

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

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Manual 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 5325 and Section 5326
Manual Exhibit 6-3-B	Calculating IDC Associated with Tribal Shares and the Contract Support Costs Amount Based on a Detailed Analysis
Manual Exhibit 6-3-C	Calculating IDC Associated with Tribal Shares and the Contract Support Costs Amount Using the 80/20 Method
Manual Exhibit 6-3-D	Calculating IDC Associated with Recurring Service Unit Shares and the Contract Support Costs Amount Based on a Detailed Analysis
Manual Exhibit 6-3-E	Calculating IDC Associated with Recurring Service Unit Shares and the Contract Support Costs Amount Based on the 97/3 Method
Manual Exhibit 6-3-F	Contract Support Costs Negotiation Template
Manual Exhibit 6-3-G	Standards for Review and Approval of Contract Support Costs in the Indian Health Service

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6-3.1 INTRODUCTION

A. **Purpose.** This Chapter of the Indian Health Manual (Chapter) provides guidance to both Tribal and Agency personnel in the preparation, negotiation, determination, payment, and reconciliation of contract support costs (CSC) funding in support of new, expanded, and/or ongoing Indian Self-Determination and Education Assistance Act (ISDEAA), as amended, codified at 25 United States Code (U.S.C.) Section (§) [5301](#) et seq., contracts and compacts. The Chapter provides instructional guidance on the following:

1. determination of amounts of pre-award, startup, direct, and indirect CSC funding;
2. payment of CSC funding to awardees;
3. reconciliation of CSC payments to awardees; and
4. reporting by IHS to all Tribes and to Congress.

These instructions are not regulations establishing program requirements and are issued consistent with 25 Code of Federal Regulations (C.F.R.) § 900.5, which states:

Except as specifically provided in the [ISDEAA], or as specified in subpart J, an Indian tribe or tribal organization is not required to abide by any unpublished requirements such as program guidelines, manuals, or policy directives of the Secretary, unless otherwise agreed to by the Indian tribe or tribal organization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 American Indian and Alaska Native Tribes. The procedures discussed here will be applied to contracts and compacts awarded pursuant to Title I and Title V, respectively, of the ISDEAA.

B. **Guiding Principles.** This Chapter was drafted in accordance with the following guiding principles:

1. The process should be simple and efficient.
2. The Chapter assumes full funding of CSC.
3. To the maximum extent practicable, the Chapter should align with the Bureau of Indian Affairs' (BIA) CSC policy.
4. The Chapter is designed to assure that the perfect does not become the enemy of the good.
5. The Chapter assures accountability.
6. The Chapter is intended to minimize future litigation.
7. The Chapter avoids putting at risk past CSC settlements.
8. The Chapter assures that post year-end reconciliation will not take several years.

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9. The Chapter has been developed and will be implemented in accordance with the government-to-government relationship.
10. The Chapter provided needed certainty for the Agency and Tribes and Tribal organizations.
11. The Chapter has received broad support across Tribes and Tribal organizations.
12. The Chapter is designed to minimize burdens imposed upon Tribes and IHS.
13. The Chapter is designed to assure consistency.
14. The Chapter is designed to assure transparency.
15. The Chapter is designed to assure integrity in the government-to-government relationship.
16. The Chapter has been built on trust amongst the IHS, Tribes, and Tribal organizations.
17. The Chapter will be supplemented with regular training for IHS and Tribal personnel to assure consistency in its application.
18. The Chapter will be reassessed on a regular basis.

C. Supremacy of the ISDEAA.

Nothing in this Chapter is intended to limit an ISDEAA contractor/compactor's right to be paid the full CSC amount under the ISDEAA. If a contractor/compactor believes that it has not been fully paid, it may request additional CSC funding from IHS and, if agreement cannot be reached, must invoke the remedies available in 25 U.S.C. § 5331.

Nothing in this Chapter is intended to alter, in any way, IHS's obligations or authority under the ISDEAA. In the event of any apparent conflict, the ISDEAA supersedes this Chapter.

D. Background. All policies and circulars concerning the administration of CSC by IHS have been developed and revised through coordination and consultation with Tribes. The CSC policies and circulars developed and revised to date include:

1. Indian Self-Determination Memorandum No. 92-02, "Contract Support Cost Policy," signed by Dr. Everett Rhodes, February 27, 1992.
2. Indian Health Circular No. 96-04, "Contract Support Costs," signed by Dr. Michael Trujillo, April 12, 1996.
3. Indian Health Circular No. 2000-01, "Contract Support Costs," signed by Dr. Michael Trujillo, January 20, 2000.
4. Indian Health Circular No. 2001-05, "Contract Support Costs," signed by Dr. Michael Trujillo (Michael E. Lincoln. for), July 6, 2001.
5. Indian Health Circular No. 2004-03, "Contract Support Costs," signed by Dr. Charles W. Grim, September 1, 2004.

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

This version of the Chapter is the successor to the same Chapter implemented on April 6, 2007. The changes in this successor version of the Chapter are provided to streamline and simplify the processes for the determination, payment, and reconciliation of full CSC funding under the ISDEAA. The IHS will continue to reassess the Chapter on a regular basis, and further changes will only be implemented after Tribal consultation. This Chapter replaces and supersedes all previous versions of the CSC policy, including previous versions of this Chapter.

E. **Policy.** The IHS will provide for a uniform and equitable system of determining, paying, and reconciling CSC funds for new, expanded, and ongoing ISDEAA compacts and contracts and preserve and support each awardee's right to contract/compact under the ISDEAA.

F. **Authorizing Legislation.**

1. Transfer Act, 42 U.S.C. § 2001
2. Title I of the ISDEAA, 25 U.S.C. §§ ~~5301-5332~~
3. Title V of the ISDEAA, 25 U.S.C. §§ ~~5381-45399~~

G. **Definitions.**

1. **Award.** An agreement authorized under Title I (contract) or Title V (compact) of the ISDEAA, including the associated annual funding agreement (AFA) or funding agreement (FA).
2. **Awardee.** A Tribe or Tribal organization that receives an ISDEAA award as defined above. *See also* Contractor.
3. **Annual CSC Report to Congress.** Report provided to Congress from the IHS Director pursuant to 25 U.S.C. § ~~5325~~(c), 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."
4. **Buy-Back Services.** Services contracted by an awardee but that the awardee "buys back" from IHS and, accordingly, IHS provides pursuant to a full-cost reimbursement agreement with the Tribe. Costs of buy-back services may be included in the direct cost base, depending upon the Tribe's indirect cost (IDC) rate agreement.
5. **Contract Proposal.** A proposal for programs, functions, services, or activities (PFSA or PSFA) that the Secretary, Department of Health and Human Services

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(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 C.F.R. § 900.8.

6. **Cognizant Agency.** The Federal agency responsible for reviewing, negotiating, and approving cost allocation plans or IDC proposals developed under 2 C.F.R. Part 200 on behalf of all Federal agencies. The cognizant agency for IDC is not necessarily the same as the cognizant agency for audit purposes. For assignments of cognizant agencies see 2 C.F.R. Part 200.
7. **Contract Support Costs Awarded.** Total CSC funding allocated to an awardee.
8. **Contract Support Costs Need or Requirement.** The full amount of CSC funding for new, expanded, and ongoing contracts or compacts, as determined under this Chapter pursuant to 25 U.S.C. § [5325\(a\)](#).
9. **Contractor.** A Tribe or Tribal organization that receives an ISDEAA award as defined above. See *also* Awardee.
10. **Direct Cost Base.** The accumulated direct costs (normally either total direct salaries and wages or total direct costs exclusive of any extraordinary or distorting expenditures) used to distribute IDC to individual Federal awards. The direct cost base for each year is determined by a negotiation between each awardee and its cognizant Federal agency.
11. **Direct CSC (DCSC).** Direct program expenses for the operation of the ISDEAA Programs that are the subject of the award, that otherwise meet the definition of CSC in 25 U.S.C. § [5325\(a\)](#).
12. **Exclusions.** Direct expenditures excluded from the direct costs in order to calculate the direct cost base to which the IDC rate is applied. These types of expenditures vary by awardee and are defined in the IDC rate agreement.
13. **Expanded PSFA.** Expansion of a PSFA through the assumption of additional PSFAs previously operated by IHS, the assumption of programs previously operated under awards to other awardees, the assumption of a new facility (such as increased staff associated with a joint venture agreement), and increases due to new appropriations (excluding general program increases and increases for inflation, pay costs, population growth, and the Indian Health Care Improvement Fund).
14. **Indirect Costs.** Costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved.

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15. **Indirect CSC.** Administrative or other expenses related to the overhead incurred by a contractor in connection with the operation of ISDEAA programs pursuant to the contract and that otherwise meet the definition of CSC in 25 U.S.C. § [5325\(a\)\(2\)-\(3\)](#).

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16. **Ineligible Funding.** Categories of funding not eligible for inclusion in the calculation of CSC funding because the related activities are not PSFA transferred and funded under 25 U.S.C. § [5325\(a\)\(1\)](#).

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17. **Indian Self-Determination Programs (ISDEAA Programs).** The PSFAs associated with an ISDEAA award that are eligible for CSC funding in accordance with this Chapter.

18. **ISDEAA.** The Indian Self-Determination and Education Assistance Act, as amended, codified at 25 U.S.C. §§ [5301-5399](#).

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19. **New PSFA.** ISDEAA Programs that are being assumed by the awardee and transferred by IHS for the first time in the current contract period, including new PSFA available due to new appropriations (excluding general program increases and increases for inflation, pay costs, population growth, and the Indian Health Care Improvement Fund).

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20. **Non-Indian Self-Determination Programs.** All awardee-operated programs, exclusive of PSFAs associated with an ISDEAA award, which are not eligible for CSC funding.

21. **Non-Recurring Funds.** Funds that require an annual justification. Some types of non-recurring funds provided for ISDEAA programs are included in the direct cost base.

22. **Ongoing Programs.** All awardee-operated PSFA that were assumed by the awardee prior to the current contract period.

23. **Pass-Through Expenditures.** Similar to exclusions in that pass-through expenditures may be excluded from the direct cost base to which the IDC rate is typically applied, though such expenditures also may be assigned a lower nominal IDC rate. The IDC rate(s) should be applied to such expenditures consistent with the IDC rate agreement.

24. **Pre-award Costs.** Costs incurred before the initial year that an award is in effect. CSC funding is authorized for pre-award costs only if such costs meet the definition in the ISDEAA in 25 U.S.C. § [5325\(a\)\(2\)-\(3\)](#), (6), and the Secretary receives a written notification of the nature and extent of the costs prior to the date on which such costs are incurred.

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25. **Programs, Services, Functions, and Activities.** Those PSFA that are contractible under the ISDEAA, including those administrative activities that support such PSFA

and that are otherwise contractible, without regard to the organizational level within the HHS that carries out such functions (as authorized under 25 U.S.C. § 5301 et seq.).

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26. **Reconciliation.** Review by IHS and an awardee of the awardee's total CSC requirement and payments made by IHS, including during the course of the contract year and for the purpose of issuing a final contract amendment.

27. **Recurring Funds.** Contract or compact funds that do not require annual 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.

28. **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.

29. **Secretarial, or 106(a)(1), Amount.** The amount of funds provided for the PSFA transferred under the award, per 25 U.S.C. § 5325(a)(1).

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30. **Self-Governance Request.** A self-governance request is any one of the following requests 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.

31. **Service Unit Shares.** For the purposes of this Chapter, refers to an awardee's equitable share of PSFA associated with Service Unit resources.

32. **Startup Costs.** Costs incurred on a one-time basis during the initial year that an award is in effect that may be eligible for CSC funding. CSC funding is authorized for startup costs only if the costs meet the definition of CSC in 25 U.S.C. § 5325(a)(2)-(3), (5).

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33. **Total CSC Shortfall or Overpayment.** The difference between the total CSC requirement and the total CSC paid to the awardee.

34. **Total Health Care Program.** The health care program operated by the awardee from all resources, including but not limited to IHS, other Federal and State agencies, Tribal contributions, and collections from Medicare, Medicaid, and private insurance.

35. **Tribal Shares.** For the purposes of this Chapter, refers only to an awardee's equitable share of PSFA associated with Area Office or Headquarters resources (including Tribal shares of discretionary IHS grants), notwithstanding the definition of Tribal shares set forth in 25 U.S.C. § 5381(a)(8).

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6-3.2 DETERMINING CSC AMOUNTS¹

A. Categories of ISDEAA Funding: Secretarial Amount, Pre-award, Startup, DCSC, and Indirect CSC.

The ISDEAA, 25 U.S.C. § 5325(a)(1)-(3), (5), (6), authorizes funding of an award, including the Secretarial amount and CSC. 25 U.S.C. § 5325(a)(1) provides for the Secretarial amount:

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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

¹ IHS and Tribal members of the CSC Workgroup have differing interpretations of what costs are eligible to be paid as CSC under the ISDEAA. This footnote summarizes the differing interpretations and clarifies that any changes to language from the prior version of this Chapter or the Exhibits are not to be construed as a change in the IHS or Tribal position on this issue. The IHS position is that the plain language of the ISDEAA makes it clear that, to be eligible for CSC funding, a cost and the underlying activity must meet the definition of CSC in 25 U.S.C. § 5325(a)(2), which requires (among other things) that the underlying activity is one that IHS does not normally carry on or provided from resources not transferred in the contract. Accordingly, under the IHS position, activities performed by a Tribe that are also activities IHS normally carries on and provides from resources transferred in the contract are not eligible for CSC funding. The IHS position is that the statute cannot be construed in any other manner and that reliance on legislative history is unnecessary given the plain meaning of the statute. Therefore, reference to legislative history is not necessary under the IHS position, though the IHS refers to Senate Reports 100-274 and 103-374, as well as 140 Cong Rec. H11140-01, as affirming this interpretation of the statute's clear requirements. Tribal representatives' position is that the plain language of the ISDEAA, including 25 U.S.C. § 5325(a)(3), expressly defines CSC to include both funds required for administrative and other overhead expenses and "direct" type expenses of program operation, and that in the event the Secretarial amount for a particular function, activity or cost proves to be insufficient in light of a contractor's needs for prudent management of the contract, CSC funding is to be available to supplement such sums so that health services do not have to be reduced in order to pay for the insufficiency. Tribal representatives' position is that the plain meaning of this language is supported by the legislative history adding § 5325(a)(3) to the ISDEAA, see Senate Report 103-374, at 8-9; 140 Cong. Rec. 28,631 (1994). Tribal representatives also note that the ISDEAA also requires that "[e]ach provision of the [statute] and each provision of [the] Contract shall be liberally construed for the benefit of the Contractor[.]" § 5329(c) (Model Agreement Section 1(a)(2)).

