

§ 1000.400

support some or all of the costs of investment services.

§ 1000.400 Can a Tribe/Consortium retain savings from programs?

Yes, for BIA programs, the Tribe/Consortium may retain savings for each fiscal year during which an AFA is in effect. A Tribe/Consortium must use any savings that it realizes under an AFA, including a construction contract:

- (a) To provide additional services or benefits under the AFA; or
- (b) As carryover; and
- (c) For purposes of this subpart only, programs administered by BIA using appropriations made to other Federal agencies, such as the Department of Transportation, will be treated in accordance with paragraph (b) of this section.

§ 1000.401 Can a Tribe/Consortium carry over funds not spent during the term of the AFA?

This section applies to BIA programs, services, functions, or activities, notwithstanding any other provision of law. Any funds appropriated under the Snyder Act of 1921 (42 Stat. 208), for any fiscal year that are not obligated or spent by the end of the fiscal year for which they were appropriated shall remain available for obligation or expenditure during the following fiscal year. In the case of amounts made available to a Tribe/Consortium under an AFA, if the funds are to be expended in the succeeding fiscal year for the purpose for which they were originally appropriated, contracted or granted, or for which they are authorized to be used under the provisions of §106(a)(3) of the Act, no additional justification or documentation of such purposes need be provided by the Tribe/Consortium to the Secretary as a condition of receiving or expending such funds.

§ 1000.402 After a non-BIA AFA has been executed and the funds transferred to a Tribe/Consortium, can a bureau request the return of funds?

The bureau may request the return of funds already transferred to a Tribe/Consortium only under the following circumstances:

- (a) Retrocession;
- (b) Reassignment;

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(c) Construction, when there are special legal requirements; or

(d) As otherwise provided for in the AFA.

§ 1000.403 How can a person or group appeal a decision or contest an action related to a program operated by a Tribe/Consortium under an AFA?

(a) *BIA programs.* A person or group who is aggrieved by an action of a Tribe/Consortium with respect to programs that are provided by the Tribe/Consortium under an AFA must follow Tribal administrative procedures.

(b) *Non-BIA programs.* Procedures will vary depending on the program. Aggrieved parties should initially contact the local program administrator (the Indian program contact). Thereafter, appeals will follow the relevant bureau's appeal procedures.

§ 1000.404 Must self-governance Tribes/Consortia comply with the Secretarial approval requirements of 25 U.S.C. 81; 82a; and 476 regarding professional and attorney contracts?

No, for the period that an agreement entered into under this part is in effect, the provisions of 25 U.S.C. 81, 82a, and 476, do not apply to attorney and other professional contracts by participating Tribes/Consortia.

§ 1000.405 Are AFA funds non-Federal funds for the purpose of meeting matching requirements?

Yes, self-governance AFA funds can be treated as non-Federal funding for the purpose of meeting matching requirements under Federal law.

§ 1000.406 Does Indian preference apply to services, activities, programs, and functions performed under a self-governance AFA?

Tribal law must govern Indian preference in employment, where permissible, in contracting and subcontracting in performance of an AFA.

§ 1000.407 Do the wage and labor standards in the Davis-Bacon Act apply to Tribes and Tribal Consortia?

No, wage and labor standards of the Davis-Bacon Act do not apply to employees of Tribes and Tribal Consortia.