



Direct Service Tribes Advisory Committee

As long as the grass grows and the rivers flow. . .

May 26, 2026

The Honorable Clayton Fulton
Chief of Staff
Indian Health Service
5600 Fishers Lane
Rockville, MD 20857

RE: Mandatory Fiscal Year 2028 Contract Support Costs and 105(I) Lease Payment Appropriations

Mr. Fulton,

On behalf of the Indian Health Service (IHS) Direct Service Tribal Advisory Committee (DSTAC), we thank IHS leadership for participating in the recent in-person DSTAC meeting held in Rapid City, South Dakota on May 5, 2026. We also extend our appreciation to Jillian Curtis for her presentation and discussion with DSTAC regarding the President's Fiscal Year (FY) 2027 Budget Request to Congress. The President's FY 27 Budget Request reflects Secretary Kennedy's commitment to Indian Country that he made on day one of his tenure. As the IHS and Administration continue to work with Congress to fund the agency, the DSTAC requests that the Administration reclassify Contract Support Costs (CSC) and Section 105(I) Lease Payments as mandatory funding in the President's FY 2028 Budget Request to Congress.

Indefinite Discretionary Appropriations and Budget Crowd Out

Contract Support Costs and Section 105(I) Lease Payments represent legally required obligations that continue to grow each fiscal year. For FY 2026, CSC and 105(I) lease payments accounted for approximately 28 percent of the total IHS budget, and the President's FY 2027 Budget Request estimates that this share will increase to 32 percent as Tribal self-governance and self-determination agreements expand.

Maintaining these costs within the discretionary budget creates significant pressure on the overall IHS funding structure. As CSC and 105(I) obligations increase, they consume a larger share of available discretionary funding. When combined with rising medical inflation and population growth, this dynamic effectively results in flat funding for core IHS programs. For Direct Service Tribes in particular, these pressures lead to reduced resources for essential services and limit the agency's ability to meet baseline care needs in Tribal communities.

The IHS National Tribal Budget Formulation Workgroup recommended in its Request to the Indian Health Service for Fiscal Year 2028 Budget that the Administration reclassify CSC and Section 105(I) lease payments as mandatory funding, and the DSTAC strongly supports this request. These obligations are, by their nature, mandatory spending. However, Congress continues to fund them through discretionary appropriations, requiring them to compete directly



Direct Service Tribes Advisory Committee

As long as the grass grows and the rivers flow. . .

with vital IHS programs. Multiple Supreme Court decisions, including *Cherokee Nation v. Leavitt*, *Salazar v. Ramah Navajo Chapter*, and *Becerra v. San Carlos Apache Tribe*, have affirmed that the federal government must fully fund CSC and 105(I) lease payments. Despite this clear legal precedent, their placement within discretionary funding creates uncertainty and instability in the IHS budget. The *Becerra v. San Carlos Apache Tribe* decision further expanded these obligations by requiring IHS to pay CSC on revenues generated from Medicare, Medicaid, and private insurance, potentially increasing annual costs by up to \$2 billion.

This situation creates an unsustainable funding structure under discretionary caps. Without reform, IHS is forced to either reduce funding for essential programs or identify additional discretionary resources, both of which negatively impact Tribal health care delivery and undermine the federal government's trust and treaty obligations to provide care to American Indian and Alaska Native (AI/AN) people. Reclassifying CSC and Section 105(I) lease payments as mandatory funding would provide stability, predictability, and adequate resources to meet these legal obligations. It would also protect core IHS programs from ongoing budgetary erosion and better support Tribal self-determination and self-governance.

Conclusion

The DSTAC urges the Administration to reclassify CSC and Section 105(I) lease payments as mandatory funding in the President's FY 2028 Budget Request. Doing so will align federal budgeting practices with established legal requirements, reduce pressure on discretionary IHS programs, and help ensure that the federal government can fully meet its trust and treaty obligations to Tribal Nations. Thank you for your continued engagement with DSTAC and your leadership in supporting the Indian health system. We look forward to continued collaboration with IHS to strengthen health care delivery across Indian Country.

Sincerely,
Alicia Mousseau, PhD
Oglala Sioux Tribe, Vice President
IHS Direct Services Tribes Advisory Committee, Chair

CC: Mark Cruz, Senior Advisor to the Secretary, HHS
Stacey Ecoffey, Deputy Director for Intergovernmental and External Affairs, IHS