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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, 25 U.S.C. § 5325(a)(2) authorizes CSC funding:

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 [or 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.

The statute further identifies four categories of CSC funding. DCSC and indirect CSC are defined in 25 U.S.C. § 5325(a)(3):

(A) The contract support costs that are eligible costs for the purposes of receiving funding under this [Act] shall include the costs of reimbursing each tribal contractor for reasonable and allowable costs of--

- i. direct program expenses for the operation of the Federal program that is the subject of the contract, and
- ii. any additional administrative or other expense related to the overhead incurred by the tribal contractor in connection with the operation of the Federal program, function, service, or activity pursuant to the contract,

except that such funding shall not duplicate any funding provided under [25 U.S.C. § 5325(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.

The ISDEAA also defines startup and pre-award costs in 25 U.S.C. § 5325(a)(5)-(6):

(5) Subject to paragraph (6), during the initial year that a self-determination contract is in effect, the amount required to be paid

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under paragraph (2) shall include startup costs consisting of the reasonable costs that have been incurred or will be incurred on a one-time basis pursuant to the contract necessary –

(A) to plan, prepare for, and assume operation of the [PFSA] that is the subject of the contract; and

(B) to ensure compliance with the terms of the contract and prudent management.

(6) Costs incurred before the initial year that a self-determination contract is in effect may not be included in the amount required to be paid under paragraph (2) if the Secretary does not receive written notification of the nature and extent of the costs prior to the date on which such costs are incurred.

B. Determining CSC Requirements – Statutory Factors that Determine Eligible Costs.

The definition of CSC in 25 U.S.C. § 5325(a)(2)-(3), establishes certain statutory criteria for determining which costs are eligible for any category of CSC funding.

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Since awardees often operate more than one program, many of the costs incurred by the awardee are paid through an IDC allocation process, usually negotiated by the “cognizant agency” as identified under the applicable Office of Management and Budget (OMB) regulations at 2 C.F.R. Part 200 and the HHS regulations at 45 C.F.R. Part 75. In the case of ISDEAA awards, both the Secretarial amount and CSC funding include funding for both direct and indirect costs.

25 U.S.C. § 5325(a)(3) authorizes awardees to be paid CSC funding for eligible costs, whether they are “indirect” in nature (benefitting multiple programs) or additional costs associated with operating a single program, subject to all of the requirements for CSC funding in 25 U.S.C. § 5325(a).

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IHS and the awardee will review a CSC request to ensure that all costs are eligible under 25 U.S.C. § 5325(a) and to identify duplication, if any, between pre-award, startup, DCSC, and indirect CSC funding.

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The procedures outlined in this Chapter are intended to ensure that CSC requirements are accurately identified based on the statutory definition of which costs are eligible for CSC funding, as provided in 25 U.S.C. § 5325(a)(2)-(3), (5)-(6).

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Duplication, if any, between pre-award, startup, DCSC, and indirect CSC funding will be assessed after first considering each cost proposed by the awardee to determine whether it is eligible for CSC funding under 25 U.S.C. § 5325(a). Examples of pre-award, startup, and DCSC are discussed in the standards in Manual Exhibit 6-3-G.

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

C. Startup and Pre-Award Costs.

The amount of CSC funding to be awarded for startup and pre-award costs shall be negotiated consistent with the requirements of 25 U.S.C. § 5325(a)(2)-(3), (5)-(6). Depending on the nature of the costs as direct or indirect, the amount of CSC funding also will be negotiated consistent with the guidance below on DCSC and indirect CSC funding. NOTE: Examples of startup and pre-award costs are described in the standards for the review and approval of CSC in Manual Exhibit 6-3-G.

Startup costs for PSFA will only be provided to an awardee on a one-time basis, during the initial 12-month period that the award is in effect. Within 90 days after the end of the initial 12-month period of the agreement, the awardee will certify to IHS that it has fully obligated the startup costs funding on the negotiated startup activities. If the awardee's obligations were less than the negotiated amount, the awardee shall either repay any overpayment or agree with IHS to apply the overpayment to the subsequent year's CSC requirement. If the awardee has obligations for the negotiated startup activities in excess of the amounts funded by IHS, the awardee will provide documentation of these costs and the additional amounts will be subject to negotiation between the parties. No additional startup costs will be justified for that awardee if the PSFA is subsequently transferred to a sub-awardee.

Pursuant to 25 U.S.C. § 5325(a)(6) of the ISDEAA, 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 received by IHS in writing before any of the costs are actually incurred. Tribes must provide a pre-award notice to the appropriate IHS Area Director as soon as they anticipate contracting or compacting a PSFA, 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. Upon receipt by the appropriate Area Director, the IHS will send a letter within 10 days acknowledging the date of receipt of the letter.

The review of pre-award and startup costs by Area Office staff should ensure that the costs meet the CSC requirements in the ISDEAA, 25 U.S.C. § 5325(a)(2)-(3), (5)-(6), and there is no duplication of other CSC funding or of any costs funded under a Tribal management grant. See also Manual Exhibit 6-3-G for Sample Pre-Award letters.

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D. DCSC.

Direct costs eligible for CSC funding, pursuant to 25 U.S.C. § 5325(a)(2)-(3), may be incurred directly by the awardee or by an eligible sub-awardee. DCSC amounts are generally awarded on a recurring basis.

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1. Examples of DCSC are described in the standards for the review and approval of CSC in Manual Exhibit 6-3-G. These may include, but are not limited to:
 - a. unemployment taxes on salaries funded in the Secretarial amount;
 - b. workers compensation insurance on salaries funded in the Secretarial amount;
 - c. cost of retirement for converted civil service and United States Public Health Service Commissioned Corps Officer salaries;
 - d. insurance, but only for coverage not included in the IDC pool (or indirect-type-costs budget) and not covered by the Federal Tort Claims Act;
 - e. facility support costs to the extent not already made available;
 - f. training required to maintain certification of direct program personnel to the extent not already made available; and
 - g. any other item of cost that meets the definition of CSC at 25 U.S.C. § 5325(a)(2)-(3), but is not included in the awardee's IDC pool (or indirect-type-costs budget) or the 25 U.S.C. § 5325(a)(1) amount.
2. Funds for DCSC need not be recalculated each year and will be provided to the awardee on a recurring basis, except for in the following instances:
 - a. If an awardee submits a proposal or request and renegotiates DCSC.
 - b. If a cost that has previously been funded as DCSC is moved to the Tribe's IDC pool (See Section 6-3.2E).
 - c. In the case of a withdrawal as outlined in Section 6-3.3A.
 - d. To add amounts in connection with IPA or MOA employees who have converted after the effective date of the preceding DCSC negotiation. This shall not require a renegotiation of ongoing DCSC amounts.

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Renegotiated DCSC requirements become effective for the contract period covered by the DCSC request and are awarded on a recurring basis. IHS will provide technical assistance at the request of the Tribe.

3. Unless a negotiation occurs under the preceding subparagraph, the amount of each awardee's ongoing DCSC need shall be adjusted at the end of the first quarter of the

Federal fiscal year by the most recent OMB non-medical inflation rate in order to account for the normal increased DCSC need.²

4. Unless otherwise requested by the awardee, DCSC calculated on new PSFA and expanded PSFA shall not require a recalculation of DCSC on ongoing PSFAs, as long as the additional DCSC is allocable only to the new or expanded PSFA being awarded.

E. Indirect CSC.

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 and the determination of which IDC are eligible for indirect CSC funding. All IDC included in the plan are required to be supported by accounting records that substantiate the propriety of the IDC and establish the costs as either: (a) funded in the Secretarial amount; or (b) eligible for indirect CSC funding. 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.

Title 2 C.F.R. Part 200 establishes principles and standards for determining IDC applicable to the awardee and the negotiation of IDC rates with the awardee's cognizant agency. 25 U.S.C. § 5325(k) has made modifications to the OMB cost principles otherwise applicable to awardees. Once these principles are applied to identify an awardee's total IDC, the costs must be analyzed to ensure they meet the definition of CSC in 25 U.S.C. § 5325(a)(2)-(3). See also the standards for the review and approval of CSC in Manual Exhibit 6-3-G.

In determining the amount of CSC funding required in relation to the awardee's IDC, Areas should review the awardee's cost allocation plan, its associated IDC proposal, its approved IDC negotiation agreement, and the requirements of 25 U.S.C. § 5325(a)(2)-(3). The allowable IDC of an eligible sub-awardee may be included in the indirect 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. **Use of Negotiated IDC Rates.** The amount of IDC expected to be incurred by awardees using rates negotiated with the cognizant Federal agency will be estimated annually by applying the most recent negotiated IDC rate(s) to

² Tribes have requested the CPI-U medical inflation rate. HHS is exploring a policy change in the inflation rate used by IHS. If IHS determines a medical inflation rate is appropriate for application in the future, the change will be implemented automatically.

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the appropriate direct cost base amount, as discussed below in this paragraph and subject to paragraphs 6-3.2E(3)-(4).

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.

If an awardee's IDC rate is applicable to a fiscal year (FY) that is more than three years old, 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(2) 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. Thus, for example, in FY2016 a rate agreement for FY2013 is the oldest rate that will be used in these calculations.

Based on these principles, IHS will apply the IDC rate to determine a Tribe's IDC need (which shall be adjusted consistent with 25 U.S.C. § 5325(a)(2)-(3), as discussed below, to determine the indirect CSC need) as follows:

a. Estimate of Indirect CSC Need and Funding Prior to the Contract Year

In advance of the contract year, IHS and the awardee will negotiate an estimate of the awardee's IDC need using the awardee's most recent (no more than three years old) negotiated IDC rate agreement.

- 1) Total direct costs will be used based on either:
 - a) The eligible funding in the Secretarial amount plus the DCSC funding (or the salaries (or salaries and fringe) for those awardees that use a salary (or salaries and fringe) base), if the total direct costs of the total health care program reflected in the IDC rate agreement or other documentation of prior-year expenditures demonstrate that amount;³ or
 - b) The total direct costs of the total health care program operated by the awardee, if those costs as reflected in the IDC rate agreement are less than the eligible funding in the Secretarial amount plus the DCSC funding.
- 2) The IDC transferred in the Secretarial amount, negotiated pursuant to 25 U.S.C. § 5325(a)(2)-(3) and this Chapter, shall be deducted from the total direct costs determined in (a)(1).
- 3) The pass-through and exclusion amount will be determined consistent with the awardee's IDC rate proposal. This amount will be deducted from the total direct costs determined in (a)(1), less the amount determined in (a)(2), if any, to determine the direct cost base.

³ Based on current data as of the publication of this Chapter, IHS believes that the substantial majority of awardees' total direct costs will be calculated pursuant to this subsection.

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- 4) Application of IDC rate: the IDC rate will be applied to the direct cost base determined in paragraphs (a)(1)-(3) to estimate the total amount of IDC applicable to the IHS-funded program.
- 5) The amount identified in (a)(2), if any, shall be deducted from the total IDC amount determined in paragraph (a)(4) to determine the amount of indirect CSC need and funding to be paid.

b. Determination of Final Amount for Indirect CSC Need and Funding

After the end of the contract funding period IHS and the awardee will negotiate the final amount of indirect CSC as follows.

- 1) Total direct costs will be based on the amount negotiated pursuant to paragraph (a)(1) above, without further information being required of the awardee, except that:
 - a) Increases in eligible funding in the Secretarial amount or DCSC funding awarded during the contract year will be added, to the extent the new total direct costs of the total health care program reflected in the IDC rate agreement or other documentation of prior year expenditures demonstrate that amount;
 - b) The awardee may propose to increase the amount for:
 - i. Expenditures of prior-year Secretarial funding for which IHS did not pay CSC funding in the year awarded and that the awardee carried over and expended in the current year; and
 - ii. Increases in expenditures of Secretarial funding above the amount estimated;
 - c) Reductions to the Secretarial amount shall be subtracted.
 - d) Reductions to DCSC, if any, as specified in section 6-3.2D(2) shall be subtracted.
- 2) The IDC transferred in the Secretarial amount, negotiated pursuant to 25 U.S.C. § 5325(a)(2)-(3) and this Chapter, shall be deducted from the total direct costs determined in (b)(1).
- 3) Pass-through and exclusion amounts will be based on the amounts negotiated pursuant to paragraph (a)(3) above, without further information being required of the awardee, though the awardee may propose adjustments based on expenditures throughout the year and the amounts may need to be adjusted if the awardee proposes increases pursuant to paragraph (b)(1).
- 4) Application of IDC rate: the applicable IDC rate – i.e., either the fixed carryforward rate or the final rate applicable to the contract funding year– will be applied to the direct cost base to determine the amount of IDC. If the IDC rate applicable to the contract year is not available within 90 days after the end of the performance period, at the awardee's request IHS shall apply the fixed carryforward rate for the funding year or one year prior, or the final rate for the funding year or

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two years prior.⁴ The final IDC amount will not be determined until the awardee has received an IDC rate that meets the requirements of this subparagraph.

- 5) The amount, if any, identified pursuant to paragraph (b)(2) shall be deducted from the total IDC amount determined in paragraph (b)(4) to determine the amount of indirect CSC need and any additional funding to be paid.
- 6) Once final reconciliation is complete and both parties agree on the amount of indirect CSC funding, the parties shall enter into a bilateral amendment/modification setting forth the amount as the indirect CSC funding required under the ISDEAA for the award. If any amount is still owed, IHS will make payment according to the payment provisions of the award. If the awardee was overpaid, the awardee will have the option to either: (a) reimburse IHS for the overpayment; or (b) agree that IHS will apply the overpayment to the awardee's CSC need in the subsequent year.

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2. **Negotiating Indirect-Type Costs.** A lump sum amount for “indirect-type costs” may be negotiated with awardees that do not have negotiated IDC agreements with their cognizant agency or that request such a negotiation, even if they have a negotiated rate. This annual lump-sum amount may be calculated by negotiating a fixed amount for “indirect-type costs.” 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. More specific examples of indirect and indirect-type costs 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	—	—

⁴ For 2014-2017 agreements IHS agrees to a transitional period, in which it will use an IDC rate up to 3 years old.

As with all IDC, however, the negotiation of indirect-type CSC funding must ensure the amounts are consistent with the definition of CSC in 25 U.S.C. § 5325(a)(2)-(3).

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Indirect-type costs must be renegotiated not less than once every three years, but they can be renegotiated more frequently at the awardee's option.

