

§ 1000.131

§ 1000.131 Will Tribes/Consortia participate in the Secretary's determination of what is to be included on the annual list of available programs?

Yes, the Secretary must consult each year with Tribes/Consortia participating in self-governance programs regarding which bureau programs are eligible for inclusion in AFAs.

§ 1000.132 How will the Secretary consult with Tribes/Consortia in developing the list of available programs?

(a) On, or as near as possible to, October 1 of each year, the Secretary must distribute to each participating self-governance Tribe/Consortium the previous year's list of available programs in accordance with section 405(c)(4) of the Act. The list must include:

(1) All of the Secretary's proposed additions and revisions for the coming year with an explanation; and

(2) Programmatic targets and an initial point of contact for each bureau.

(b) The Tribes/Consortia receiving the proposed list will have 30 days from receipt to comment in writing on the Secretary's proposed revisions and to provide additions and revisions of their own for the Secretary to consider.

(c) The Secretary will carefully consider these comments before publishing the list as required by section 405(c)(4) of the Act.

(d) If the Secretary does not plan to include a Tribal suggestion or revision in the final published list, he/she must provide an explanation of his/her reasons if requested by a Tribe.

§ 1000.133 What else is on the list in addition to eligible programs?

The list will also include programmatic targets and an initial point of contact for each bureau. Programmatic targets will be established as part of the consultation process described in § 1000.132.

§ 1000.134 May a bureau negotiate with a Tribe/Consortium for programs not specifically included on the annual section 405(c) list?

Yes, the annual list will specify that bureaus will negotiate for other programs eligible under section 403(b)(2)

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when requested by a Tribe/Consortium. Bureaus may negotiate for section 403(c) programs whether or not they are on the list.

§ 1000.135 How will a bureau negotiate an annual funding agreement for a program of special geographic, historical, or cultural significance to more than one Tribe?

(a) If a program is of special geographic, historical, or cultural significance to more than one Tribe, the bureau may allocate the program among the several Tribes/Consortia or select one Tribe/Consortium with whom to negotiate an AFA.

(b) In making a determination under paragraph (a) of this section, the bureau will, in consultation with the affected Tribes, consider:

(1) The special significance of each Tribe's or Consortium member's interest; and

(2) The statutory objectives being served by the bureau program.

(c) The bureau's decision will be final for the Department.

§ 1000.136 When will this determination be made?

It will occur during the pre-negotiation process, subject to the timeframes in § 1000.171 and § 1000.172.

FUNDING

§ 1000.137 What funds are included in an AFA?

Bureaus determine the amount of funding to be included in the AFA using the following principles:

(a) *403(b)(2) programs*. In general, funds are provided in an AFA to the Tribe/Consortium in an amount equal to the amount that it is eligible to receive under section 106 of Pub. L. 93-638.

(b) *403(c) programs*. (1) The AFA will include:

(i) Amounts equal to the direct costs the bureau would have incurred were it to operate that program at the level of work mutually agreed to in the AFA; and

(ii) Allowable indirect costs.

(2) A bureau is not required to include management and support funds from the regional or central office level in an AFA, unless: