\\_7\\_Contract\\_Support\\_Costs\\_508\\_OIMT.pdf](https://www.bia.gov/sites/default/files/dup/assets/public/raca/manual/pdf/13_IAM_7_Contract_Support_Costs_508_OIMT.pdf)

We will hold one listening session and three consultation sessions on these topics as follows:

Date	Time	Location/Connectivity
10/1/2023	Listening Session 1:00 p.m. - 4:00 p.m. MT	2023 NAFOA Fall Finance & Tribal Economies Conference Sheraton Grand at Wild Horse Pass 5594 W Wild Horse Pass Blvd. Phoenix, AZ 85226
10/5/2023	2:00 p.m. - 5:00 p.m. ET	Virtual Zoom with Assistant Secretary – Indian Affairs Bryan Newland.  Register here: <a href="https://www.zoomgov.com/j/1617068666?pwd=RjdVWtBkZkQwRVhVNzh6MnZJMUVxUT09">https://www.zoomgov.com/j/1617068666?pwd=RjdVWtBkZkQwRVhVNzh6MnZJMUVxUT09</a>
11/1/2023	1:30 p.m. – 3:00 p.m. PT	US Department of Labor, Indian and Native American Programs Workforce Innovation and Opportunity Act (WIOA) 166/477 Western Regional Training Pechanga Resort Casino 45000 Pechanga Pkwy. Temecula, CA 92592
11/29/2023	1:00 p.m. - 4:00 p.m. AK	BIA Providers Conference Dena'ina Center 600 W 7th Ave. Anchorage, AK 99501

We welcome your written comments, which should be submitted by email to [consultations@bia.gov](mailto:consultations@bia.gov) by 11:59 pm ET on December 29, 2023.

If you have any questions regarding this effort, please contact Jacob Aguilar, Financial Specialist, OSG, at (360) 699-1015 or via email: [jacob.aguilar@bia.gov](mailto:jacob.aguilar@bia.gov).

We look forward to speaking with you and receiving your input on OSG’s calculation and distribution process of CSC.

Sincerely,



Bryan Newland  
Assistant Secretary – Indian Affairs