3. Alternative Methods for Calculating IDC Associated With Recurring Service Unit Shares.

The provisions of this section E(3) shall apply to the negotiation of indirect CSC funding in or after FY 2016 and to the calculation of duplication under 25 U.S.C. § 5325(a)(3), when: i) an awardee assumes a new or expanded PFSA or added staff associated with a joint venture (in which case the review is limited to those new or expanded PFSA or those additional staff); ii) an awardee includes new types of costs not previously included in the IDC pool that is associated with IHS programs, resulting in a change of more than 5% in the value of the IDC pool (in which case the review will be conducted under Alternative A and will be limited to those new types of costs); or iii) an awardee proposes and renegotiates the amount.

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Pursuant to the above circumstances, the awardee shall elect the method for determining the amount of IDC associated with the Service Unit shares and the remaining IDC that may be eligible for CSC funding, to identify duplication, if any, pursuant to 25 U.S.C. § 5325(a)(3), in one of two options listed below.

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a) **Alternative A.** The awardee and the Area Director or his or her designee shall conduct a case-by-case detailed analysis (Manual Exhibit 6-3-D) of Agency Service Unit share expenditures to identify any IDC transferred in the Secretarial amount. The IDC funded in the Service Unit shares will be deducted from the awardee's direct costs and total IDC, not to exceed the amount included for that same cost in the awardee's IDC pool that would be allocable to IHS under the IDC rate, to avoid duplication under 25 U.S.C. § 5325(a)(3) when determining the indirect CSC funding amount as described above in 6-3.2E(1).

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b) **Alternative B.** The awardee and the Area Director or his or her designee will apply the following "split" of total Service Unit shares, the 97/3 method (Manual Exhibit 6-3-E):

- i. 97% of the Service Unit shares amounts will be considered as part of the awardee's direct cost base.
- ii. 3% of the Service Unit shares amounts will be considered as IDC funding.

If the amount considered IDC funding (3 percent) exceeds the awardee's negotiated CSC requirements, the awardee shall retain the excess funds for direct costs.

Once these 97/3 amounts are computed, they will be used in accordance with the terms of the IDC rate agreement (or alternative method provided herein) for calculating the CSC requirement. The remaining IDC need associated with the IHS PSFA will be eligible for payment as indirect CSC, as provided in this Chapter and 25 U.S.C. § 5325(a)(2)-(3). Manual Exhibit 6-3-D illustrates how Alternative A (a detailed analysis) is calculated and Manual Exhibit 6-3-E illustrates how Alternative B (the 97/3 method) is calculated.

4. **Alternative Methods for Calculating IDC Associated With Tribal Shares.** Pursuant to the above circumstances, if an awardee's contract includes Tribal shares, the awardee shall elect the method for determining the amount of IDC associated with Tribal shares and the remaining IDC that may be eligible for CSC funding, to identify duplication, if any, pursuant to 25 U.S.C. § 5325(a)(3), in one of two options listed below.

a. **Alternative A.** The awardee and the Area Director or his or her designee shall conduct a case-by-case detailed analysis (Manual Exhibit 6-3-B) of Agency Tribal share expenditures to identify any IDC transferred in the Secretarial amount. The IDC funded in the Tribal shares will be deducted from the awardee's direct costs and total IDC, not to exceed the amount included for that same cost in the awardee's IDC pool that would be allocable to IHS under the IDC rate, to avoid duplication under 25 U.S.C. § 5325(a)(3) when determining the indirect CSC funding amount as described above in 6-3.2E(1).

b. **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 6-3-C):

- i. 80% of the Tribal shares amounts will be considered as part of the awardee's direct cost base.
- ii. 20% of the Tribal shares amounts will be considered as IDC funding.

If the amount considered IDC funding (20 percent) exceeds the awardee's negotiated CSC requirements, the awardee shall retain the excess funds for direct costs.

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 remaining IDC need associated with the IHS PSFA will be eligible for payment as indirect CSC, as provided in this Chapter and 25 U.S.C. § 5325(a)(2)-(3). Manual Exhibit 6-3-B illustrates how Alternative A (a detailed analysis) is

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calculated and Manual Exhibit 6-3-C illustrates how Alternative B (the 80/20 method) is calculated.

6-3.3 CSC PAYMENTS

Awards will include payment of the full amount of CSC funding negotiated in accordance with the ISDEAA and section 6-3.2 of this Chapter.

A. Withdrawal.

When an awardee withdraws a PSFA from an existing award between the IHS and a second awardee, who has been operating that PSFA on behalf of the first awardee, the existing DCSC is subject to reallocation between the two awardees. The DCSC is directly associated with the direct program funds and should be reallocated proportionately between the awardees on the same basis as the Secretarial amount is reallocated.

Any overpayment of CSC funding to the second awardee must either: i) be returned to IHS for allocation to the first awardee; or ii) offset against the second awardee's CSC need in the subsequent year.

B. Initial Funding Period—New and Expanded Contracts.

All requests for CSC funding associated with new or expanded PSFA that are submitted independently of a contract proposal or a final offer must be reviewed within the time provided by the ISDEAA at 25 U.S.C. §§ [5321\(a\)](#), [5387\(b\)](#).

Negotiated amounts for CSC funding for new and expanded PSFA will be paid along with the award of any 25 U.S.C. § [5325\(a\)\(1\)](#) funds. This includes pre-award, startup, DCSC, and indirect CSC funding.

If an awardee proposes to start a new or expanded activity for less than a full year, an annual amount for CSC may be determined consistent with the methodologies included in this Chapter; however, DCSC and indirect CSC funding will be pro-rated in the first award period. Startup and pre-award costs will be non-recurring, and the negotiated amount will be paid entirely in the first year of the award period.

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C. Ongoing Awards.

Negotiated amounts for DCSC and indirect CSC funding for ongoing awards will be paid along with the initial payment of the 25 U.S.C. § [5325\(a\)\(1\)](#) funding.

Subsequent payments may be made if a new amount is negotiated during the contract year, e.g., due to updates to the awardee's IDC rate, consistent with the determination of CSC in section 6-3.2.

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6-3.4 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 roles and responsibilities associated with the determination of initial Tribal CSC (new and expanded) requirements; the determination of ongoing CSC requirements; and some of the ancillary CSC activities carried out by the IHS.

A. **Overview - New and Expanded CSC Requests.** Awardees must provide a detailed CSC request to the Area Director or his or her designee. IHS has developed sample request letters for that purpose, at the option of the awardee to use to submit their requests (see sample letters in Manual Exhibit 6-3-G and the Annual CSC Calculation (ACC) tool in Manual Exhibit 6-3-F). The request must include a clear description of the requested CSC funding to be negotiated (as specified at 25 C.F.R. § 900.8) along with supporting justification, the date that the PSFA are to be assumed, and an identification of the Secretarial amount to be transferred. Additionally, the awardee is encouraged to provide a detailed line item Tribal budget for the 25 U.S.C. § 5325(a)(1) amount to facilitate CSC negotiations. The Area Director or his or her designee will provide a copy of the proposal to the Headquarters Office of Direct Service and Contracting Tribes (ODSCT) and a copy of the final negotiated 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. **New and Expanded CSC Negotiations.** 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 new and expanded CSC request with the awardee and forwarding the proposal to the Headquarters ODSCT (or OTSG), as well as the final approved request to the Headquarters OFA for funding to be released for payment. 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 or final offer in accordance with the ISDEAA and with 25 C.F.R. §§ 900.20-900.33 and 42 C.F.R. §§ 137.140-137.48. The declination or final offer rejection must be issued within the time required by the ISDEAA unless the awardee has provided written consent to an extension in accordance with 25 C.F.R. § 900.17 or 42 C.F.R. § 137.135. In the event CSC negotiations are unresolved at the time a program transfer or expansion goes into effect, the finally-determined CSC amounts shall be effective for the entire contract funding period starting from the date of the transfer or expansion.

C. **Ongoing Awards.**

The Area Director or his or her designee (or the Agency Lead Negotiator in the case of a Title V Self-Governance award) will provide a completed ACC tool during negotiations of successor AFA or FA, in order to assist the parties in determining the amount of CSC funding to be added to the contract. (Consistent with Section 6-3.2.)

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D. Other CSC Responsibilities.

1. **Disputes.** Disputes over CSC should be resolved as either a formal declination or final offer rejection appeal or as a claim under the Contract Disputes Act (CDA), 41 U.S.C. § 7101 et seq. An informal conference (25 C.F.R. § 900.153) or other alternative dispute mechanism (25 C.F.R. § 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, ODSCT, 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 C.F.R. § 900.150. Declination appeals are most likely to occur as a result of disagreements over an awardee's new or expanded CSC request (Section 6-3.3B). Declination appeals must be processed pursuant to 25 C.F.R. §§ 900.150-900.177.
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 25 U.S.C. § [5387](#)(c)(1) and any regulations promulgated thereunder.
4. **Post-Award CDA Claims.** All post-award disputes regarding an awarding official's decision related to an ISDEAA award, including post-award disputes over CSC funding, must be addressed under the CDA. Post-award contract disputes generally occur as a result of the parties' failure to agree concerning the amount of DCSC due (Section 6-3.2D) or the amount of indirect CSC funding due (Section 6-3.2E). Post-award contract disputes must be handled pursuant to the CDA and 25 C.F.R. §§ 900.215-900.230.
5. **Pilot Projects.** The IHS may adopt pilot projects to incorporate innovative approaches to CSC funding issues. The IHS Director may approve these pilot projects without requiring revisions in this Chapter. Pilot projects must be optional for awardees and of limited duration. Upon the completion and evaluation of these projects, this Chapter may be amended following Tribal consultation to incorporate new provisions implementing these projects on a permanent basis.
6. **CSC 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 at the end of the second and fourth quarter. This will include identification of the amounts required for any new and expanded projects as well as projections for the total ongoing CSC requirement for the following FY and estimates for the next two FYs. The information will be consolidated by the IHS Headquarters OFA and

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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 AFA and FA regarding CSC. This common language may be considered as an option for negotiations by the awardees and IHS negotiators. Awardees and IHS negotiators should be made aware that specific CSC language in contracts, compacts, AFA, and FA is negotiable and cannot be imposed on awardees as a condition of contracting.

6-3.5 CSC REPORTS

A. **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. Final reports can be found at <http://www.ihs.gov/newsroom/index.cfm/reportstocongress/>.

1. Secretarial amount
2. Pre-award costs
3. Startup costs
4. DCSC funding
5. Indirect CSC funding for those awardees that use an IDC rate
6. Indirect CSC funding for those awardees that negotiate indirect-type costs
7. IDC rates
8. Types of bases
9. Pass-through/exclusions
10. Total direct cost base
11. DCSC requirements (including the unduplicated DCSC requirement associated with sub-awards)

12. Indirect CSC requirements (including the unduplicated indirect CSC requirement associated with sub-awards)

B. Annual CSC Funding Report to Tribes and Tribal Organizations. Area Directors shall provide a report to the Director, OFA, no later than March 1 of each FY that includes those data elements identified above on an awardee-by-awardee 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 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 January 31. 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 March 1. 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 May 30.
2. The IHS Headquarters Director, OFA, shall consolidate all Area reports into the "IHS CSC Funding Report to Tribes." In doing so, the IHS Headquarters Director, OFA, shall, in consultation with the Director, ODSCT, and the Director, OTSG, provide a projection of the full CSC requirement for the current and subsequent FY.
3. The IHS Headquarters Director, OFA, shall finalize the "IHS CSC Funding Report to Tribes," obtain concurrence from the Director, ODSCT, and the Director, OTSG, and transmit the report to the Director, IHS, for approval no later than April 1.

After the "IHS CSC Funding 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 IHS CSC Funding Report to Tribes to all awardees compacting or contracting within that Area. The IHS CSC Funding Report shall be furnished to all awardees on or before May 30 of the year following the close of the fiscal year that is the subject of the Report. The timing for delivery of the IHS CSC Funding Report to awardees is not dependent upon finalization and/or clearance of the report referenced in Section 6-3.5C below.

C. Annual CSC Report to Congress. IHS also has a responsibility pursuant to 25 U.S.C. § [5325\(c\)1-5](#) to provide a report to Congress on the implementation of the ISDEAA 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."

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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

Manual Exhibit	Description
Exhibit 6-3-A	United States Code, Title 25, Chapter 14, Miscellaneous, Subchapter II, Indian Self-Determination and Education Assistance, Part A "Indian Self-Determination," Section 5325 and Section 5326
Exhibit 6-3-B	Calculating IDC Associated with Tribal Shares and the Contract Support Costs Amount Based on a Detailed Analysis
Exhibit 6-3-C	Calculating IDC Associated with Tribal Shares and the Contract Support Costs Amount Using the 80/20 Method
Exhibit 6-3-D	Calculating IDC Associated with Recurring Service Unit Shares and the Contract Support Costs Amount Based on a Detailed Analysis
Exhibit 6-3-E	Calculating IDC Associated with Recurring Service Unit Shares and the Contract Support Costs Amount Using the 97/3 Method
Exhibit 6-3-F	Contract Support Costs Negotiation Template
Exhibit 6-3-G	Standards for Review and Approval of Contract Support Costs in the Indian Health Service

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Part 6, Chapter 3: Manual Exhibits

Manual Exhibit 6-3-A

United States Code, Title 25, Chapter 14, Miscellaneous, Subchapter II, Indian Self-Determination and Education Assistance, Part A "Indian Self-Determination," Section [5325](#) and Section [5326](#)

§5325. Contract funding and indirect costs

(a) Amount of funds provided

(1) The amount of funds provided under the terms of self-determination contracts entered into pursuant to this subchapter 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 contractable, is operated.

(2) There shall be added to the amount required by paragraph (1) contract support costs which shall consist of an amount for the reasonable costs for activities which must be carried on by a tribal organization as a contractor to ensure compliance with the terms of the contract and prudent management, but which—

(A) normally are not carried on by the respective Secretary in his direct operation of the program; or

(B) are provided by the Secretary in support of the contracted program from resources other than those under contract.

(3)(A) The contract support costs that are eligible costs for the purposes of receiving funding under this subchapter shall include the costs of reimbursing each tribal contractor for reasonable and allowable costs of—

(i) direct program expenses for the operation of the Federal program that is the subject of the contract, and

(ii) any additional administrative or other expense related to the overhead incurred by the tribal contractor in connection with the operation of the Federal program, function, service, or activity pursuant to the contract,

except that such funding shall not duplicate any funding provided under subsection (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 subchapter, 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.

