

Implementing Indirect Cost Strategies to the Benefit of Your Tribe

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today's presenters.



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Agenda

- History of PL 93-638 Contract Support Costs
 - Indirect Costs (Uniform Guidance, reasonable, necessary)
 - Direct Contract Support (costs)
 - Funding under 638
- Ramifications of Litigations around CSC
 - CSC Policies of BIA & HIS
- Determining Indirect Cost Rates
 - Types of Rates
 - Components, Direct Case Base, Indirect Cost Pool, Carryforwards & FCF Rate Computations
- Strategies
 - Example IDC Collections of different Base Methods
 - Examples of Special Rates
- Q & A



History of 638 Contracts & Contract Support

- 1975 Indian Self Determination and Education Assistance Act (ISDEAA) provided contracts to Indian tribes to federal programs for their members (PL 93-638)
- Bureau of Indian Affairs and Indian Health Services have different PFSA's and handled 638 contract processes and indirect funding differently; resulted in several litigations
- Contract support is the federal line item that funds Tribe's administrative costs not included in the federal programs' budgeted line items, including indirect

What is the effect to IDC from Uniform Guidance?

- The Uniform Grant Guidance, or “Supercircular”, combines all federal grant guidance in one place.
 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR Part 200
 - See 200.412- .417; 200 – Subpart E
 - Appendix VII – States and Local Government and Indian Tribe Indirect Cost Proposals
- These federal regulations provide the federal regulatory basis for determining indirect costs, allowable and unallowable direct and indirect costs, proposals and negotiation of indirect rates

Some basics (2 CFR 200.414 & .413):

- Indirect Costs are costs which should be allocated among many programs incurred for common purposes to support the programs
 - Not efficient to allocate and charge one cost to each program
 - Determined by each entity, its organizational structure and policies, overhead in nature
- Direct Costs are costs expended to meet a single program or cost objective, identified to benefit their program and/or objectives
 - The costs under one federal award or grant or tribal program

Some basics:

- Administrative Costs can be either direct and indirect, although indirect is always an administrative cost
 - Each entity to determine based on direct program objectives, grant approvals
 - Cannot duplicate one direct administrative cost also as an indirect cost
- Contract Support Costs (CSC) - only applies to 638 programs
 - Federal funding includes direct CSC and indirect CSC
 - BIA & IHS CSC policies

PL 93-638 106(a)1 - Funding

“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 Interior or the Department of Health and Human Services*, as appropriate, at which the program, function, service, or activity or portion thereof, *including supportive administrative functions* that are otherwise contractible, is operated.”

Direct Contract Support Costs - 638

- Authorized at Sec. 106(a)(2), (3), (5) & (6) of P.L. 93-638
- For costs the federal government did not incur when it ran the program (worker comp, legal), or
- Costs the federal government did incur but did not transfer to Tribe (some facility and training costs)
- Cannot duplicate 106(a)(1) Program funding (also applies to indirect)
- Not well suited to federal cost principles since it is a revenue of the award, not expenditures.

BIA and IHS DCSC

- Unlike IDC, these revenues are paid as part of the funding, recurring annually, and do not need further justification
- Must be used to meet Program, Functions, Services and Activity purposes as defined by Annual Funding Agreement
- SHOULD NOT BE USED TO PAY FOR INDIRECT COST SHORTFALLS

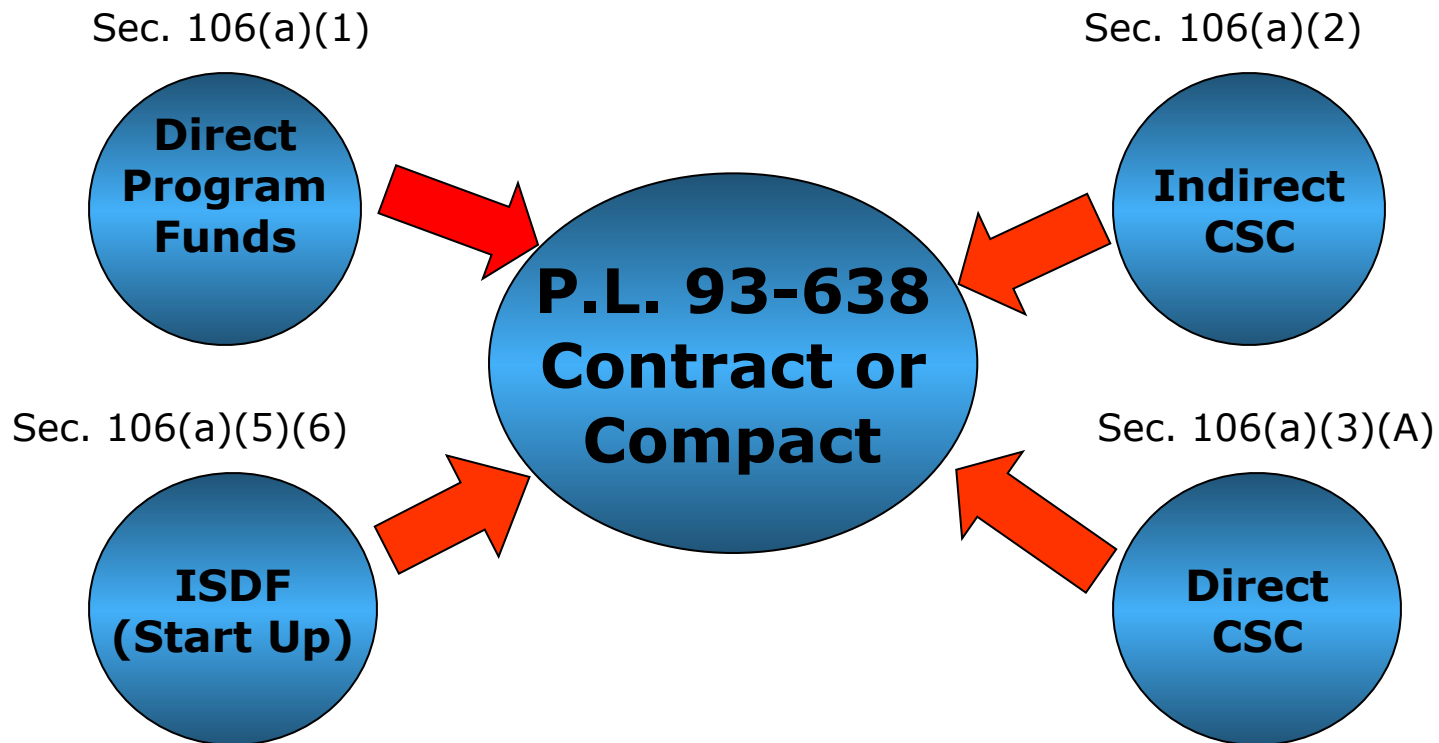
Ramah Class Action - CSC must be paid at 100%

- Applies to BIA
- Also applies to IHS (*No class action, settled individual claims with Tribes*)
- Question now: What exactly is 100%?
 - Sage Memorial Ruling (under appeal) that IDC should not be allocated/charged to expenses paid for by third party funds since they are of one program
 - Expenditures of 3rd party are 638 expenditures
 - CSC should not be allocated to 3rd party
 - Brings up the question of Duplication- what is assumed as funded within the tribal share allocations?
 - How does the agency reconcile within the grant period?

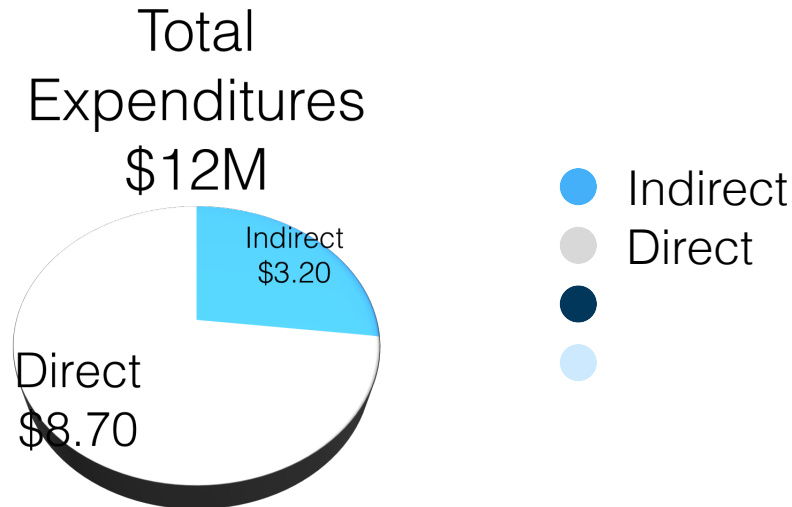
DCSC Policy Differences

- **BIA**
 - Based on salaries spent in PFSA
 - Did not start paying until the 90's
 - Does not have historical data to justify the costs
 - Process to calculate the data was kept from public until Ramah settlement talks.
 - Uses a flat percentage of salaries (15% prior to 2017, 18% currently)
 - Not negotiable other than salary amounts
- **IHS**
 - Used a model based on historical spending patterns to determine additional costs
 - Negotiated at the time of the 638 conversion and adjusted for inflation annually
 - Can be re-negotiated at tribes request

Contract Support Costs ISDEAA References



Total Program Costs - Indirect & Direct



$$\text{Rate} = 36.78\% \\ (3.2\text{M}/8.7\text{M})$$

Types of indirect cost rates:

- Provisional; then Final
- Predetermined (educational/research entities)
- Fixed Carry-forward

Indirect Cost Pool expenditures must meet the same requirements as grant expenditures

- ***Reasonable***
 - ***Necessary***
 - ***Allocable***
 - ***Non-duplicative***
- Would the operation of a Tribal boat meet the definition?
 - How about an employee Christmas party?
 - How about an advertisement for open positions in local paper?

Indirect cost pool sample (excerpts)

Title / Description	FY 20XX Expenditures @ 100%	Unallowable	Directly Funded Indirect	Council/ General Government	Benefit Direct Functions	Actual Indirect Cost Pool
Salaries:						
Council Members (8)	236,305			118,153		\$118,153
Secretaries (3)	86,280					86,280
Receptionist (2)	39,385					39,385
Comptroller	85,624					85,624
Grant Manager	64,674					64,674
Senior Accountant / Staff Accountants (4)	172,924					172,924
Payroll Clerk	42,282					42,282
Tribal Administrator	75,376					75,376
Tribal Administrator - Exec Assistant	59,599					59,599
Human Resource Director	17,101					17,101
Procurement Officer	29,005					29,005
Facilities Manager	52,358					52,358
Security Supervisor	48,452					48,452
Security Staff (4)	84,490					84,490
Maintenance Staff (4)	143,959					143,959
Senior Planner	62,747					62,747
Associate Planner	51,497					51,497
Other Salaries (HHS Director)	46,123	0	0	46,123	0	0
Subtotal Salaries	1,398,181	0	0	164,276	0	1,233,906
Fringe Benefits on the Above Salaries						
Audit	453,352			41,069		412,283
Professional Services (see Exhibit H)	63,316					63,316
Legal (See Exhibit H)	385,486			66,730		318,756
Contract Labor (See Exhibit H)	1,052,293			789,220		263,073
Contract Services (see Exhibit H)	15,465					15,465
Stipend	68,604			7,531		61,073
Travel - Business	20,848	20,848				0
Machine Fuel	17,347			14,192		3,155
Travel - Flight Expense	1,126					1,126
Vehicle Insurance	30,249			23,689		6,560
Rent - Building	15,744					15,744
Cell Phone Expense	20,000					20,000
Storage Rental	75,202			16,589		58,613
Utility - Electric	10,693			7,033		3,660
Utility - Gas	127,729			570		127,159
Utility - Oil	12,837					12,837
Maintenance Repair	305					305
Liability Insurance	3,236					3,236
Mailing	107,882					107,882
Total	874					874
Depreciation (Exhibit G)	4,160,612	21,580	0	1,133,876	0	3,005,156
Total Indirect Cost Pool	122,431	\$21,580	\$0	\$1,133,876	\$0	\$3,127,587

Sample Carryforward Computation

Program	Actual Direct Costs	% of Total	Actual Indirect Cost Pool	Indirect Rate at 39.45% ^{1/}	Indirect Cost Collections	Underfunded Indirect	Overfunded Indirect	Carryforward
BIA (638)	\$430,086	5.42%	\$169,515	\$169,669	\$221,604	\$0	\$51,935	-\$154
Interior (Non-638)	0	0.00%	0	0	0	0	0	0
IHS (638)	235,124	2.97%	92,889	92,756	80,833	11,923	0	133
HHS (Non-638)	170,491	2.15%	67,243	67,259	58,988	8,255	0	0
Agriculture	20,716	0.26%	8,132	8,172	0	8,132	0	0
Commerce	0	0.00%	0	0	0	0	0	0
Defense	0	0.00%	0	0	0	0	0	0
Education	27,164	0.34%	10,634	10,716	3,882	6,752	0	0
Energy	0	0.00%	0	0	0	0	0	0
EEOC	0	0.00%	0	0	0	0	0	0
EPA	212,377	2.68%	83,819	83,783	81,444	2,339	0	36
Homeland Security	3,780	0.05%	1,564	1,491	0	1,491	0	73
HUD	282,096	3.56%	111,342	111,287	6,360	104,927	0	55
IMLS	0	0.00%	0	0	0	0	0	0
Justice	35,767	0.45%	14,074	14,110	16,855	0	2,745	-36
Labor	47,779	0.60%	18,766	18,849	4,802	13,964	0	0
Transportation	0	0.00%	0	0	0	0	0	0
State & Other	0	0.00%	0	0	0	0	0	0
BIA (100-297)	0	0.00%	0	0	0	0	0	0
Tribal	6,463,465	81.52%	2,549,609	2,549,837				
Totals	\$7,928,845	100.00%	\$3,127,587	\$3,127,929	\$474,768	\$157,783	\$54,680	\$107

