

budgetary matters applicable to programs subject to the Act, and that are included in an individual self-governance annual funding agreement.

(8) It is the policy of the Secretary to implement policies, procedures, and practices at the Department to ensure that the letter, spirit, and goals of the Tribal Self-Governance Act are fully and successfully implemented.

(9) Executive Order 13084 on Consultation and Coordination with Indian Tribal Governments and any subsequent Executive Orders regarding consultation will apply to the implementation of these regulations.

Subpart B—Selection of Additional Tribes for Participation in Tribal Self-Governance

PURPOSE AND DEFINITIONS

§ 1000.10 What is the purpose of this subpart?

This subpart describes the selection process and eligibility criteria that the Secretary uses to decide that Indian Tribes may participate in Tribal self-governance as authorized by section 402 of the Tribal Self-Governance Act of 1994.

§ 1000.11 What is the “applicant pool”?

The applicant pool is the pool of Tribes/Consortia that the Director of the Office of Self-Governance has determined are eligible to participate in self-governance.

§ 1000.12 What is a “signatory”?

A signatory is a Tribe or Consortium that meets the eligibility criteria in § 1000.16 and directly signs the agreements. A signatory may exercise all of the rights and responsibilities outlined in the compact and annual funding agreement and is legally responsible for all financial and administrative decisions made by the signatory.

§ 1000.13 What is a “nonsignatory Tribe”?

(a) A nonsignatory Tribe is a Tribe that either:

(1) Does not meet the eligibility criteria in § 1000.16 and, by resolution of its governing body, authorizes a Con-

sortium to participate in self-governance on its behalf.

(2) Meets the eligibility criteria in § 1000.16 but chooses to be a member of a Consortium and have a representative of the Consortium sign the compact and AFA on its behalf.

(b) A non-signatory tribe under paragraph (a)(1) of this section:

(1) May not sign the compact and AFA. A representative of the Consortium must sign both documents on behalf of the Tribe.

(2) May only become a “signatory Tribe” if it independently meets the eligibility criteria in § 1000.16.

ELIGIBILITY

§ 1000.14 Who is eligible to participate in Tribal self-governance?

Two types of entities are eligible to participate in Tribal self-governance:

- (a) Indian Tribes; and
- (b) Consortia of Indian Tribes.

§ 1000.15 How many additional Tribes/Consortia may participate in self-governance per year?

(a) Sections 402(b) and (c) of the Act authorize the Director to select up to 50 additional Indian Tribes per year from an “applicant pool”. A Consortium of Indian Tribes counts as one Tribe for purposes of calculating the 50 additional Tribes per year.

(b) Any signatory Tribe that signed a compact and AFA under the Tribal Self-Governance Demonstration project may negotiate its own compact and AFA in accordance with this subpart without being counted against the 50-Tribe limitation in any given year.

§ 1000.16 What criteria must a Tribe/Consortium satisfy to be eligible for admission to the “applicant pool”?

To be admitted into the applicant pool, a Tribe/Consortium must either be an Indian Tribe or a Consortium of Indian Tribes and comply with § 1000.17.

§ 1000.17 What documents must a Tribe/Consortium submit to OSG to apply for admission to the applicant pool?

In addition to the application required by § 1000.23, the Tribe/Consortium must submit to OSG documentation that shows all of the following:

§ 1000.18

(a) *Successful completion of a planning phase and a planning report.* The requirements for both of these are described in §1000.19 and §1000.20. A Consortium's planning activities satisfy this requirement for all its member Tribes for the purpose of the Consortium meeting this requirement;

(b) *A request for participation in self-governance by a Tribal resolution and/or a final official action by the Tribal governing body.* For a Consortium, the governing body of each Tribe must authorize its participation by a Tribal resolution and/or a final official action by the Tribal governing body that specifies the scope of the Consortium's authority to act on behalf of the Tribe.

(c) *A demonstration of financial stability and financial management capability for the previous 3 fiscal years.* This will be done by providing, as part of the application, an audit report prepared in accordance with procedures promulgated under the Single Audit Act Amendments of 1996, 31 U.S.C. 7501, *et seq.*, for the previous 3 years of the self-determination contracts. These audits must not contain material audit exceptions as defined in §1000.21.

§1000.18 May a Consortium member Tribe withdraw from the Consortium and become a member of the applicant pool?

In accordance with the expressed terms of the compact or written agreement of the Consortium, a Consortium member Tribe (either a signatory or nonsignatory Tribe) may withdraw from the Consortium to directly negotiate a compact and AFA. The withdrawing Tribe must do the following.

(a) Independently meet all of the eligibility criteria in §§1000.14 through 1000.20. If a Consortium's planning activities and report specifically consider self-governance activities for a member Tribe, that planning activity and report may be used to satisfy the planning requirements for the member Tribe if it applies for self-governance status on its own.

(b) Submit a notice of withdrawal to OSG and the Consortium as evidenced by a resolution of the Tribal governing body.

25 CFR Ch. VI (4-1-06 Edition)

§1000.19 What is done during the "planning phase"?

The Act requires that all Tribes/Consortia seeking to participate in Tribal self-governance complete a planning phase. During the planning phase, the Tribe/Consortium must conduct legal and budgetary research and internal Tribal government and organizational planning. The availability of BIA grant funds for planning activities will be in accordance with subpart C. The planning phase may be completed without a planning grant.

§1000.20 What is required in a planning report?

As evidence that the Tribe/Consortium has completed the planning phase, the Tribe/Consortium must prepare and submit to the Secretary a final planning report.

(a) The planning report must:

(1) Identify BIA and non-BIA programs that the Tribe/Consortium may wish to subsequently negotiate for inclusion in a compact and AFA;

(2) Describe the Tribe's/Consortium's planning activities for both BIA and non-BIA programs that may be negotiated;

(3) Identify the major benefits derived from the planning activities;

(4) Identify the process that the Tribe/Consortium will use to resolve any complaints by service recipients;

(5) Identify any organizational planning that the Tribe/Consortium has completed in anticipation of implementing Tribal self-governance; and

(6) Indicate if the Tribe's/Consortium's planning efforts have revealed that its current organization is adequate to assume programs under Tribal self-governance.

(b) In supplying the information required by paragraph (a)(5) of this section:

(1) For BIA programs, a Tribe/Consortium should describe the process that it will use to debate and decide the setting of priorities for the funds it will receive from its AFA.

(2) For non-BIA programs that the Tribe/Consortium may wish to negotiate, the report should describe how the Tribe/Consortium proposes to perform the programs.