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Health, Education and Human Services Committee receives report on Contract Support Cost Claims

WINDOW ROCK – Last Wednesday, the Health, Education, and Human Services Committee received a report regarding Contract Support Cost Claims, based off a submitted claim from the Navajo Area Indian Health Service to President Ben Shelly for approximately \$17 million.

Under the Indian Self Determination Act, any tribe or tribal organization can apply with the United States to take over any federal program that provides services to Native Americans. In return, the government provides the contracts and funding for these federal programs.

Steven Boos, attorney for Maynes, Bradford, Shipp & Sheftel, LLP., said the problem with providing funding is that the BIA and IHS have never come to Congress to request for 100% of what tribes need to cover their administrative costs.

“Congress wanted to ensure that tribes didn’t have to take money from direct services out of the administrative functions. So, they added the 106A2 amount or contract support costs, which is an amount of money that is designed to ensure that when a tribal organization takes over a federal program it actually has enough money to pay for all the administrative costs associated with running that program,” said Boos.

There have been decades of litigation over the issue of how much money tribes are entitled to based off their contract support allocation through federal programs.

Boos also stated that there have been some settlements involving the Navajo Nation. However, the Navajo Nation has not participated in all litigations largely due to miscommunication within the Nation’s departments.

According to Boos, agencies are supposed to submit shortfall reports, which is an accurate representation in the difference in the amount of money that the tribe was projected to receive in accordance with their contract and what it actually received. Through these agencies, it is now known that these shortfall reports were only “estimates.”

Council Delegate Walter Phelps (Cameron, Coalmine Canyon, Leupp, Tolani Lake, Tsidi To ii) questioned the time frame and process of retrieving documentation from the Navajo Nation through these shortfall reports.

“Is your goal basically to reach the estimated amounts or to get as much documentation as possible to get as close as possible to that estimated amount?” asked Delegate Phelps.

Boos stated that there are two separate documentations for IHS claims and BIA claims that they have been working on. In both cases, documentation began in 2006, which has enabled them to find some of the documents needed.

Audits will be conducted in the Navajo Nation to show how much is spent on administrative costs.

“Navajo was selected and they want to look at your documents for 2005 calendar year. Most the documents have been collected on how to calculate your contract claims,” stated Boos.

Chair of the Health, Education, and Human Services Committee Council Delegate Jonathan Hale (Oak Springs, St. Michaels) stated that a couple years ago that the Navajo Nation Department of Justice notified all division directors and branches that they needed to document all contract support costs within certain time periods.

“All the monies within the Navajo Nation come from various sources. Even this committee, we are dealing with approving some of these contracts that are coming back down from IHS. In the amount of time we spent talking about funding issues, that would somewhat be administrative support costs and needs to be noted for reimbursement purposes. This was one of the things that the Department of Justice wanted everybody to keep track of,” said Delegate Hale.

The HEHSC will vote whether to accept the report at their next scheduled meeting.

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