

NEGOTIATING A SELF-GOVERNANCE
COMPACT**§ 1000.161 What is a self-governance compact?**

A self-governance compact is an executed document that affirms the government-to-government relationship between a self-governance Tribe and the United States. The compact differs from an AFA in that parts of the compact apply to all bureaus within the Department of the Interior rather than a single bureau.

§ 1000.162 What is included in a self-governance compact?

A model format for self-governance compacts appears in appendix A. A self-governance compact should generally include the following:

- (a) The authority and purpose;
- (b) Terms, provisions, and conditions of the compact;
- (c) Obligations of the Tribe and the United States; and
- (d) Other provisions.

§ 1000.163 Can a Tribe/Consortium negotiate other terms and conditions not contained in the model compact?

Yes, the Secretary and a self-governance Tribe/Consortium may negotiate into the model compact contained in appendix A additional terms relating to the government-to-government relationship between the Tribe(s) and the United States. For BIA programs, a Tribe/Consortium and the Secretary may agree to include any term in a contract and funding agreement under Title I in the model compact contained in appendix A to this part.

§ 1000.164 Can a Tribe/Consortium have an AFA without entering into a compact?

Yes, at the Tribe's/Consortium's option.

§ 1000.165 Are provisions in compacts negotiated before January 16, 2001, effective after implementation?

(a) Yes, all provisions in compacts that were negotiated with BIA before January 16, 2001, shall remain in effect for BIA programs only after January 16, 2001, provided that each compact contains provisions:

(1) That are authorized by the Tribal Self-Governance Act of 1994;

(2) Are in compliance with other applicable Federal laws; and,

(3) Are consistent with this part.

(b) BIA will notify the Tribe/Consortium in writing when BIA asserts that a provision or provisions of that Tribe's/Consortium's previously negotiated compact is not in compliance with the terms and conditions of this part. BIA and the Tribe/Consortium will renegotiate the provision within 60 days of the Tribe's/Consortium's receipt of the notification.

(c) If renegotiation is not successful within 60 days of the notice being provided, BIA's determination is final for the bureau and enforceability of the provisions shall be subject to the appeals process described in subpart R of this part. Pending a final appeal through the appeals process, BIA's determination shall be stayed.

NEGOTIATION OF INITIAL ANNUAL
FUNDING AGREEMENTS**§ 1000.166 What are the phases of the negotiation process?**

There are two phases of the negotiation process:

- (a) The information phase; and
- (b) The negotiation phase.

§ 1000.167 Who may initiate the information phase?

Any Tribe/Consortium that has been admitted to the program or to the applicant pool may initiate the information phase.

§ 1000.168 Is it mandatory to go through the information phase before initiating the negotiation phase?

No, a Tribe/Consortium may go directly to the negotiation phase.

§ 1000.169 How does a Tribe/Consortium initiate the information phase?

A Tribe/Consortium initiates the information phase by submitting a letter of interest to the bureau administering a program that the Tribe/Consortium may want to include in its AFA. A letter of interest may be mailed, telefaxed, or hand-delivered to:

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(a) The Director, OSG, if the request is for information about BIA programs;

(b) The non-BIA bureau's self-governance representative identified in the Secretary's annual section 405(c) listing in the FEDERAL REGISTER, if the request is for information concerning programs of non-BIA bureaus.

§ 1000.170 What is the letter of interest?

A letter of interest is the initial indication of interest submitted by the Tribe/Consortium informing the bureau of the Tribe's/Consortium's interest in seeking information for the possible negotiation of one or more bureau programs. For non-BIA bureaus, the program and budget information request should relate to the program and activities identified in the Secretary's section 405(c) list in the FEDERAL REGISTER or a section 403(c) request. A letter of interest should identify the following:

(a) As specifically as possible, the program a Tribe/Consortium is interested in negotiating under an AFA;

(b) A preliminary brief explanation of the cultural, historical, or geographic significance to the Tribe/Consortium of the program, if applicable;

(c) The scope of activity that a Tribe/Consortium is interested in including in an AFA;

(d) Other information that may assist the bureau in identifying the programs that are included or related to the Tribe's/Consortium's request;

(e) A request for information that indicates the type and/or description of information that will assist the Tribe/Consortium in pursuing the negotiation process;

(f) A designated Tribal contact;

(g) A request for information on any funds that may be available within the bureau or other known possible sources of funding for planning and negotiating an AFA;

(h) A request for information on any funds available within the bureau or from other sources of funding that the Tribe/Consortium may include in the AFA for planning or performing programs or activities; and

(i) Any requests for technical assistance to be provided by the bureau in preparing documents of materials that

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may be required for the Tribe/Consortium in the negotiation process.

§ 1000.171 When should a Tribe/Consortium submit a letter of interest?

A letter of interest may be submitted at any time. To meet the negotiation deadlines below, letters should be submitted to the appropriate non-BIA bureaus by March 1; letters should be submitted to BIA by April 1 for fiscal year Tribes/Consortia or May 1 for calendar year Tribes/Consortia.

§ 1000.172 What steps does the bureau take after a letter of interest is submitted by a Tribe/Consortium?

(a) Within 15 calendar days of receipt of a Tribe's/Consortium's letter of interest, the bureau will notify the Tribe/Consortium about who will be designated as the bureau's representative to be responsible for responding to the Tribal requests for information. The bureau representative shall act in good faith in fulfilling the following responsibilities:

(1) Providing all budget and program information identified in paragraph (b) of this section, from each organizational level of the bureau(s); and

(2) Notifying any other bureau requiring notification and participation under this part.

(b) Within 30 calendar days of receipt of the Tribe's/Consortium's letter of interest:

(1) To the extent that such reasonably related information is available, the bureau representative is to provide the information listed in paragraph (c) of this section, if available and consistent with the bureau's budgetary process;

(2) A written explanation of why the information is not available or not being provided to the Tribe's/Consortium's contact and the date by which other available information will be provided; or

(3) If applicable, a written explanation of why the program is unavailable for negotiation.

(c) Information to be made available to the Tribe's/Consortium's contact, subject to the conditions of paragraph (b) of this section, includes:

(1) Information regarding program, budget, staffing, and locations of the