Sample FCF Rate Computation

	FY 20XX* <u>Actual Costs</u>	FY Yr (+2) <u>Proposed Costs</u>
Indirect Costs	3,127,587 from Exhibit E-1	3,221,414 from Exhibit E-2
FY 20xx Carryforward	N/A	N/A
FY 20xx Carryforward	N/A	107 from Exhibit B
 A: Indirect Cost Pool	 <u>3,127,587</u>	 <u>3,221,521</u>
 B: Direct Cost Base	 <u>7,928,845</u> from Exhibit C	 <u>8,325,287</u> from Exhibit D
 Indirect Cost Rate (A / B)	 <u>39.45%</u>	 <u>38.70%</u> FCF Rate

* FY Most Recent Audit

Things to calculate and strategize

- Calculate different base methods
 - Direct Cost Base (Modified for excluded items)
 - Total Salaries Base
 - Total Salaries & Fringe Base
- Consider collections per different federal awards
 - Keep in mind, BIA & IHS 638 should receive full funding of approved rate
 - Base strategies for salaries, equipment, etc.
- If you are not up-to-date with current rate, plan to get there!

Example Differences Between Based Rates

Sample Tribe Programs	Direct Cost Base	Salary Only Base	Salary and Fringe Base	Applied DCB(M)	Applied Salary	Applied Sal/Fringe
Bureau of Indian Affairs	1,211,956	721,355	973,829	338,899	402,884	396,855
Indian Health Service	2,653,582	1,804,435	2,562,298	742,021	1,007,795	1,044,188
Department of Justice	125,850	0	0	35,191	0	0
Head Start	1,000,000	425,333	561,440	279,630	237,553	228,798
General Fund (no IDC)	3,000,000	1,050,000	1,386,000	838,890	586,436	564,823
Total Direct Funds	7,991,388	4,001,123	5,483,567			
Indirect cost pool	2,234,666	2,234,666	2,234,666			
IDC Rate	27.96%	55.85%	40.75%			
IDC Collected - Federal				1,395,742	1,648,232	1,669,841

Example – Use of federal funds to purchase equipment effect on base

Sample Tribe Programs	Original DC Base	IDC Charged	\$200K Equip spent by BIA	New IDC Charged	Change in IDC
Bureau of Indian Affairs	1,211,956	338,904	1,011,956	290,241	-48,663
Indian Health Service	2,653,582	742,032	2,653,582	761,080	19,048
Department of Justice	125,850	35,192	125,850	36,095	903
Head Start	1,000,000	279,634	1,000,000	286,812	7,178
General Fund (no IDC)	3,000,000	838,903	3,000,000	860,437	21,534
Total Direct Funds	7,991,388	2,234,666	7,791,388		
Indirect cost pool	2,234,666		2,234,666		
IDC Rate	27.96%		28.68%		

Other Strategies – Special Rates

- Tribe has specific special base(s) that can be -
 1. an otherwise allowable indirect cost chargeable to a particular special rate base (e.g., an ISDA only SR base), but not to other special rate bases; and
 2. such identified indirect costs is not funded as a direct CSC. The Tribe may choose to add the identified indirect cost base to the indirect cost pool for that special rate base only.
- Tribe needs to show –
 - The identified indirect cost would be added to the applicable special rate pool before calculating the rate for the applicable special rate base. The indirect costs must be identified and described in the IDC Proposal.

Sample Special Rate based on Funding bases-

Sample Tribe Programs	Proposed Base	Percent of Base	
Bureau of Indian Affairs-638	1,809,567	24.37%	
Indian Health Service-638	2,508,796	33.78%	
All Others	3,107,456	41.85%	
Total Base	7,425,819	100%	
Allocation of Pool & Rates	ICP	Carry forwards	IDC Rates
Totals	2,997,020	227,572	
Overall Rate		43.42%	
Bureau of Indian Affairs-638	730,331	58,916	43.62%
Indian Health Service-638	1,012,536	120,613	45.17%
All Others	1,254,152	48,043	41.91%

Sample Special Rate based on flow-thru entity-

Sample Flow-Thru Entity	Proposed Base			
Tribal HCC (IHS 638)	9,285,669			
All Tribal/Federal Programs	17,589,794			
Total Base	26,875,463			
Allocation of Pools & Rates	ICP	Carry forwards	ICP + CF	IDC Rates
Tribal IC Pool & CF	6,899,648	159,887	7,059,535	26.27%
THCC IDC (Tribe Rate)	2,439,121			
THCC IC Pool (at THCC)	1,099,882	32,589		
Total THCC (w/ Tribe):	3,539,003	192,476	3,731,479	40.19%

Q&A