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

- (A) be used to provide additional services or benefits under the contract; or
- (B) be expended by the tribe or tribal organization in the succeeding fiscal year, as provided in section 13a of this title.

(5) Subject to paragraph (6), during the initial year that a self-determination contract is in effect, the amount required to be paid under paragraph (2) shall include startup costs consisting of the reasonable costs that have been incurred or will be incurred on a one-time basis pursuant to the contract necessary-

- (A) to plan, prepare for, and assume operation of the program, function, service, or activity that is the subject of the contract; and
- (B) to ensure compliance with the terms of the contract and prudent management.

(6) Costs incurred before the initial year that a self-determination contract is in effect may not be included in the amount required to be paid under paragraph (2) if the Secretary does not receive a written notification of the nature and extent of the costs prior to the date on which such costs are incurred.

(b) Reductions and increases in amount of funds provided

The amount of funds required by subsection (a)—

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

- (2) shall not be reduced by the Secretary in subsequent years except pursuant to—
- (A) a reduction in appropriations from the previous fiscal year for the program or function to be contracted;
 - (B) a directive in the statement of the managers accompanying a conference report on an appropriation bill or continuing resolution;
 - (C) a tribal authorization;
 - (D) a change in the amount of pass-through funds needed under a contract; or
 - (E) completion of a contracted project, activity, or program;

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

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

(5) may, at the request of the tribal organization, be increased by the Secretary if necessary to carry out this subchapter or as provided in section [5324\(c\)](#) of this title.

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

(c) Annual reports

Not later than May 15 of each year, the Secretary shall prepare and submit to Congress an annual report on the implementation of this subchapter. Such report shall include—

(1) an accounting of the total amounts of funds provided for each program and the budget activity for direct program costs and contract support costs of tribal organizations under self-determination;

(2) 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;

(3) the indirect cost rate and type of rate for each tribal organization that has been negotiated with the appropriate Secretary;

(4) the direct cost base and type of base from which the indirect cost rate is determined for each tribal organization;

(5) the indirect cost pool amounts and the types of costs included in the indirect cost pool; and

(6) an accounting of any deficiency in funds needed to maintain the preexisting level of services to any Indian tribes affected by contracting activities under this subchapter, and a statement of the amount of funds needed for transitional purposes to enable contractors to convert from a Federal fiscal year accounting cycle, as authorized by section [5324\(d\)](#) of this title.

(d) Treatment of shortfalls in indirect cost recoveries

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

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

(e) Liability for indebtedness incurred before fiscal year 1992

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

(f) Limitation on remedies relating to cost disallowances

Any right of action or other remedy (other than those relating to a criminal offense) relating to any disallowance of costs shall be barred unless the Secretary has given notice of any such disallowance within three hundred and sixty-five days of receiving any required annual single agency audit report or, for any period covered by law or regulation in force prior to October 19, 1984, any other required final audit report. Such notice shall set forth the right of appeal and hearing to the board of contract appeals pursuant to section 5331 of this title. For the purpose of determining the 365-day period specified in this paragraph, an audit report shall be deemed to have been received on the date of actual receipt by the Secretary, if, within 60 days after receiving the report, the Secretary does not give notice of a determination by the Secretary to reject the single-agency report as insufficient due to noncompliance with chapter 75 of title 31 or noncompliance with any other applicable law. Nothing in this subsection shall be deemed to enlarge the rights of the Secretary with respect to section 476 of this title.

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(g) Addition to contract of full amount contractor entitled; adjustment

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

(h) Indirect costs for contracts for construction programs

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

(i) Indian Health Service and Bureau of Indian Affairs budget consultations

On an annual basis, the Secretary shall consult with, and solicit the participation of, Indian tribes and tribal organizations in the development of the budget for the Indian

Health Service and the Bureau of Indian Affairs (including participation of Indian tribes and tribal organizations in formulating annual budget requests that the Secretary submits to the President for submission to Congress pursuant to section 1105 of title 31).

(j) Use of funds for matching or cost participation requirements

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

(k) Allowable uses of funds without approval of Secretary

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

- (1) Depreciation and use allowances not otherwise specifically prohibited by law, including the depreciation of facilities owned by the tribe or tribal organization.
- (2) Publication and printing costs.
- (3) Building, realty, and facilities costs, including rental costs or mortgage expenses.
- (4) Automated data processing and similar equipment or services.
- (5) Costs for capital assets and repairs.
- (6) Management studies.
- (7) Professional services, other than services provided in connection with judicial proceedings by or against the United States.
- (8) Insurance and indemnification, including insurance covering the risk of loss of or damage to property used in connection with the contract without regard to the ownership of such property.
- (9) Costs incurred to raise funds or contributions from non-Federal sources for the purpose of furthering the goals and objectives of the self-determination contract.
- (10) Interest expenses paid on capital expenditures such as buildings, building renovation, or acquisition or fabrication of capital equipment, and interest expenses on loans necessitated due to delays by the Secretary in providing funds under a contract.

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

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

(l) Suspension, withholding, or delay in payment of funds

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

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

(m) Use of program income earned

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

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

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

(n) Reduction of administrative or other responsibilities of Secretary; use of savings

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

(o) Rebudgeting by tribal organization

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

§ 5326. Indian Health Service: availability of funds for Indian self-determination or self-governance contract or grant support costs

Before, on, and after October 21, 1998, and notwithstanding any other provision of law, funds available to the Indian Health Service in this Act or any other Act for Indian self-determination or self-governance contract or grant support costs may be expended only for costs directly attributable to contracts, grants and compacts pursuant to the Indian Self-Determination Act [25 U.S.C. 5321 et seq.] and no funds appropriated by this or any other Act shall be available for any contract support costs or indirect costs associated with any contract, grant, cooperative agreement, self-governance compact, or funding agreement entered into between an Indian tribe or tribal organization and any entity other than the Indian Health Service.

Reference: the United States Code, Office of the Law Revision Counsel, 25 U.S.C. § 5325 and 25 U.S.C. § 5326 (laws renumbered on September 1, 2016), available at <http://uscode.house.gov/browse.xhtml>.

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Manual Exhibit 6-3-B

Calculating Indirect Costs (IDC) Associated with Tribal Shares and the Contract Support Costs Amount Based On A Detailed Analysis (This Exhibit does not cover DCSC.¹)

Assumptions:

1. Tribe A has \$100,000 in Area and Headquarters Tribal Shares
2. Based on a detailed analysis, IHS and the Tribe agree that \$10,000 of Tribal shares are associated with IDC in Tribe A's IDC pool, pursuant to Section 6-3.2.E.4.a. of this Chapter
3. No pass-through or exclusions
4. Indirect cost rate = 30%

Table 1. IDC Calculation

Tribal Shares amount	\$100,000
Less agreed-upon Tribal Shares amount associated with costs in the IDC pool	(\$10,000)
Sub-total of Tribal Shares for direct costs	\$90,000
Less Pass-through & Exclusions	\$0
Total of direct cost base for Tribal Shares	\$90,000
x 30% IDC rate to determine total IDC need for Tribal Shares	\$27,000

Table 2. Indirect CSC Calculation

Total IDC need for Tribal Shares	\$27,000
Less agreed-upon Tribal Shares amount associated with costs in the IDC pool	(\$10,000)
Indirect CSC amount	\$17,000

Tribe A would receive \$100,000 from Tribal Shares and \$17,000 would be funded for indirect CSC.

¹ See Indian Health Manual Section 6-3.2.E.

Manual Exhibit 6-3-C

Calculating Indirect Costs (IDC) Associated with Tribal Shares and the Contract Support Costs Amount Using The 80/20 Method (This Exhibit does not cover DCSC.¹)

Assumptions:

1. Tribe B has \$100,000 in Area and Headquarters Tribal Shares
2. The Area and Tribe apply the "80/20 Split" pursuant to Section 6-3.2.E.4.b of this Chapter
3. No Pass-through & Exclusions
4. Indirect cost rate = 30%

Table 1. IDC Calculation

Tribal Shares amount	\$100,000
Less 80/20 split	(\$20,000)
Sub-total Tribal Shares for direct costs	\$80,000
Less Pass-through & Exclusions	\$0
Total of direct cost base for Tribal Shares	\$80,000
x 30% IDC rate to determine total IDC need for Tribal Shares	\$24,000

Table 2. Indirect CSC Calculation

Total IDC need for Tribal Shares	\$24,000
Less 80/20 split	(\$20,000)
Indirect CSC amount	\$4,000

Tribe B would receive \$100,000 from Tribal shares and \$4,000 would be funded for indirect CSC.

¹ See Indian Health Manual Section 6-3.2.E.

Manual Exhibit 6-3-D

Calculating Indirect Costs (IDC) Associated with Recurring Service Unit Shares and the Contract Support Costs Amount Based On A Detailed Analysis (This Exhibit does not cover DCSC.¹)

Assumptions:

1. Tribe A has \$600,000 in Recurring Service Unit Shares
2. Based on a detailed analysis, IHS and the Tribe agree that \$15,000 of Recurring Service Unit Shares are associated with IDC in Tribe A's IDC pool, pursuant to Section 6-3.2.E.3.a. of this Chapter
3. Pass-through & Exclusions = \$80,000
4. Indirect cost rate = 30%

Table 1. IDC Calculation

Recurring Service Unit Shares amount	\$600,000
Less agreed-upon Recurring Service Unit Shares amount associated with costs in the IDC pool	(\$15,000)
Sub-total Recurring Service Unit Shares for direct costs	\$585,000
Less Pass-through & Exclusions	\$(80,000)
Total of direct cost base for Recurring Service Unit Shares	\$505,000
x 30% IDC rate to determine total IDC need for Recurring Service Unit Shares	\$151,500

Table 2. CSC Calculation

Total IDC need for Recurring Service Unit Shares	\$151,500
Less agreed-upon Recurring Service Unit Shares amount associated with costs in the IDC pool	(\$15,000)
Indirect CSC amount	\$136,500

Tribe A would receive \$600,000 from Recurring Service Unit Shares and \$136,500 would be funded for indirect CSC.

¹ See Indian Health Manual Section 6-3.2.E.

Manual Exhibit 6-3-E

Calculating Indirect Costs (IDC) Associated with Recurring Service Unit Shares and the Contract Support Costs Amount Using The 97/3 Method (This Exhibit does not cover DCSC.⁸)

Assumptions:

1. Tribe B has \$600,000 in Recurring Service Unit Shares
2. The Area and Tribe apply the “97/3 Split” pursuant to Section 6-3.2.E.3.b of this Chapter
3. Pass-through & Exclusions = \$80,000
4. Indirect cost rate = 30%

Table 1. IDC Calculation

Recurring Service Unit Shares amount	\$600,000
Less 97/3 split	(\$18,000)
Sub-total Recurring Service Unit Shares for direct costs	\$582,000
Less Pass-through & Exclusions	\$(80,000)
Total of direct cost base for Recurring Service Unit Shares	\$502,000
x 30% IDC rate to determine total IDC need for Recurring Service Unit Shares	\$150,600

Table 2. CSC Calculation

Total IDC need for Recurring Service Unit Shares	\$150,600
Less 97/3 split	(\$18,000)
Indirect CSC amount	\$132,600

Tribe B would receive \$600,000 from Recurring Service Unit Shares and \$132,600 would be funded for indirect CSC.

⁸ See Indian Health Manual Section 6-3.2.E.

Manual Exhibit 6-3-F

Contract Support Costs (CSC) Negotiation Template (Fiscal Year 20XX)⁹

Check one box: <input type="checkbox"/> Estimate of CSC Need <input type="checkbox"/> Final CSC Reconciliation
Check one box: FA Amendment # _____ FA Cumulative Funding Report (CFR) # _____
Date Completed: _____
Tribe/Tribal Organization (T/TO): Example T/TO

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Comment [8]: CHANGE #7: Changes reflect WG agreement

	Funding/Costs	Subtotals	Totals	Source of Inputs
A	Program (Service Unit) Funding	\$655,943.00		Recurring and non-recurring eligible funding for the T/TO's programs, functions, services, or activities (PFSA) at the Service Unit level. Depending upon the structure of an awardee's indirect cost (IDC) rate, this may include buy-backs.
A.1	Expenditures from Carryover Funds (for which CSC was not funded previously), Net of Pass-throughs and Exclusions	\$0.00		Pursuant to Section 6-3.2.E.1.b.1.b.i. This is determined by whether the parties included the funds in the CSC calculation in the year awarded and not by how the T/TO allocates funding in its accounting records.
B	Total Area Tribal Shares	\$25,000.00		Recurring and non-recurring eligible funding for the T/TO's PFSA at the Area Level (Area Office Tribal Shares, or AOTS).
C	Total Headquarters Tribal Shares	\$10,000.00		Recurring and non-recurring eligible funding for the T/TO's PFSA at the Headquarters Level (Headquarters Tribal Shares, or HQTS).
D	Total Secretarial Amount	<u>\$690,943.00</u>		Items A + B + C (Total recurring and non-recurring eligible funding awarded under <u>the Secretarial Amount</u> .)

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⁹ This Template is a tool used by the Indian Health Service (IHS) for calculating and negotiating CSC. Neither this Template nor any other negotiation documents creates a contractual obligation on behalf of either IHS or a T/TO. The CSC amount that the parties agree is required under any Indian Self-Determination and Education Assistance Act (ISDEAA) agreement will be identified in the agreement itself.

	Funding/Costs	Subtotals	Totals	Source of Inputs
E.1	IDC Associated With –Recurring Service Unit Shares	\$0.00		Negotiated and calculated pursuant to Section 6-3.2.E.3 either: (a) case-by-case analysis, or (b) 97-3 method.
E.2	IDC Associated With Tribal Shares	\$7,000.00		Negotiated and calculated pursuant to Section 6-3.2.E.4, either: (a) case-by-case analysis, or (b) 80-20 method.
E.3	Total IDC Identified As Associated With the Secretarial Amount	\$7,000.00		This represents PFSA funded in the Secretarial amount determined to be duplicative of costs in the T/TO's IDC pool.
F	Direct Costs Funded through the Secretarial Amount		\$683,943.00	Item D - E.3
G	Prior Year Direct CSC (DCSC) Need	\$76,390.00		Per prior-year agreement.
H	Inflation Factor	1.6%		To be provided by IHS when final inflation rate for previous year becomes available (usually in November). Final rate would be used to update this amount and award T/TO inflation on DCSC at the end of IHS's first quarter. See Section 6-3.2.D.3, including footnote 3.
I.1	Current Year DCSC Need	\$77,612.24	\$77,612.24	Incorporate either the prior-year DCSC need or, if there is a current-year renegotiation, the renegotiated amount.
I.2		\$0.00		
I.3	Startup and Pre-Award Need		\$450.00	Summarizes the negotiation for non-recurring Pre-Award and Startup costs for new or expanded PSFA's in the upcoming year.
J	Total Direct Costs		\$762,005.24	Items F + I, but subject to Section 6-3.2, Paragraphs E.1.a, Estimate of Indirect CSC Need and Funding Prior to the Contract Year and E.1.b, Determination of Final Amount for Indirect CSC Need and Funding.
K	Less: Pass-throughs and Exclusions		\$14,262.29	The amount of pass-throughs and exclusions funded by IHS.
L	Direct Cost Base		\$747,742.95	Item J - K
M	Most Current IDC Rate		25.12%	Current IDC rate. If T/TO has multiple IDC rates, enter blended rate and submit detailed calculation of the blended rate.

