



MAY 22 2015

Dear Tribal Leader:

I am writing to inform you of a settlement that the Indian Health Service (IHS) has reached with employee unions. The settlement resolves claims by IHS employees for overtime compensation for work that they performed in or for only Federally operated IHS hospitals, clinics, or facilities and for which they were not adequately paid.

The claims largely arise from IHS employees who have covered shifts at health care facilities that would not otherwise have been covered or stayed beyond their scheduled work time to serve additional patients. While we recognize that there are other important needs for which these funds could be used, it is important that IHS employees are properly compensated for the work that they have performed in delivering health services or in support of direct health care. The majority of the settlement will be used to compensate these IHS employees.

We believe that settling these claims now is right, the appropriate step, and the most fiscally responsible action. This settlement allows us to avoid future litigation costs and the possibility of future awards totaling hundreds of millions of dollars. It will allow us to continue to focus our attentions going forward on the important task of serving Indian Country health needs.

A combination of current-year funds that have been obligated but not spent, and prior year funds that would have been available to pay salary obligations at the time that the work was performed, will be used to resolve the claims. The total settlement costs will be borne by the Service Units based upon salary obligations where the claims arose.

Beginning in 2008, the unions representing employees among various IHS locations and facilities across the country filed grievances alleging unpaid overtime. After initial attempts to negotiate a settlement failed, IHS and the unions entered arbitration on 21 claims. Sixteen of those claims were adjudicated or resolved in favor of the employee unions and adjudicated or resolved at a valuation of \$685,000. The average award per claim totaled nearly \$33,000. With approximately 20,000 employees potentially eligible for this settlement, if all claims were litigated separately, total awards could run to several hundred million dollars.

A portion of the settlement will be paid from current, fiscal year 2015 funds. IHS intends to reallocate \$20 million from the new staffing funding increase in the fiscal year 2015 appropriation, originally identified for the Kayenta Health Center in Kayenta, Arizona. The construction schedule for this facility has experienced delays and, as a result, only \$4 million of the \$24 million obligated will be needed for staffing funding. IHS has notified Congress of its intent to reallocate the remaining \$20 million on a one-time, non-recurring basis for the purpose of this settlement.

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The remaining portion of the settlement must be charged to the fiscal year in which the overtime was earned. IHS will use prior year funding that remains available to the extent legally permissible (up to \$9 million). The remaining amount (approximately \$50 - \$51 million) will come from prior year third-party health insurance collections that would have been available to pay these overtime salary costs at the time that the costs were incurred.

IHS is also working to address the management of overtime work performed by IHS employees.

I trust this information is helpful and wish to assure you of our commitment to providing the highest level of health care possible to your communities. Should you have any questions, please don't hesitate to contact me.

Sincerely,

/Robert G. McSwain/

Robert G. McSwain
Acting Director