

## SELF-DETERMINATION

### Indian Health Service Philosophy:

The Indian Health Service (IHS) has implemented the Indian Self-Determination and Education Assistance Act (ISDA), Public Law 93-638, as amended, in the spirit by which the Congress recognized the special legal relationship and the obligation of the United States to American Indian and Alaska Native peoples. In keeping with the concept of tribal sovereignty, the ISDA, as amended, builds upon IHS policy that maximizes opportunities for tribes to exercise their right to manage and operate IHS health programs, or portions thereof, under Title I and Title III, as well as those tribes who choose their health services to be provided directly by the IHS. The IHS recognized that tribal decisions to contract/compact or not to contract/compact are equal expressions of self-determination.

### Title I Contracts and Title III Self-Governance Compacts:

The IHS contracts/compacts with tribes and tribal organizations (T/TO) pursuant to the authority provided under Title I and Title III of the ISDA, as amended. This Act allows T/TO to enter into contracts/compacts with the Government to plan, conduct, and administer programs which are authorized under Section 102 of the Act. The IHS has been contracting with T/TO pursuant to the authority of P.L. 93-638 since its passage in 1975. Today, the IHS currently administers self-determination contracts under Title I and compacts authorized under Title III valued at more than \$1 billion. Title III provides authorization to sign self-governance compacts under a demonstration project for a specific number of tribes who meet certain criteria. Forty-five compacts and sixty-four annual funding agreements have been negotiated to date with 264 tribes.

### IHS and Tribally-Operated Service Unit and Medical Facilities: (See Table)

The total dollars administered under ISDA contracts and compacts have nearly doubled in recent years and the scope of services managed and provided by tribal programs has also expanded greatly. Tribes have historically assumed control of community services first and then expanded into medical care. For example, the CHR program and community-based components of the alcohol programs have been almost 100 percent tribally-operated. Tribally-operated hospitals has now started to rise, and over 20 percent of the hospitals funded by IHS are managed by tribes. This trend is expanding their scope and is also reflected in the increasing number of ambulatory medical facilities now managed by tribes.

### Title I Joint Rulemaking:

In August 1997, the final joint Department of Health and Human Services and Department of Interior rule implementing P.L. 103-413, the 1994 Amendments to the Indian Self-Determination Act, became effective. The final rule was developed with active tribal participation using the guidance of the Negotiating Rulemaking Act. The joint rule permits the Departments to award contracts and grants to Indian tribes without the unnecessary burden of confusion associated with having two sets of rules for single-program legislation. The Act, and the joint rule, will facilitate self-determination contracting by Indian tribes.

Self-Determination Implementation: Contract Support Cost Funding

Because the rate of T/TO entering into self-determination contracts and compacts has been steadily increasing, the demand for contract support cost (CSC) funding to support T/TO in their contracting/compacting has also increased. The CSC funding is authorized pursuant to Section 106 (a) (2) of the ISDA. This funding has been used by T/TO to develop strong, stable tribal governments which have in turn enabled them to professionally manage their contracts/compacts and the corresponding services to their communities. Additionally, through the funding of CSC, the IHS has helped in the development of T/TO who are maturing and now achieving greater levels of self-sufficiency in all areas.

It is critical to point out that the requested increases for CSC are attributed to increased contracting and compacting by T/TO under both Title I and III of the ISDA, a stated goal of both the Congress and the IHS. The Agency has taken steps to ensure that funding provided is allowable, allocable, reasonable, and necessary. The T/TO have, of necessity, also borne some of the burdens of administrative streamlining. The IHS has, beginning in FY 1995, provided administrative shares of its budget to T/TO associated with their contracting and compacting activities. These shares are made available to T/TO pursuant to Sections 102 (a) and 106 (n) of the ISDA.