

Subpart D—Other Financial Assistance for Planning and Negotiation Grants for Non-BIA Programs

PURPOSE AND ELIGIBILITY

§ 1000.60 What is the purpose of this subpart?

This subpart describes the availability and process of applying for other financial assistance that may be available for planning and negotiating for a non-BIA program.

§ 1000.61 Are other funds available to self-governance Tribes/Consortia for planning and negotiating with non-BIA bureaus?

Yes, Tribes/Consortia may contact OSG to determine if OSG has funds available for the purpose of planning and negotiating with non-BIA bureaus under this subpart. A Tribe/Consortium may also ask a non-BIA bureau for information on any funds that may be available from that bureau.

ELIGIBILITY AND APPLICATION PROCESS

§ 1000.62 Who can apply to OSG for grants to plan and negotiate non-BIA programs?

Any Tribe/Consortium that is in the applicant pool, or has been selected from the applicant pool or that has an existing AFA.

§ 1000.63 Under what circumstances may planning and negotiation grants be awarded to Tribes/Consortia?

At the discretion of the Director, grants may be awarded when requested by the Tribe. Tribes/Consortia may submit only one application per year for a grant under this section.

§ 1000.64 How does the Tribe/Consortium know when and how to apply to OSG for a planning and negotiation grant?

When funds are available, the Director will publish a notice in the FEDERAL REGISTER announcing their availability and a deadline for submitting an application.

§ 1000.65 What kinds of activities do planning and negotiation grants support?

The planning and negotiation grants support activities such as, but not limited to, the following:

- (a) Information gathering and analysis;
- (b) Planning activities, that may include notification and consultation with the appropriate non-BIA bureau and identification and/or analysis of activities, resources, and capabilities that may be needed for the Tribe/Consortium to assume non-BIA programs; and
- (c) Negotiation activities.

§ 1000.66 What must be included in the application?

The application for a planning and negotiation grant must include:

- (a) Written notification by the governing body or its authorized representative of the Tribe's/Consortium's intent to engage in planning/negotiation activities like those described in § 1000.65;
- (b) Written description of the planning and/or negotiation activities that the Tribe/Consortium intends to undertake, including, if appropriate, documentation of the relationship between the proposed activities and the Tribe/Consortium;
- (c) The proposed timeline for completion of the planning and/or negotiation activities to be undertaken; and
- (d) The amount requested from OSG.

§ 1000.67 How will the Director award planning and negotiation grants?

The Director must review all grant applications received by the date specified in the announcement to determine whether or not the applications include the required elements outlined in the announcement. OSG must rank the complete applications submitted by the deadline using the criteria in § 1000.70.

§ 1000.68 May non-BIA bureaus provide technical assistance to a Tribe/Consortium in drafting its planning grant application?

Yes, upon request from the Tribe/Consortium, a non-BIA bureau may provide technical assistance to the

Tribe/Consortium in the drafting of its planning grant application.

§ 1000.69 How can a Tribe/Consortium obtain comments or selection documents received or utilized after OSG has made a decision on a planning grant application?

A Tribe/Consortium may request comments or selection documents under the Freedom of Information Act.

§ 1000.70 What criteria will the Director use to rank the applications and how many maximum points can be awarded for each criterion?

The Director will use the following criteria and point system to rank the applications:

(a) The application contains a clear statement of objectives and timelines to complete the proposed planning or negotiation activity and demonstrates that the objectives are legally authorized and achievable. (20 points)

(b) The proposed budget expenses are reasonable. (10 points)

(c) The proposed project demonstrates a new or unique approach to Tribal self-governance or broadens self-governance to include new activities within the Department. (5 points)

§ 1000.71 Can an applicant appeal a decision not to award a grant?

No, all decisions made by the Director to award or not to award a grant under this subpart are final for the Department.

§ 1000.72 Will OSG notify Tribes/Consortia and affected non-BIA bureaus of the results of the selection process?

Yes, OSG will notify all applicant Tribes/Consortia and affected non-BIA bureaus in writing as soon as possible after completing the selection process.

§ 1000.73 Once a Tribe/Consortium has been awarded a grant, may the Tribe/Consortium obtain information from a non-BIA bureau?

Yes, see § 1000.169.

Subpart E—Annual Funding Agreements for Bureau of Indian Affairs Programs

§ 1000.80 What is the purpose of this subpart?

This subpart describes the components of annual funding agreements for BIA programs.

§ 1000.81 What is an annual funding agreement (AFA)?

Annual funding agreements are legally binding and mutually enforceable written agreements negotiated and entered into annually between a self-governance Tribe/Consortium and BIA.

CONTENTS AND SCOPE OF ANNUAL FUNDING AGREEMENTS

§ 1000.82 What types of provisions must be included in a BIA AFA?

Each AFA must specify the programs and it must also specify the applicable funding:

(a) Retained by BIA for “inherently Federal functions” identified as “residuals” (See § 1000.94);

(b) Transferred or to be transferred to the Tribe/Consortium (See § 1000.91); and

(c) Retained by BIA to carry out functions that the Tribe/Consortium could have assumed but elected to leave with BIA. (See § 1000.101).

§ 1000.83 Can additional provisions be included in an AFA?

Yes, any provision that the parties mutually agreed upon may be included in an AFA.

§ 1000.84 Does a Tribe/Consortium have the right to include provisions of Title I of Pub. L. 93-638 in an AFA?

Yes, under Pub. L. 104-109, a Tribe/Consortium has the right to include any provision of Title I of Pub. L. 93-638 in an AFA.

§ 1000.85 Can a Tribe/Consortium negotiate an AFA with a term that exceeds one year?

Yes, at the option of the Tribe/Consortium, and subject to the availability of Congressional appropriations, a Tribe/Consortium may negotiate an