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	Funding/Costs	Subtotals	Totals	Source of Inputs
N	IDC Need (Non-Recurring) Based on IDC Rate		\$187,833.03	Item L * M (Direct Cost Base x IDC Rate)
O	Credit for IDC Associated with <u>the Secretarial Amount</u>		\$7,000.00	Equals Item E.3 if the T/TO has higher than a 25.00% IDC rate; if T/TO has a rate of 25.00% or lower the credit in Item O is based on the total IDC need for Tribal Shares generated by the T/TO's rate plus the IDC Associated with Recurring Service Unit Shares (Item E.1).
P	Current-Year Indirect CSC Need		\$180,833.03	Item N - O (Total IDC need less IDC associated with <u>the Secretarial Amount</u> .)
Q	IDC-Type Costs		\$0.00	As negotiated pursuant to Section 6-3.2.E.2; see also Exhibit G, footnote 5. Enter \$0 if the T/TO negotiates indirect CSC solely based on its IDC rate.
R	Current-Year Total CSC Need		\$258,445.27	Items I.2 + I.3 + P + Q (Total need for DCSC and indirect CSC)

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Comment [10]: Description incorrectly omitted Line Q – IDC-Type Costs.

S	Current-Year DCSC Need		\$77,612.24	Item I.2
T	Total DCSC Paid Year-to-Date		\$0.00	Total DCSC funding paid to the T/TO year-to-date.

U	Current-Year Indirect CSC Need		\$180,833.03	Items P + Q
V	Total Indirect CSC Paid Year-to-Date		\$100,000.00	Total indirect CSC funding paid to the T/TO year-to-date.

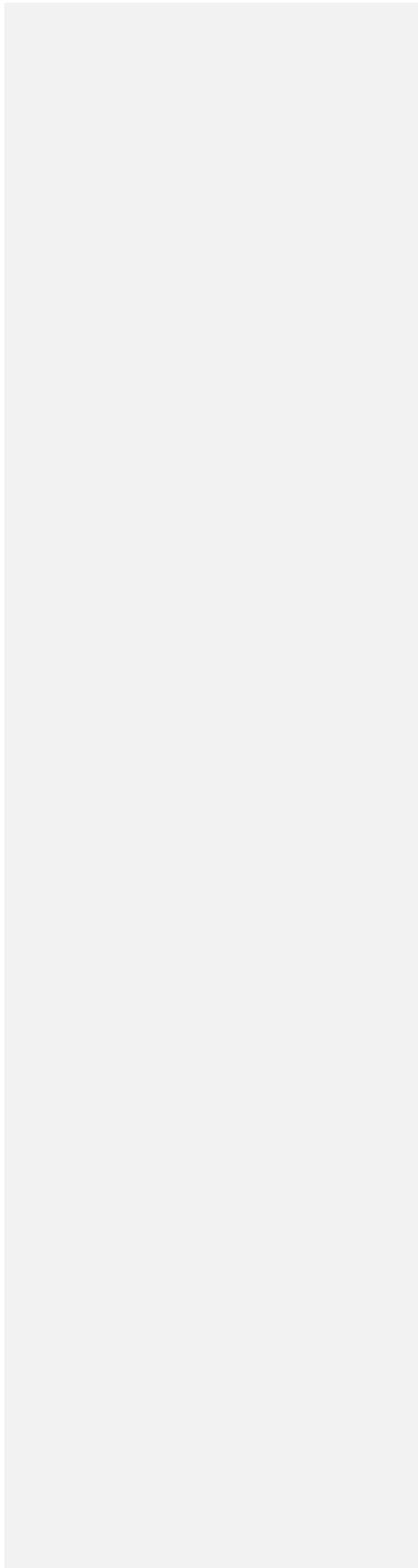
W	Current-Year Startup and Pre-Award Need		\$450.00	Item I.3
X	Total Startup and Pre-Award CSC Paid Year-to-Date		\$0.00	Total Startup and Pre-Award CSC funding paid to the T/TO year-to-date.

	Funding/Costs	Subtotals	Totals	Source of Inputs
Note Regarding Sub-Awards: The Template awards CSC on the direct cost base incurred by the T/TO. If the T/TO has an agreement(s) with a sub-awardee whose costs are eligible to be considered in the CSC need of the T/TO and the T/TO treats sub-awards as a pass-through cost when determining its direct cost base, the total CSC negotiated can be adjusted to incorporate eligible costs specifically identified for each sub-awardee (while recognizing sub-awardee pass-throughs and exclusions and the sub-awardee's IDC rate).				

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Exhibit	Description
Manual Exhibit 6-3-G	Standards for Review and Approval of Contract Support Costs by the Indian Health Service

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Manual Exhibit 6-3-G

Standards for the Review and Approval of Contract Support Costs by the Indian Health Service¹⁰

Section A. Guidelines for Proposal Preparation and Cost Analysis of Tribal Requests for Contract Support Costs Funding

1. **Introduction.** The Indian Health Service (IHS) has developed its contract support costs (CSC) policy with the active participation of Indian Tribes and interested Tribal representatives. The IHS has sought to maintain an openness concerning CSC issues and has provided information, guidance, and technical assistance to Tribes in their development of CSC proposals. The following documents are intended to clarify CSC.

Tribes have requested that the IHS develop standards for CSC to be used in the review and approval of CSC requests. The Office of Management and Budget (OMB) has also supported the development of CSC standards as a means of ensuring consistency in the review of Tribal CSC requests. In order to help Tribes understand the Agency's rationale for approving or disapproving Tribal CSC requests, it has become necessary to develop a set of consistent standards. In fiscal year (FY) 2001, the IHS initiated the process of developing standards for CSC by creating a joint Tribal/Federal workgroup and making this part of the ongoing IHS/Tribal CSC Workgroup's charge. The IHS and Tribes revisited and updated these standards in FY 2016. Consensus with Tribal representatives has been achieved on most of the standards in this Exhibit. On issues that have not been resolved, the Federal position is incorporated into the document, and the tribal position, if different, is referenced.

¹⁰ IHS and Tribal members of the CSC Workgroup have differing interpretations of what costs are eligible to be paid as CSC under the ISDEAA. This footnote summarizes the differing interpretations and clarifies that any changes to language from the prior version of this Chapter or the Exhibits are not to be construed as a change in the IHS or Tribal position on this issue. The IHS position is that the plain language of the ISDEAA makes it clear that, to be eligible for CSC funding, a cost and the underlying activity must meet the definition of CSC in 25 U.S.C. § 5325(a)(2), which requires (among other things) that the underlying activity is one that IHS does not normally carry on or provided from resources not transferred in the contract. Accordingly, under the IHS position, activities performed by a Tribe that are also activities IHS normally carries on and provides from resources transferred in the contract are not eligible for CSC funding. The IHS position is that the statute cannot be construed in any other manner and that reliance on legislative history is unnecessary given the plain meaning of the statute. Therefore, reference to legislative history is not necessary under the IHS position, though the IHS refers to Senate Reports 100-274 and 103-374, as well as 140 Cong Rec. H11140-01, as affirming this interpretation of the statute's clear requirements. Tribal representatives' position is that the plain language of the ISDEAA, including 25 U.S.C. § 5325(a)(3), expressly defines CSC to include both funds required for administrative and other overhead expenses and "direct" type expenses of program operation, and that in the event the Secretarial amount for a particular function, activity or cost proves to be insufficient in light of a contractor's needs for prudent management of the contract, CSC funding is to be available to supplement such sums so that health services do not have to be reduced in order to pay for the insufficiency. Tribal representatives' position is that the plain meaning of this language is supported by the legislative history adding § 5325(a)(3) to the ISDEAA, see Senate Report 103-374, at 8-9; 140 Cong. Rec. 28,631 (1994). Tribal representatives also note that the ISDEAA also requires that "[e]ach provision of the [statute] and each provision of [the] Contract shall be liberally construed for the benefit of the Contractor[.]" § 5329(c) (Model Agreement Section 1(a)(2)).

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Adoption and dissemination of these standards are prerequisites for any delegation of CSC negotiation responsibilities to IHS Area Offices. Area negotiators will also require some training in the application of these standards to ensure broad acceptance and consistent application of the standards.

2. **Statutory Background.** See Exhibit 6-3-A.

A. **Direct CSC.** Direct CSC (DCSC) are both non-recurring and recurring.

1. Non-recurring DCSC are those costs generally required for the contractor/compactor to begin operations when a program, function, service, and/or activity (PFSA) is first transferred. These costs are also referred to as startup or pre-award costs. Costs for these activities are not contained in either the indirect cost pool or the amount computed pursuant to Section [5325\(a\)\(1\)](#).
2. Recurring DCSC are those costs eligible pursuant to 25 U.S.C. § [5325\(a\)\(2\)-\(3\)](#) that are associated directly with the ongoing operation of the PFSA.

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B. **Indirect Costs.** Indirect costs (IDC) are those costs that the contractor/compactor does not treat as direct costs but rather incorporates into the indirect cost allocation plan as negotiated annually with the cognizant Federal agency. IDC, which may be eligible for indirect CSC pursuant to 25 U.S.C. § [5325\(a\)\(2\)-\(3\)](#), are:

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1. incurred for a common or joint purpose benefiting more than one cost objective, or
2. not readily assignable to the cost objective specifically benefited without effort disproportionate to the results achieved.

C. **Negotiating Indirect-Type Costs.**¹¹ For contractors/compactors without negotiated IDC rates or that request to do so, IHS and the contractor/compactor will negotiate a lump-sum amount for indirect-type costs that consists of those categories of costs that normally are found in IDC pools of contractors with rates and that are consistent with the requirements of 25 U.S.C. § [5325\(a\)\(2\)-\(3\)](#). Both indirect and indirect-type costs are awarded as non-recurring, as indirect amounts must be negotiated on an annual basis. IDC generally fall into one of the following three categories:

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1. management and administration,
2. facilities and equipment, and
3. general services and expenses.

3. **OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awardees, 2 C.F.R. Part 200.** OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awardees contains cost principles for State, local, and Tribal governments. 2 C.F.R. Part 200. The Department of Health and Human Services' implementing regulations are available at 45 C.F.R. Part 75. The regulations are useful as they define the allowability of costs under Federal awards by applying the following three criteria to costs: (1) allowable, (2) reasonable, and (3) allocable. These criteria are incorporated herein and should be considered in terms of the allowability of CSC under IHS contracts and compacts. The following applies to all ISDEAA contracts and compacts:

¹¹ Such lump-sum agreements can also be negotiated to supplement an IDC rate where eligible costs are not included in the contractor's/compactor's IDC pool.

- A. Factors affecting allowability of costs. Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:
1. Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
 2. Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
 3. Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
 4. Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
 5. Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
 6. Not be included as a cost or used to meet cost sharing or matching requirements of any other Federally-financed program in either the current or a prior period. See also § 200.306 Cost sharing or matching paragraph (b).
 7. Be adequately documented. See also § 200.300 Statutory and national policy requirements through § 200.309 Period of performance of this part.
- B. Reasonable Costs. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly Federally-funded. In determining reasonableness of a given cost, consideration must be given to:
1. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.
 2. The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award.
 3. Market prices for comparable goods or services for the geographic area.
 4. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government.
 5. Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.
- C. Allocable Costs.
1. A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received. This standard is met if the cost:

- a. Is incurred specifically for the Federal award;
 - b. Benefits both the Federal award and other work of the non-Federal entity and can be distributed in proportions that may be approximated using reasonable methods; and
 - c. Is necessary to the overall operation of the non-Federal entity and is assignable in part to the Federal award in accordance with the principles in this subpart.
2. All activities which benefit from the non-Federal entity's IDC (facilities and administration, or F&A), including unallowable activities and donated services by the non-Federal entity or third parties, will receive an appropriate allocation of IDC.
 3. Any cost allocable to a particular Federal award under the principles provided for in this part may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude the non-Federal entity from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal awards.
 4. Direct cost allocation principles. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then, notwithstanding paragraph (3) of this section, the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized under a Federal award, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required.
 5. If the contract is subject to Cost Accounting Standards (CAS), costs must be allocated to the contract pursuant to the Cost Accounting Standards. To the extent that CAS is applicable, the allocation of costs in accordance with CAS takes precedence over the allocation provisions in this part.
4. **Conclusion.** In an effort to make CSC more understandable, the IHS is providing the following guidelines (standards) for CSC proposal development. These are the standards that the IHS will use in reviewing Tribal CSC requests. The guidelines are not intended to be read as regulations dictating allowable Tribal CSC. The guidelines should be interpreted in such a way as to be consistent with the ISDEAA, its implementing regulations, and IHS CSC policy.

Section B. Guidelines for Proposal Preparation and Cost Analysis of Tribal Requests for Pre-Award and Startup CSC Funding

Pre-award and Startup Costs: Both pre-award and startup costs are one-time costs incurred to plan, prepare for, and assume the operation of a PFSA and that otherwise meet the definition of CSC in 25 U.S.C. §§ 5325(a)(2)-(3), (5)-(6). Both categories are for similar types of costs, except pre-award costs are costs incurred prior to the award date of the contract, and startup costs are costs that are incurred after the award date but during the initial year of operation of the PFSA. Neither type of cost is considered to be recurring CSC in the ongoing operation of the PFSA.

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Startup and pre-award costs usually represent a total of between 20 percent to 40 percent of the entire negotiated CSC funding requirement for awardees in the first year of operation of the PFSA. These costs are usually higher for new organizations or Tribes assuming Federal PFSA for the first time. Because these costs are non-recurring, however, they represent a very small portion of any one year's total CSC need. In addition, startup and pre-award costs can vary significantly from program to program depending on the existing capacity of the awardee and the size and scope of the proposed award.

