



July 11, 2024

The Indian Self-Determination and Education Assistance Act (ISDEAA) requires Indian Health Service (IHS) to compensate Tribes for **Contract Support Costs (CSC)** and **Section 105(I) Payments for Tribal Leases**. CSC are the necessary and reasonable costs associated with administering the contracts and compacts through which Tribes assume direct responsibility for IHS programs and services. A 105(I) lease is the compensation to Tribes for reasonable operating costs associated with facilities leased or owned by Tribes and Tribal organizations to carry out health programs under the ISDEAA. These accounts are mandatory spending, but Congress currently includes them in the discretionary budget.

Background on Contract Support Costs and Section 105(I) Payments

ISDEAA **Contract Support Costs (CSC)** and **Section 105(I) Payments for Tribal Leases** are **legally mandatory payments**. Congress provides these costs as an “indefinite discretionary,” as an open-ended appropriation to meet these obligations. Despite this, does not account for them as “mandatory” spending in the budget.

- Congress intended for these payments to be mandatory when ISDEAA was first enacted.
- The Supreme Court upheld these payments as mandatory obligations.¹
- Appropriations Committees have cited this issue for nearly a decade and call on a solution, including reclassification of these accounts as mandatory.²
- The president’s budget request has consistently recommended transitioning these costs to mandatory.

Why does taking action matter?

If annual funding increases are less than inflation, then Tribal trust and treaty rights are losing ground. As **Contract Support Costs (CSC)** and **Section 105(I) Payments for Tribal Leases** continue to increase, the annual increases mostly go to these two accounts, leaving all other programs in the Indian Health Service (IHS), Bureau of Indian Affairs (BIA), and Bureau of Indian Education (BIE) budget flat-funded, receiving little to no increase. In June 2024, the Supreme Court ruled that CSC must be paid to Tribes on revenue from Medicare, Medicaid and private insurance. The Federal government estimates this could add an additional \$2 billion to the CSC obligation.

Call to Action:

Urge Congress to account for mandatory payments for **CSC** and **Section 105(I) Leases** as mandatory spending in the Annual appropriations process. Congress can reclassify these accounts by simply coming to an agreement on how to account for them. Instead, Congress counts mandatory payments against discretionary spending for the Indian Health Service and Bureau of Indian Affairs each year.

¹ See: *Cherokee v. Leavitt*, 543 U.S. 631, 2005; *Salazar v. Ramah Navajo Chapter*, 567 U.S. 182, 2012

² See page H11281 of the Congressional Record for December 17, 2019, “Obligations of this nature are typically addressed through mandatory spending, but in this case since they fall under discretionary spending, they are impacting all other programs funded under the Interior and Environment Appropriations bill, including other equally important Tribal programs [...]”



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