

Bureau of Indian Affairs  
Office of Indian Services  
Division of Self-Determination

Report to the Congress  
on  
Funding Requirements  
for  
Contract Support Costs of Self-Determination  
Contracts and Compacts

Fiscal Year 2010 Report

The Indian Self Determination and Education Assistance Act of 1975, as amended (ISDEAA), 25 U.S.C. § 450 *et seq.*, authorizes and directs the Bureau of Indian Affairs (Bureau) to contract or compact with and fund Indian Tribes and Tribal organizations that choose to take over the operation of programs, services, functions and activities (PSFAs) that would otherwise be operated by the Bureau. These PSFAs include programs such as law enforcement, social services, and tribal priority allocation (TPA) programs. The contracts and compacts provide the funding that the Bureau would have otherwise used for its direct operation of the programs had they not been contracted or compacted by a Tribe, 25 U.S.C. § 450j-1(a)(1). These “program costs” include expenses for a broad array of functions and activities that support the direct delivery of services; however, “program costs” do not cover all expenses associated with these PSFAs. The Self-Determination contracts and compacts also provide contract support costs (CSC) that are defined by the ISDEAA as the reasonable costs for activities either not normally provided by the Secretary in the direct operation of the program, or the reasonable cost for activities provided by the Secretary in support of the program from resources other than those under contract or compact. The Bureau provides CSC as either: (1) “direct CSC” which are costs attributable to a particular program, such as startup or pre-award expenses, unemployment taxes, or workers compensation insurance; or (2) “indirect CSC” which are overhead expenses for items such as pooled administrative salaries and fringe, facilities and support, payroll, procurement, audits and data processing, 25 U.S.C. § 450j-1(a)(3)(A).

Congressional appropriations are divided among Bureau and Tribes or Tribal organizations to pay for both the Bureau's direct operation of programs and for the operation of programs by Tribes and Tribal organizations through Self-Determination contracts and compacts.

In 1998 Congress provided for consideration of the CSC “shortfalls” within the appropriations process. Section 450j-1(c) of the ISDEAA requires the Secretary to provide an annual report to Congress that includes:

- (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 Tribes or Tribal organizations under Self-Determination contracts or compacts;
- (2) An accounting of any deficiency in funds needed to provide required contract support costs to all contractors for the Fiscal Year (FY) for which the report is being submitted;
- (3) The indirect cost (IDC) rate and type of rate for each Tribal organization contracting/compacting with the appropriate Secretary;
- (4) The direct cost base and type of base from which the indirect cost rate is determined for each Tribe or Tribal organization; and
- (5) The indirect cost pool amounts and the types of costs included in the indirect cost pool. 25 U.S.C. § 450j-1(c).

This report meets the Secretary’s obligations for Fiscal Year 2010. The report has been prepared with the most accurate information available to the Bureau. The report does not represent a legal assessment of the amount due under any contract or compact with any Tribe or Tribal organization. The report has been prepared in consultation with the Bureau’s CSC Workgroup. The CSC Workgroup, which consists of federal officials and Tribal representatives, was established in 2004 to develop the Bureau’s CSC policy to allocate CSC funds in a uniform and equitable manner and provides advice and guidance to the Assistant Secretary-Indian Affairs in the continued development of CSC policy.

The Bureau's CSC Policy requires the Bureau's twelve Regions and the Office of Self-Governance (OSG) to maintain records of funds negotiated and awarded to Tribes and Tribal organizations in categories identified in the attached Appendix A and to provide data to the awardees for changes or corrections. The Policy requires the Bureau to consolidate this information and to provide a projection of the CSC shortfall for the current fiscal year.

For FY 2010, the Bureau distributed \$718,413,130 to Indian Tribes and Tribal organizations in direct program funds. The total CSC Need of Tribes and Tribal organizations associated with their ISDEAA contracts and compacts was \$220,861,528. The Bureau distributed \$166,000,000 for contract support costs to Tribes and Tribal organizations resulting in a CSC shortfall of approximately \$54,861,528.

### **PROJECTIONS:**

#### **The Bureau projects the following CSC Need in FY 2011**

The total CSC need projected for FY 2011 Bureau ISDEAA contracts and compacts is \$250,455,528. Based on the FY 2011 President's budget and an anticipated CSC appropriation of \$187,526,600, the Bureau projects that the CSC shortfall at the conclusion of FY 2011 will be approximately \$62,928,928.

#### **The indirect cost rate and type of rate for each Tribal organization contracting/compacting with the Bureau of Indian Affairs**

The majority of indirect cost rate agreements negotiated between Tribes and Tribal organizations and their cognizant Federal agency consist of fixed carry forward and provisional/final rates. Lump sum CSC amounts are negotiated with awardees without formal negotiated IDC rate agreements, and are identified as Lump Sum in the report. This data is provided in Appendix A to this report, column "M" of each Region's worksheet. The number for each type of rate is as follows:

- Fixed Carry Forward            341
- Provisional/Final                37
- Lump Sum                            113
- Other                                 25

#### **The direct cost base and type of base from which the indirect cost rate is determined for each Tribal organization**

The aggregate direct cost base for all Tribes and Tribal organizations in FY 2010 was \$603,362,223, with a range from \$6,620 to \$53,107,199 per Tribe or Tribal organization. The type of base means the accumulated direct costs (normally either total direct salaries and wages or total direct costs exclusive of any extraordinary or distorting expenditures or pass through) used to distribute IDC to individual Federal awards. The direct cost base selected should result in each award bearing a fair share of the indirect costs in relation to the benefits received from the costs. The direct cost base of each Tribe or Tribal organization is identified in Appendix A to this report, column "J" of each Region's and OSG's spreadsheet.

### **The indirect cost pool amounts and the types of costs included in the indirect cost pool**

The aggregate indirect cost pool attributable to Bureau funded programs for all Tribes and Tribal organizations is \$168,822,017, with a range from \$1,648 to \$9,585,849 per Tribe or Tribal organization. The IDC pool is the accumulated costs that jointly benefit two or more programs or other cost objectives. Indirect cost pool expenditures typically include the following:

- administrative salaries and fringe benefits associated with overall financial and organizational administration,
- operation and maintenance costs for facilities and equipment, and
- payroll and procurement services

The data portion of IDC pools attributable to Bureau programs is provided in columns “O”, “P” and “V” of each Region’s and OSG’s spreadsheet in Appendix A to this report.

### **OTHER INFORMATION:**

Appendix A displays (by Region, Tribe, and Tribal organization) the amounts of funding provided for direct program operation, start-up costs, pass-through and exclusions-related funds, and direct and indirect costs. It also provides the negotiated indirect cost rate and type of rate for each tribal organization, the total direct base cost amount, and the direct and indirect contract support requirements. This includes the unduplicated direct and indirect cost requirements with sub-awards. A more detailed explanation of the categories is provided at the beginning of the Appendix.

Appendix B provides separate data for tribally-controlled schools.