Pre-award and startup costs must be reasonable and necessary and pay for activities that are not provided in the amount computed pursuant to Section 5325(a)(1) or in the recurring direct or indirect CSC.

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With regard to startup costs, section 5325(a)(5) of the ISDEAA states:

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[D]uring the initial year that a self-determination contract is in effect, the amount required to be paid under [Section 5325(a)(2)] shall include startup costs consisting of the reasonable costs that have been incurred or will be incurred on a one-time basis pursuant to the contract necessary— (A) to plan, prepare for, and assume operation of the program, function, service, or activity that is the subject of the contract; and (B) to ensure compliance with the terms of the contract and prudent management.

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Startup costs are costs that occur after the award of the contract.

With regard to pre-award costs that occur prior to the contract/compact start date covered by the award, section 5325(a)(6) of the ISDEAA states:

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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 [Section 5325(a)(2)] if the Secretary does not receive a written notification of the nature and extent of the costs prior to the date on which such costs are incurred.

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Pre-award costs are computed on the basis of actual expended costs (i.e., they are reimbursed). An estimated amount for startup costs is negotiated and awarded on the basis of a budget for costs submitted and negotiated with the Agency, though the amount will be reconciled at the end of the initial 12-month period of the agreement and the awardee will certify to IHS that it has fully obligated the startup costs funding on the negotiated startup activities.

The Agency only becomes liable to reimburse the pre-award costs and estimated startup costs when the ISDEAA contract or compact for the contemplated PFSA is actually awarded. There is a risk to the Tribe that costs will be incurred in preparing for the contract that may not be reimbursed as pre-award costs if any of the following apply:

1. The Tribe fails to notify the Agency in writing of the nature and extent of the pre-award costs before they are incurred.

2. The Tribe expends funds for activities or items that are not included in the description of the “nature” of the costs in the pre-award letter.
3. The Tribe cannot provide documentation of the costs.
4. The requested costs exceed the “extent” of the costs included in the pre-award letter or are found not to be reasonable and necessary by the Agency after they are incurred and submitted for reimbursement.
5. The ISDEAA contract proposal for which the costs are incurred is not awarded.
6. The costs being requested have been provided to a Tribe in the assumption of a service unit or other program Section 5325(a)(1) amount or have been paid under a Tribal management grant or other existing IHS grant or contract.

Tribes can reduce the risk associated with incurring pre-award costs by ensuring that a pre-award letter is received by the Agency before the costs are incurred, maintaining close communication with the Area Office regarding the reasonableness and nature of the costs being incurred, and ensuring the estimated amount provided in the pre-award letter is sufficient to cover all the costs. Tribes should ensure that the description of the nature of the activities to be performed is inclusive enough to cover all potential activities needed to begin to operate the PFSA.

Two sample pre-award letters are attached. These can be used as templates to assist Tribes in preparing their own pre-award letters. A pre-award letter (see sample letter No.1) should address the unique needs of each Tribe as it contemplates what it will require in the planning, preparation, and assumption of the contract. Tribes should provide additional letters if circumstances change or additional costs are anticipated (see sample letter No. 2).

The development of a proposal for pre-award and startup costs, and the evaluation guidelines for typical types of costs, are outlined on the following pages. The guidelines are for the development and evaluation of a proposal under normal circumstances. Some proposals will have unique circumstances that do not fit the criteria in these guidelines. In such cases, one must review the statutory intent and the IHS CSC Policy to determine if other costs will be allowed. In all circumstances, however, the awardee should expect to be requested to provide thorough documentation of the amounts and justification for the amounts to reviewers at all levels of the Agency.

Line Items	GENERAL GUIDELINES Examples of Allowable Pre-Award and Startup Costs	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
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Line Items	GENERAL GUIDELINES Examples of Allowable Pre-Award and Startup Costs	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
PRE-AWARD COSTS (Section 5325(a)(6) letter)	<p>Pursuant to 25 U.S.C. §§ 5325(a)(2)-(3), (6) of the ISDEAA, costs incurred before the initial year that a self-determination contract is in effect are allowable only when the Secretary has been provided written notification of the nature and extent of the costs prior to the date on which such costs are incurred.</p> <p>Tribes are encouraged to estimate their costs accurately. Actual costs claimed in excess of the amount provided in the pre-award letter should be allowable to the extent they are otherwise found to be reasonable and necessary for the operation of the PFSA to be awarded and will not be disallowed in the event the costs exceed the initial estimate.</p>	<p>For all pre-award costs, the Tribe or Tribal organization must provide to the Area Office written notification of the general nature of the types of costs the Tribe expects to incur and an estimate of such costs before they are incurred.</p> <p>When including costs as a part of a CSC request, the Tribe or Tribal organization must provide documentation that indicates the date the liability was incurred for any goods or services up to the date of negotiations and an estimate of the costs to be incurred up to the date of the proposed award of the contract. The Tribe must show that the cost was reasonable and necessary to plan, prepare for, or assume operation of the PFSA.</p>	<p>The Area Office, as the Agency representative, will review each pre-award letter from a Tribe or Tribal organization and will acknowledge receipt of each such request within 10 days. Costs included in a CSC request will only be allowable to the extent such a notification is received and the costs requested meet the statutory requirements for CSC at Sections 5325(a)(2), (3), (5), and (6) of the Act.</p> <p>****See SAMPLE pre-award letters, copies attached.****</p>
PRE-AWARD COSTS (No Award)	Pre-award costs are only awarded when an award of the PFSA is made.	Same as pre-award costs above.	No pre-award costs are awarded in the event the Tribe and IHS do not enter into a contract or compact for any of the PFSA proposed.
PRE-AWARD COSTS (Partial Award)	Pre-award costs are only awardable when an award of a PFSA is made. Costs directly attributable to a specific PFSA are allowable only when the specific PFSA is actually awarded.	Same as pre-award costs above.	Pre-award costs will be awarded, except for those pre-award costs that are demonstrated to benefit a PFSA that was not actually awarded.

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Line Items	GENERAL GUIDELINES Examples of Allowable Pre-Award and Startup Costs	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
STARTUP COSTS	<p>Startup costs are authorized pursuant to 25 U.S.C. §§ 5325(a)(2)-(3), (5). They are costs that are incurred within the first year (12 months) that the contract/compact is in effect and are necessary to plan, prepare for, or assume operation of the contract/compact.</p> <p>Startup costs are generally provided to support the Tribe's administrative unit, which in turn supports the PFSA to be contracted or compacted. Like all CSC, startup costs must meet the CSC requirements in 25 U.S.C. §§ 5325(a)(2)-(3).</p>	Varies based on the type of cost claimed.	Review to determine that the cost is allowable pursuant to Sections 5325(a)(2)-(3), and (5) and not duplicative of DCSC or IDC amounts or of costs associated with the Secretarial amount. Startup costs are not to be used for costs otherwise provided for within the Secretarial amount or for expanding PFSA.

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Line Items	GENERAL GUIDELINES Examples of Allowable Pre-Award and Startup Costs	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
<p>PERSONNEL COSTS</p> <p>Pre-award costs are allowable for personnel to plan, prepare for, and assume operation of the PFSA.</p> <p>Startup costs for personnel are allowable for Tribal employees in the first year (12 months) of operation, if the employee is assigned to activities necessary to plan, prepare for, or begin operation of the PFSA under contract.</p>	<p>Generally pre-award costs are allowable for these activities whether carried out by consultants or Tribal employees, such as a Tribal administrator or planner (to the extent not included in the Tribe's IDC pool) who assists with the planning and negotiations for assumption of the PFSA.</p> <p>These costs are allowable for an administrator, planner, or other Tribal employee who is assigned to develop or improve management systems.</p>	<p>Costs incurred prior to the award of the contract/compact must be covered by the nature and extent references in the Tribe's pre-award letter.</p> <p>The Tribe must also provide documentation that the costs were incurred and the date when they were incurred, or careful estimates of the costs to be incurred when they have not yet been incurred. Tribes should keep careful financial records of these costs. Types of data needed for review are: dates of service, hourly rate, estimated or actual number of hours billed, and purpose of the service.</p> <p>Tribes must provide a budget and budget justification or a description of costs that are reasonable and necessary to plan, prepare for, and assume operation of the contract and that otherwise meet the requirements of 25 U.S.C. §§ 5325(a)(2), (3), and (5).</p>	<p>All costs must be reasonable and necessary to plan, prepare for, or assume operation of the proposed contract. All pre-award costs must be incurred after notification and before the contract starts.</p> <p>Duplication will be determined by reviewing: (a) the Secretarial amount provided to the Tribe for all PFSA transferred to the Tribe, and (b) amounts paid to the Tribe under a Tribal Management Grant or other existing IHS grant or contract.</p> <p>Startup costs must be reasonable and necessary to plan, prepare for, or assume operation of the PFSA and must be incurred after the award date but during the initial year of the contract (i.e., all startup costs must be incurred in the first 12 months of operation).</p> <p>Duplication will be determined by reviewing: (a) the Secretarial amount provided to the Tribe for all PFSA transferred to the Tribe, and (b) amounts paid to the Tribe under a Tribal Management Grant or other existing IHS grant or contract.</p>

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Line Items	GENERAL GUIDELINES Examples of Allowable Pre-Award and Startup Costs	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
<p>TRAVEL</p> <p>Pre-award travel costs are allowable for Tribal board members, Tribal personnel, and consultants to plan, prepare for, and assume operation of the PFSA.</p> <p>Startup travel costs for personnel are allowable.</p>	<p>This includes travel costs for staff, board members, and consultants to attend meetings and negotiations in preparation for PFSA assumption. Travel costs for education and orientation of new or existing Tribal staff may be allowable.</p> <p>Startup travel costs may be allowable for education, training, and developmental activities for either board members or Tribal employees.</p>	<p>Costs incurred prior to the award of the contract/compact must be covered by the nature and extent references in the Tribe's pre-award letter.</p> <p>The Tribe must provide documentation of the expenditures including the name or position of the traveler, the purpose of the travel, and the costs and duration of the trip.</p> <p>Tribes must provide a budget and budget justification or a description of costs that are reasonable and necessary to plan, prepare for, and assume operation of the contract, including the position of the traveler, the purpose of the travel, and the costs and duration of the trip.</p>	<p>All costs must be reasonable and necessary to plan for, prepare for, or to assume the proposed contract. All pre-award costs must be incurred after notification and before the contract starts.</p> <p>Duplication will be determined by reviewing: (a) the Secretarial amount provided to the Tribe for all PFSA transferred to the Tribe, and (b) amounts paid to the Tribe under a Tribal Management Grant or other existing IHS grant or contract.</p> <p>All startup costs must be incurred in the initial 12 months of operation.</p> <p>Duplication will be determined by reviewing: (a) the Secretarial amount provided to the Tribe for all PFSA transferred to the Tribe, and (b) amounts paid to the Tribe under a Tribal Management Grant or other existing IHS grant or contract.</p>

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Line Items	GENERAL GUIDELINES Examples of Allowable Pre-Award and Startup Costs	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
<p>EQUIPMENT</p> <p>Pre-award - Costs of equipment to support the administrative unit of the Tribe are allowable as pre-award costs.</p> <p>Startup - Costs of equipment to support the administrative unit of the Tribe are allowable as startup costs.</p>	<p>Costs of equipment must meet the CSC definition and support the administrative unit of the Tribe to be allowable as a pre-award costs. The costs of administrative equipment that support the Tribe to plan, prepare for, and assume operation of the PFSA are allowable.</p> <p>The cost of equipment needed to carry out the PFSA transferred under the contract/compact have generally not been allowed.</p> <p>Costs of equipment must meet the CSC definition and support the administrative unit of the Tribe to be allowable as startup costs. Costs necessary to support the implementation of the systems developed with startup resources are allowable.</p> <p>Costs of PFSA equipment needed to carry out the contract/compact have generally not been allowed, unless the contract divides a PFSA and the equipment is not transferred with the PFSA, requiring the Tribe to purchase equipment.</p>	<p>Costs incurred prior to the award of the contract/compact must be covered by the nature and extent references in the Tribe's pre-award letter.</p> <p>A Tribe should provide documentation showing what was purchased, when it was purchased, the total cost, the end user of the equipment, and how it was needed to plan, prepare for, and assume operation of the PFSA.</p> <p>Tribes must provide a budget and budget justification or a description of costs that are reasonable and necessary to plan, prepare for, and assume operation of the contract. This should include an identification of the equipment's end user.</p>	<p>All costs must be reasonable and necessary to plan for, prepare for, or assume operation under the proposed contract. All pre-award costs must be incurred after notification and before the contract starts.</p> <p>Duplication will be determined by reviewing: (a) the Secretarial amount provided to the Tribe for all PFSA transferred to the Tribe, and (b) amounts paid to the Tribe under a Tribal Management Grant or other existing IHS grant or contract.</p> <p>All costs must be reasonable and necessary to start up the proposed contract. All startup costs must be incurred during the initial year of the contract/compact.</p> <p>Costs supporting the central administrative unit of the Tribe are allowable. Duplication will be determined by reviewing: (a) the Secretarial amount provided to the Tribe for all PFSA transferred to the Tribe, and (b) amounts paid to the Tribe under a Tribal Management Grant or other existing IHS grant or contract.</p>

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Line Items	GENERAL GUIDELINES Examples of Allowable Pre-Award and Startup Costs	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
<p>CONSULTANTS</p> <p>Pre-award costs are allowable for consultants needed to plan, prepare for, and assume operation of the PFSA.</p> <p>Startup costs are allowable when needed to ensure compliance with the terms of the contract in the first 12 months of operation.</p>	<p>Consultant activities are allowable for proposal planning, preparation, and assumption of the ISDEAA contract/compact, including for proposal development, negotiations, board training, management systems development, etc.</p> <p>Startup activities are allowable for board training, management systems development, etc.</p>	<p>Costs incurred prior to the award of the contract/compact must be covered by the nature and extent references in the Tribe's pre-award letter.</p> <p>Documentation of actual costs for consultants, including the service to be performed, hourly rate, number of hours, and date cost was incurred, are required for all pre-award costs.</p> <p>Budget and budget justification are required in the CSC proposal, including estimates or bids from consultants for the work to be performed. Estimates should include the rate and time involved for each task to be performed.</p>	<p>All costs must be reasonable and necessary to plan for, prepare for, or assume operation of the proposed contract. All pre-award costs must be incurred after notification and before the contract starts.</p> <p>Duplication will be determined by reviewing: (a) the Secretarial amount provided to the Tribe for all PFSA transferred to the Tribe, and (b) amounts paid to the Tribe under a Tribal Management Grant or other existing IHS grant or contract.</p> <p>All startup costs must be incurred in the first 12 months of operation.</p> <p>Duplication will be determined by reviewing: (a) the Secretarial amount provided to the Tribe for all PFSA transferred to the Tribe, and (b) amounts paid to the Tribe under a Tribal Management Grant or other existing IHS grant or contract.</p>

