**Proposed ISDA Amendments to Retain Current CSC Reimbursements**

* **What are contract support costs (CSC)?**
  + CSC pay for Tribal administrative costs, which otherwise would go unreimbursed due to reduced economies of scale, unique tribal costs, and the unavailability of many federal administrative costs to be transferred to tribal contractors.
  + Without CSC, Tribes would have to fund these costs directly from program amounts, reducing dollars available for services (such as health care and social services, child welfare, public safety, etc.).
  + CSC currently adds over $800 million annually to the IHS budget.
* **What is the problem?**
  + Last August (2021), the D.C. Circuit issued a decision in the *Cook Inlet Tribal Council v. Dotomain* case that said Tribes cannot recover any costs as CSC if the government would have incurred a similar cost, *even if the government never transferred those dollars to Tribes*.
  + In that case, IHS underfunded CITC’s facilities costs. The D.C. Circuit said CITC should seek relief by asking for increased program (secretarial amount) dollars rather than CSC. This is wrong because IHS does not have any funds available for secretarial amount increases, and because the right to recover CSC was specifically added to the Act for this purpose. Per the D.C. Circuit’s rationale, each Tribe requiring funding would need a separate act of Congress to be reimbursed.
  + In the meantime, this decision could be used to cut down nearly all Tribal administrative cost CSC reimbursements. In fact, IHS has already done so—in December, it reduced the Fort Defiance indirect CSC reimbursements from $18.5 million to $1.9 million.
* **Who is impacted?**
  + All Tribes and tribal organizations that have an ISDA contract with either IHS or BIA.
* **Can this wait?**
  + No. IHS has already started using this decision to drastically cut CSC reimbursements. In December, IHS cut contract support cost payments to Fort Defiance Navajo Health by 90%, relying on the *Cook Inlet* decision. If carried out to its full extent, nearly $1 billion would be removed from Tribal health providers in the middle of a pandemic.
* **What action needs to be taken?**
  + IHS must assure Tribes it will maintain the status quo: no CSC payments will be reduced while tribal consultation and congressional review are underway.
  + Congress should amend the ISDA to overrule the *Cook Inlet* decision and restore the status quo: CSC is available when overhead or administrative costs that IHS paid are insufficient to meet reasonable and necessary tribal requirements.