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Line Items	GENERAL GUIDELINES Examples of Allowable Pre-Award and Startup Costs	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
<p>OTHER</p> <p>Pre-award costs are allowable for other types of costs if those costs are necessary to support the activities needed to plan, prepare for, and assume operation of the PFSA and otherwise meet the requirements of 25 U.S.C. §§ 5325(a)(2)-(3), and (6).</p> <p>Startup costs are allowable when needed to plan for, prepare for, and implement activities necessary to assume the contract and when the costs otherwise meet the requirements of 25 U.S.C. §§ 5325(a)(2)-(3), and (5).</p>	<p>Tribes may incur other costs necessary to support the activities needed to plan for, prepare for, and assume operation of the contract.</p> <p>Tribes may incur other costs necessary to support the activities needed to plan for, prepare for, and assume operation of the contract.</p>	<p>Costs incurred prior to the award of the contract/compact must be covered by the nature and extent references in the Tribe's pre-award letter.</p> <p>Documentation is required in support of actual costs and that the costs meet the requirements of 25 U.S.C. §§ 5325(a)(2)-(3), and (6). The date the cost was incurred is required for all pre-award costs. These costs should be documented with a detailed description of the type, quantity, and unit cost of the items and the justification for the costs.</p> <p>Budget and budget justification is required in the CSC proposal, including estimates of the reasonable and necessary costs needed to support the Tribe and an explanation of how the costs meet the requirements of 25 U.S.C. §§ 5325(a)(2)-(3), and (5). These costs should be documented with a detailed description of the type, quantity, and unit cost of the items and the justification for the costs.</p>	<p>All costs must be reasonable and necessary to plan for, prepare for, or assume operation of the proposed contract and not duplicate costs associated with the Secretarial amount or funded in the indirect CSC or DCSC amounts.</p> <p>Duplication will be determined by reviewing: (a) the Secretarial amount provided to the Tribe for all PFSA transferred to the Tribe, and (b) amounts paid to the Tribe under a Tribal Management Grant or other existing IHS grant or contract.</p> <p>Duplication will be determined by reviewing: (a) the Secretarial amount provided to the Tribe for all PFSA transferred to the Tribe, and (b) amounts paid to the Tribe under a Tribal Management Grant or other existing IHS grant or contract.</p>

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Section C. Guidelines for Proposal Preparation and Cost Analysis of Tribal Requests for DCSC Funding

DCSC is one of four types of CSC. DCSC funding covers ongoing activities that are not contained in either the amount computed pursuant to Section 5325(a)(1) or the IDC pool or an “indirect-type” cost budget. DCSC amounts are awarded on a recurring basis based on the initial CSC proposal and negotiation.

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The determination and payment of DCSC requires a proposal from the awardee. To the extent an awardee needs assistance in preparing a proposal, IHS will provide technical assistance. A DCSC proposal requires adequate detail and documentation for the IHS to determine if the costs requested are allowable as DCSC under Sections 5325(a)(2)-(3) and are not duplicated in the Section 5325(a)(1) amount or in the indirect CSC amounts requested. For a DCSC proposal, this documentation normally includes the salary of the Federal employees transferred and the Federal fringe benefits paid on those salaries by fringe-benefit category. In addition the awardee must provide the personnel budget of the tribally-operated PFSA and the detailed fringe-benefit costs of the awardee’s benefit package. The awardee must also provide justification for costs in other budget categories for which DCSC is requested.

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To compute the DCSC requirement, the awardee and the IHS must negotiate the total cost to the awardee of the activities to be supported with CSC. After this requirement is determined, the Agency will deduct any funds that may have been provided to the awardee in the Secretarial amount for this activity to avoid duplication of costs. The amount provided in support of these PFSA included in the Secretarial amount is determined by the past expenditures of the Agency for the activities included in the DCSC that are provided in support of the PFSA to be transferred. In cases where the expenditures of the prior year do not represent the amount the Secretary would have expended due to one-time distortions in expenditures, a multi-year average of past expenditures may be used. In circumstances where the Agency has never operated the PFSA, such as new programs or new appropriations for expanded programs, the Agency will compute the amount the Secretary would have provided for the DCSC activities from a “profile” developed from other, similar Agency PFSA. To prepare the DCSC proposal, the awardee should request the amounts the Agency has provided in support of the PFSA to be transferred. In cases where the PFSA has not been operated by the Agency, the awardee should request the cost “profile” from the Agency to determine what the Secretarial amount would have been.

The majority of DCSC is usually composed of certain fringe benefit costs on Federal employees that are not received in the Section 5325(a)(1) amount.¹² These costs continue to be paid by the Federal Government on employees working under an Intergovernmental Personnel Act (IPA) agreement or a Memorandum of Agreement (MOA), and DCSC for these employees are not due until the employee or position transfers to direct Tribal hire. Awardees should carefully maintain historical data on IPA/MOA transfers. These positions become eligible for DCSC as they become vacant and are not expected to be replaced with another IPA/MOA employee. The awardee must submit a CSC request or renegotiate the DCSC to ensure these costs are included in the DCSC requirement.

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The Agency is required to determine that amounts requested in the DCSC proposal are consistent with the requirements of 25 U.S.C. §§ 5325(a)(2)-(3).

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On a national basis, based on data from the 2012 Report to Congress on Funding Needs for CSC of Self-Determination Awards (2012 Report to Congress), the total DCSC requirement averages about 7 percent

¹² Tribal representatives take the position that CSC funding is due on all Federal funds used to carry out a contract/compact and that Federal funds include funds paid by Medicaid, Medicare, and other third-party payors. The IHS position is that, to be eligible for CSC, an awardee’s costs must be related to the PFSA transferred and supported directly from Federally-appropriated dollars transferred in the Section 5325(a)(1) amount. For example, in the Agency’s view, fringe benefit costs for employees supported with Medicaid, Medicare, and other third-party resources are not eligible for DCSC.

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of the total Section 5325(a)(1) amount under contract. Based on the 2012 Report to Congress, DCSC represents about 22 percent of the entire negotiated CSC requirement for Tribes and Tribal organizations. DCSC can vary significantly depending on the type of service and service delivery modality selected by the Tribe. In general, DCSC is composed mostly of costs computed on the salaries of the directly-hired Tribal employees. Therefore, contracts that do not have large personnel components (like Purchased/Referred Care) or contracts operated primarily with IPA/MOA employees normally require smaller amounts of DCSC when calculated as a percentage of the total award. Fringe benefit costs continue to make up the majority of the approved DCSC requirement.

In addition to certain fringe benefit costs, the IHS has approved some other costs as DCSC. Reasonable costs for legal fees and general liability insurance (when not included in the IDC pool) are additional examples of costs that have been found to be allowable, as these are costs that the Agency either does not pay or are paid from resources other than those under contract. [Allowable tribal health insurance costs may include employer shared responsibility payments and any other associated employer costs under the ACA](#)

The development of a DCSC proposal and the evaluation guidelines for the typical types of costs are outlined in the following pages. The guidelines are meant for the development and evaluation of a DCSC proposal under normal circumstances. Some DCSC proposals will have unique circumstances that do not fit the guidelines. In these cases, one must review the statutory intent and the IHS CSC Policy to determine if other DCSC will be required. In these circumstances, however, the awardee should expect to be requested to provide thorough documentation of the amounts and reasons for the amounts to reviewers at all levels within the Agency.

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LINE ITEMS	GENERAL GUIDELINES Examples of Allowable DCSC	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
<p>SALARIES</p> <p>In general, salaries¹³ and wages for personnel have been completely disallowed for DCSC.</p> <p>Budgets for direct-salary costs are required for most DCSC proposals to accurately compute the requested fringe-benefit costs, as discussed below.</p>	<p>Salaries associated with the PFSA transferred in the Secretarial amount are never allowable as DCSC.</p> <p>Awardees with or without IDC rates can be paid direct-salary costs for administrative employees as part of CSC; however, these costs should be categorized and negotiated as "indirect-type costs," not DCSC, even though they are treated as direct costs and are not incorporated in the Tribe's IDC pool.¹⁴</p> <p>Although costs for direct salaries are generally disallowed, costs for certain fringe benefits on direct salaries are the primary components of DCSC, as discussed below.</p>	<p>Direct salary costs of employees are generally not allowed as DCSC.</p> <p>Tribal budgets are required from awardees with a detailed salary listing for each position funded from the Section 5325(a)(1) amount.</p>	<p>For DCSC, the Agency has considered all salary requests a duplication or expansion of Section 5325(a)(1) and not allowable under the ISDEAA.¹⁵</p>

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¹³ Tribal representatives take the position that direct salaries may be included in DCSC in situations where the salaries would be allowable as an indirect-type cost but the awardee has an IDC allocation plan that specifically excludes these costs from the IDC pool. It has not, however, been the Agency's practice to allow salary costs as DCSC.

¹⁴ The total lump-sum amount for these indirect-type costs will include the lump-sum amount plus the amount determined by applying the IDC rate to that lump sum amount.

¹⁵ Tribal representatives take the position that, to the extent that Tribes and Tribal Organizations are required to pay higher salaries than IHS pays to operate the PFSA, the difference in salary should also be eligible for DCSC. Tribal representatives take the position that Tribes and Tribal Organizations must sometimes pay higher salaries than IHS pays due to the value attributed to Federal employment, including the value attributed to Federal retirement and other associated benefit programs.

LINE ITEMS	GENERAL GUIDELINES Examples of Allowable DCSC	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
<p>FRINGE BENEFITS</p> <ul style="list-style-type: none"> - Federal Insurance Contributions Act (FICA) and Medicare tax - Life, Health, and Disability Insurance - Retirement (401k, 403b, etc.) <p>Workers' compensation insurance</p> <p>Unemployment insurance</p>	<p>Fringe benefits have historically constituted the majority of all DCSC. The Agency reviews the documented amounts requested by the awardee and deducts the amount provided as part of the Section 5325(a)(1) amount to the awardee. The awardees should request that the Agency provide a detailed breakout of each fringe amount when providing the total Section 5325(a)(1) amount available for the PFSA to be contracted.</p> <p>Funding for workers' compensation costs is not transferred as part of the Section 5325(a)(1) amount.</p> <p>Funding for unemployment insurance is not provided as part of the Section 5325(a)(1) amount.</p>	<p>Documentation of fringe benefits should include the awardee's rate for each type of fringe benefit for which DCSC is requested. The awardee must provide sufficient salary detail to determine if the fringe-benefit costs requested are reasonable and necessary.</p> <p>For a new awardee, written quotes for costs should be provided to support the costs claimed.</p> <p>Awardees should provide documentation for workers' compensation costs.</p> <p>Awardees should provide documentation of state unemployment insurance costs.</p>	<p>The Agency totals the amount provided in the Section 5325(a)(1) amount for FICA, Medicare tax, health, life, and disability insurance, and retirement. To the extent the budgeted Tribal costs are determined to be reasonable and necessary and these costs exceed the amounts the Agency provides for these costs in the Section 5325(a)(1) amount, the difference is allowed as a DCSC requirement for the PFSA transferred.</p> <p>Costs of workers' compensation insurance are allowed as a DCSC requirement.</p> <p>Costs of state unemployment insurance are allowed as a DCSC requirement.¹⁶</p>

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¹⁶ The Internal Revenue Service (IRS) has determined that Tribes and Tribal instrumentalities are not subject to Federal Unemployment Tax. Therefore, this cost will not be allowed.

Example of the fringe benefits calculation:

FRINGE ITEM	TRIBAL AMOUNT	IHS AMOUNT	DIFFERENCE (DCSC AMOUNT)
FICA and Medicare Tax	\$1,000	\$900	---
Retirement	\$2,000	\$1,250	---
Insurance (Life, Health, Disability)	\$750	\$1,000	---
Sub-Totals	\$3,750	\$3,150	\$600
Workers Comp.	\$200	---	\$200
Unemployment	\$400	---	\$400
TOTALS	\$4,350	\$3,150	\$1,200

LINE ITEMS	GENERAL GUIDELINES Examples of Allowable DCSC	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
TRAVEL/VEHICLE LEASE	These are generally not provided as allowable DCSC. Again, travel costs in support of administrative functions normally included in an IDC pool (such as board of directors' travel cost) can be paid directly to the Tribe when the Tribe or Tribal organization does not have an IDC rate. In this situation, however, these types of costs are categorized as "indirect type costs."	Travel costs are not generally allowed by the Agency as a DCSC requirement.	The Agency has considered most requests for travel duplicative of the Section 5325(a)(1) or as a PFSA that normally would be carried on by the Agency in the direct operation of the PFSA. ¹⁷

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¹⁷ As noted in footnote 1, Tribal representatives are of the view that no category of costs is per se duplicative and unallowable as DCSC, so long as the additional amount is necessary and reasonable for the Tribe or tribal organization to prudently operate the PFSA under contract. As also noted in footnote 1, the IHS position is that "duplication" is not the only assessment to determine whether a cost is eligible for CSC pursuant to Section 5325(a).

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LINE ITEMS	GENERAL GUIDELINES Examples of Allowable DCSC	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
SUPPLIES AND DRUGS	These are generally not allowable DCSC.	Supply costs are not generally allowed by the Agency as a DCSC requirement.	The Agency has considered most requests for supplies and drugs duplicative of the Section 5325(a)(1) or as a PFSA that normally would be carried on by the Agency in the direct operation of the PFSA. ¹⁸
INSURANCE General Insurance (property, fire, general liability)	The Government is self-insured under the Federal Tort Claims Act (FTCA). Activities of Tribes that the FTCA does not cover, such as property insurance on buildings and vehicles and general liability insurance (i.e., wraparound insurance) supplemental to FTCA coverage, can be considered allowable.	A detailed estimate of costs of insurance for property, vehicles, and general liability is to be provided. It is important to document that the costs are not included in the IDC pool where an IDC rate is used.	The Agency reviews insurance coverage to determine that it is not included in the Tribe's IDC pool or indirect-type cost agreement and that it does not cover risks covered by the FTCA. Insurance activities that are covered in the Tribe's negotiated IDC rate, indirect-type cost agreement, or would be covered by FTCA are duplicative.

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¹⁸ See footnotes 1 and 8.

LINE ITEMS	GENERAL GUIDELINES Examples of Allowable DCSC	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
<p>MALPRACTICE LIABILITY INSURANCE Professional Liability Insurance</p>	<p>Malpractice liability insurance is allowable only to the extent that it does not duplicate FTCA coverage. Medical malpractice insurance covering the employees of a Tribe or Tribal organization (including those assigned under IPA or MOA status) when performing duties is authorized under a contract/compact pursuant to the ISDEAA is not necessary due to the applicability of the FTCA to contracting/compacting Tribes and Tribal organizations. Malpractice liability insurance is allowable, however, in the case of personal service contractors carrying out the terms of a contract/compact when operating outside of an IHS facility. Malpractice liability insurance may also be allowable to cover torts brought in Tribal courts that may not be covered in the FTCA. General liability wraparound insurance is allowable.</p>	<p>Because malpractice liability insurance is allowable only to the extent that it does not duplicate coverage provided by the FTCA, awardees will be required to provide a written quote or cost estimate from an insurance broker and must indicate that the insurance costs claimed do not duplicate coverage provided by the FTCA.</p>	<p>Malpractice liability insurance is allowable to the extent that it does not duplicate FTCA coverage.</p>

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LINE ITEMS	GENERAL GUIDELINES Examples of Allowable DCSC	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
POSTAGE ¹⁹	This cost is borne by IHS in the general course of doing business. Funds for these costs have been transferred to Area Offices, and this cost is not allowable as DCSC unless IHS did not transfer the resources it used in the Tribe's Secretarial amount and is not included in the IDC pool or the Tribe's indirect-type costs.	For PFSA assumed prior to implementation of the IHS Director's May 10, 2002, decision, DCSC negotiations may include postage costs but only in instances where IHS did not transfer the resources it used in the Tribe's Secretarial amount.	Duplication will be determined by reviewing: (a) the Secretarial amount provided to the Tribe for all PFSA transferred to the Tribe, and (b) amounts paid to the Tribe under other existing IHS grants or contracts. Except in rare circumstances, this will be considered duplicative of the Section 5325(a)(1) amount. ²⁰

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¹⁹ In the past, DCSC has included postage, communications, and printing costs in some cases. These costs were approved in the past because the IHS centrally-managed the costs, and the funds were not transferred to Tribal contractors in the Section 5325(a)(1) amount. These costs were then transferred to the Area Offices and should now be available for inclusion in the Section 5325(a)(1) amount. Accordingly, these costs are no longer being approved by the IHS as DCSC, except in the rare circumstances noted in these tables. As noted in footnote 1, Tribal representatives are of the view that no category of costs is per se duplicative and unallowable as DCSC, so long as the additional amount is necessary and reasonable for the Tribe or tribal organization to prudently operate the PFSA under contract. As also noted in footnote 1, the IHS position is that "duplication" is not the only assessment to determine whether a cost is eligible for CSC pursuant to Section 5325(a).

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²⁰ See footnotes 1 and 8.

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LINE ITEMS	GENERAL GUIDELINES Examples of Allowable DCSC	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
PRINTING AND DUPLICATION ²¹	This is generally not included in the DCSC requirement.	This is not generally allowed by the Agency.	<p>Duplication will be determined by reviewing: (a) the Secretarial amount provided to the Tribe for all PFSA transferred to the Tribe, and (b) amounts paid to the Tribe under other existing IHS grants or contracts.</p> <p>This generally will be considered to be duplicative of the Section 5325(a)(1) amount.²²</p>
COMMUNICATIONS ²³	Long-distance phone charges and/or leased data-line charges are costs that are borne by IHS in the general course of doing business. Funds for these costs have been transferred to Area Offices, and this cost is not allowable as DCSC unless IHS did not transfer the resources it used in the Tribe's Secretarial amount and is not included in the IDC pool or the Tribe's indirect-type costs.	For PFSA assumed prior to implementation of the IHS Director's May 10, 2002, decision, DCSC negotiations may include communication costs but only in instances where IHS did not transfer the resources it used in the Tribe's Secretarial amount.	<p>Duplication will be determined by reviewing: (a) the Secretarial amount provided to the Tribe for all PFSA transferred to the Tribe, and (b) amounts paid to the Tribe under other existing IHS grants or contracts.</p> <p>Except in rare circumstances, this will be considered duplicative of the Section 5325(a)(1) amount.²⁴</p>

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²¹ See footnote xx.

²² See footnotes 1 and 8.

²³ See footnote xx.

²⁴ See footnotes 1 and 8.

LINE ITEMS	GENERAL GUIDELINES Examples of Allowable DCSC	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
TRAINING	This is generally included in the DCSC requirement to the extent the awardee must provide training to comply with requirements not applicable to the Federal Government and, therefore, not transferred in the Section 5325(a)(1) amount. ²⁵	Awardees should provide details on the cost and purpose of the training.	<p>Duplication will be determined by reviewing: (a) the Secretarial amount provided to the Tribe for all PFSA transferred to the Tribe, and (b) amounts paid to the Tribe under other existing IHS grants or contracts.</p> <p>This likely will be considered duplicative of the Section 5325(a)(1) amount.²⁶</p>
EQUIPMENT PURCHASE AND MAINTENANCE	This generally is not included in the DCSC requirement. Funds for equipment purchases are included in the Section 5325(a)(1) amount or in the startup or pre-award amount for administrative equipment.	Not applicable.	<p>Duplication will be determined by reviewing: (a) the Secretarial amount provided to the Tribe for all PFSA transferred to the Tribe, and (b) amounts paid to the Tribe under other existing IHS grants or contracts.</p> <p>This is considered duplicative of the Section 5325(a)(1) amount and may also be duplicative of costs covered in the IDC pool.²⁷</p>

²⁵ The IHS made available all Federal dollars supporting long-term career training costs in the Section 5325(a)(1) amount. Federal sites provide for long-term training from within their operational budgets. IHS takes the position that no additional CSC funds are made available for this cost, which is duplicative of the Section 5325(a)(1) amount. As noted in footnote 1, Tribal representatives are of the view that no category of costs is per se duplicative and unallowable as DCSC, so long as the additional amount is necessary and reasonable for the Tribe or tribal organization to prudently operate the PFSA under contract. As also noted in footnote 1, the IHS position is that “duplication” is not the only assessment to determine whether a cost is eligible for CSC pursuant to Section 5325(a).

²⁶ See footnotes 1 and 8.

²⁷ Tribal Representatives take the position, as indicated in the General Guidelines column for this line item, that there are circumstances in which these amounts have not been duplicated in any other funding provided to a Tribe or Tribal Organization. Therefore, upon Tribal request and justification the cost should be negotiated on a case-by-case basis.

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LINE ITEMS	GENERAL GUIDELINES Examples of Allowable DCSC	DOCUMENTATION REQUIRED FROM TRIBE	STANDARDS FOR REVIEW AND DUPLICATION UNDER 25 U.S.C. § 5325(a)(3)
RENT/UTILITIES	This generally is not included in the DCSC requirement. It has been allowed in extremely rare circumstances when the awardee did not receive the funds in the Section 5325(a)(1) amount because the facility in question continued to be used to operate IHS or other Tribally-operated programs.	This is allowable when a program is being divided and space currently used in the delivery of the program cannot be divided and provided to the awardee due to ownership or lease restrictions.	<p>Duplication will be determined by reviewing: (a) the Secretarial amount provided to the Tribe for all PFSA transferred to the Tribe, and (b) amounts paid to the Tribe under other existing IHS grants or contracts.</p> <p>This is considered duplicative of the Section 5325(a)(1) amount absent these rare circumstances.²⁸</p>
OTHER DCSC	The IHS recognizes that Tribes differ in the types and extent of costs included within their IDC pools. The IHS will recognize as DCSC any item of cost that meets the definition of CSC at Sections 5325(a)(2)-(3) but is not already included in the awardee's IDC pool (or the Section 5325(a)(1) amount). CSC are not, however, to be considered as available to expand program activities.	Awardees are to provide a detailed description and justification of costs showing they should be allowable pursuant to Section 5325(a)(2)-(3). Documentation should show that the costs are included in neither the IDC pool nor the Section 5325(a)(1) amount.	Each cost must meet the definition of CSC at Sections 5325(a)(2)-(3), must not be included in the IDC pool or indirect-type costs of the Tribe, and must not be duplicative of the costs included in the Section 5325(a)(1) amount.

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²⁸ See footnotes 1 and 8.

Section D. Guidelines for Proposal Preparation and Cost Analysis of Tribal Requests for Indirect CSC Funding

INDIRECT CSC. Most Tribes and Tribal organizations have IDC rates that are negotiated with their cognizant Federal agency. The cognizant Federal agency for most Tribes is the Interior Business Center at the Department of the Interior. For some Tribal organizations that primarily receive awards from the Department of Health and Human Services (HHS), their cognizant Federal agency for determining an IDC rate is HHS Cost Allocation Services. The respective addresses and phone numbers are as follows:

U.S. Department of the Interior Office of the Secretary Interior Business Center Acquisition and Property Management Indirect Cost Section Attn: Debra Moberly, IDC Coordinator 2180 Harvard Street, Suite 430 Sacramento, CA 95815 Phone (916) 566-7111 FAX (916) 566-7110 https://www.doi.gov/ibc/services/finance/indirect-cost-services	U.S. Department of Health and Human Services Cost Allocation Services Attn: Arif Karim, Director 90 – 7 th Street, Suite 4-600 San Francisco, CA 94103-6705 Phone (415) 437-7820 http://rates.psc.gov/
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Tribes are encouraged to refer to 2 C.F.R. Part 200 for guidance on IDC rates. This document is accessible on the Internet at:

www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl.

For assistance with indirect-type costs, please refer to the ISDEAA, the IHS CSC Policy, 2 C.F.R. Part 200, and 45 C.F.R. Part 75, and contact your local IHS Area Office.

Section E. Sample Letters

Sample Pre-Award Notification Letter # 1 – From Contractor/Compactor To Area Director

Dear Area Director:

Please accept this letter as notification that the ****Tribe**** will begin to incur pre-award costs necessary to plan, prepare for, and assume operation of the ****PFSA(s)****. We anticipate providing a proposal in accordance with the Indian Self-Determination and Education Assistance Act (ISDEAA) and the associated regulations at 25 C.F.R. Part 900 in the near future; however, we must first do some preliminary work in order to ensure a successful contracting effort.

The ****Tribe**** has reviewed the “Standards for the Review and Approval of Contract Support Costs by the Indian Health Service.” We understand that this document provides guidance concerning the typical costs Tribes might expect to incur in undertaking contracting or compacting under the ISDEAA, but we do not believe that this document limits the types of costs we might expect to incur. Initially, we will incur costs associated with assessing the feasibility of contracting, developing the contract proposal and contract document, and negotiating the contract with the IHS. We anticipate incurring costs for consultants, attorneys, and other professional staff to assist us. The costs may also include the costs of special training or meetings of the governing board, travel by current Tribal staff and other costs incurred in developing the proposal and negotiating the contract award. The Tribe may also assign staff to this project to assist with this contracting effort.

The Tribe estimates the amounts necessary to complete the tasks needed to plan, prepare for, and assume the above PFSA to be **** fifty thousand (\$50,000) **** dollars. We will monitor these costs, however, and we will notify the IHS if the costs can be expected to exceed this amount. It is our understanding that this amount is an estimate and does not limit the extent to which our costs might ultimately be found to be reasonable and necessary to assume operation of the contract.

Please confirm receipt of this letter and notify us of the date of your receipt of this pre-award letter. We look forward to working with the ****Area Office**** and to the successful contracting of the above PFSA(s). Thank you.

Sincerely,
****Authorized Tribal Signature****

Cc: Headquarters, ODSCT
Headquarters, OTSG (****when compacting under Title V****).

Sample Pre-Award Notification Letter # 2 – From Contractor/Compactor To Area Director

Dear Area Director:

On ****date of initial notification**** the ****Tribe**** notified you that we would begin incurring costs associated with the assumption of ****PFSA****. While planning and preparing that contracting effort, we realized we would need to ****improve our accounting and management systems**** in order to successfully administer the ****[additional] PFSA**** proposed. Therefore, we now anticipate incurring additional costs for ****the acquisition of IT equipment and systems and other management systems necessary**** to support the contract. Professional services necessary to implement these systems will also be required. The costs may also include the costs of special training of existing Tribal staff on the new systems. This is in addition to those costs identified in our earlier letter.

The Tribe estimates the amounts necessary for these additional costs to be **** one-hundred and twenty thousand (\$120,000)**** dollars. Additionally, our earlier letter estimated other pre-award costs at **** fifty thousand (\$50,000)**** dollars; however, it appears that due to some unanticipated circumstances and the complexity of negotiations, this amount will probably be closer to **** eighty thousand (\$80,000)**** dollars. Therefore total pre-award costs are now estimated at **** two hundred thousand (\$200,000)**** dollars. As previously stated, this amount is an estimate and does not limit the extent to which our costs might ultimately be found to be reasonable and necessary to assume operation of the contract.

Please confirm receipt of this letter and notify us of the date of your receipt of this pre-award letter. We look forward to working with the ****Area Office**** and to the successful contracting of the above PFSA.

Thank you.
****Authorized Tribal Signature****

Cc: Headquarters, ODSCT
Headquarters, OTSG (****When compacting under Title V****)

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Sample Pre-Award Acknowledgment Letter – From Area Director to Contractor/Compactor

[Insert Tribe or Tribal Organization Address]

Dear [Insert Name]:

This is to acknowledge receipt of the [Insert Tribe or Tribal Organization]'s letter, which was received on [Insert Date of Receipt], regarding its estimated pre-award costs necessary to [Describe Activity (e.g. enter into an agreement to assume additional PSFA, new PSFA, expand PSFA, etc.)] with the Indian Health Service (IHS). While we acknowledge receipt of your letter, this acknowledgement does not constitute a decision on or agreement with the estimated costs. The final amount will require negotiations, must be consistent with 25 U.S.C. § 5325(a), and is subject to an award being made by the IHS.

The [Identify IHS Area Office Point of Contact] will serve as the primary point of contact for the [Insert Tribe or Tribal Organization] during the planning process. Our staff is happy to assist and look forward to this new proposed endeavor of the [Insert Tribe or Tribal Organization].

If you have questions, please contact [Insert Point of Contact], by telephone at [Insert Telephone Number] or by e-mail at [Insert E-mail address].

Sincerely,

[IHS Area Director]

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