

Office of the Assistant Secretary, Interior

§ 1001.3

such contract is made with a corporation for the general benefit of the corporation.

Section 3—Covenant Against Contingent Fees

The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed under this compact upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business.

Section 4—Sovereign Immunity

Nothing in this compact or any AFA shall be construed as—

- (1) affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by the Tribe; or
- (2) authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people.

In witness whereof, the parties have executed, delivered and formed this compact, effective the _____ day of _____, 20____. THE _____ Tribe

The Department of the Interior.
By: _____
By: _____

PART 1001—SELF-GOVERNANCE PROGRAM

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AUTHORITY: 25 U.S.C. 450 note, 458aa-458gg.
SOURCE: 60 FR 8554, Feb. 15, 1995, unless otherwise noted.

§ 1001.1 Purpose.

The purpose of this rule is to establish the process for tribes to apply for entry into the Self-Governance program and to establish the selection cri-

teria by which the Department will identify eligible tribes and select tribes to begin the negotiations process.

§ 1001.2 Applicant eligibility.

Any tribe or consortium of tribes seeking inclusion in the applicant pool must meet the following eligibility criteria:

- (a) Be a federally recognized tribe or a consortium of federally recognized tribes as defined in Public Law 93-638.
- (b) Document, with an official action of the tribal governing body, a formal request to enter negotiations with the Department of Interior (Department) under the Tribal Self-Governance Act authority. In the case of a consortium of tribes, the governing body of each participating tribe must authorize participation by an official action by the tribal governing body.
- (c) Demonstrate financial stability and financial management capability by furnishing organization-wide single audit reports as prescribed by Public Law 96-502, the Single Audit Act of 1984, for the previous three years. These audits must not contain material audit exceptions. In the case of tribal consortiums, each signatory to the agreement must meet this requirement. Non-signatory tribes participating in the consortium do not have to meet this requirement.

(d) Successfully complete the planning phase for self-governance. A final planning report must be submitted which demonstrates that the tribe has conducted—

- (1) Legal and budgetary research; and
- (2) Internal tribal government and organizational planning.

(e) To be included in the applicant pool, tribes or tribal consortiums may submit their applications at any time. The application should state which year the tribe desires to enter negotiations.

§ 1001.3 Priority ranking for negotiations.

In addition to the eligibility criteria identified above, a tribe or consortium of tribes seeking priority ranking for negotiations must submit a description of the efforts of the tribe or consortium to seek to enter negotiations and/or prepare for operations under the self-

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governance option. This narrative should identify any activities that the tribe has pursued, carefully identifying and documenting the dates involved, including, but not limited to, the following:

- (a) Prior planning activities related to self-governance, noting the source of funding for the planning activity and whether or not it was sanctioned by the Office of Self-Governance (OSG), including documentation as applicable.
- (b) Prior efforts to secure planning and/or negotiation grants.
- (c) Meetings with the OSG or other Departmental offices in which the tribe expressed an interest in participating in the Self-Governance Project.
- (d) Correspondence between the tribe and the Department in which the tribe has expressed an interest in participating in the Self-Governance Project.
- (e) All actions of the tribal governing body related to participating in the self-governance option.

§ 1001.4 Application review and approval.

Upon receipt of an application, the OSG will review the package and determine whether or not it is complete. Upon determination that it is complete, the name of the tribe or consortium will be included in the official applicant pool. Incomplete submissions will be returned with the deficiencies identified. Revised applications may be resubmitted for consideration at any time.

§ 1001.5 Application review and selection process for negotiations for funding agreements.

Upon acceptance into the applicant pool, the OSG will assign to each tribe or consortium a ranking relative to other applicants based upon the date the OSG receives the complete application package. This ranking will constitute a master list that will be maintained and updated on a continuous basis from year to year. When receipt dates are the same for two or more applications, several other factors will be considered in determining the placement of the tribe or consortium on the list. These factors are identified in priority order as follows:

- (a) Designation by the Congress through report language that a tribe should be considered for participation. These designations will be considered based upon the actual language of the report.
- (b) Documentation of OSG sanctioning of the tribe's self-governance planning and subsequent evidence of actual planning by the tribe.
- (c) Submission of a completed planning or negotiation grant application in the previous year.
- (d) A signed agreement pursuant to the Indian Health Service (IHS) self-governance project.
- (e) Receipt of a planning grant awarded by the IHS.

§ 1001.6 Submitting applications.

- (a) Applications for inclusion in the applicant pool will be accepted on an on-going basis.
- (b) Applications may be mailed or hand-delivered.
- (c) Applications for negotiations in 1996 that are mailed must be post-marked no later than May 16, 1995.
- (d) Applications must be sent to: Director, Office of Self Governance, Department of the Interior, 1849 C Street, NW., MIB RM/MS-2548, Washington, DC 20240.

§ 1001.7 Availability, amount, and number of planning and negotiation grants.

- (a) What is the purpose of this section? This section describes how to apply for planning and negotiation grants authorized by section 402(d) of the Act to help meet tribal costs incurred:
 - (1) In meeting the planning phase requirement of Pub. L. 103-413, including planning to negotiate non-BIA programs, services, functions and activities; and
 - (2) In conducting negotiations.
- (b) What types of grants are available? Three categories of grants may be available:
 - (1) Negotiation grants for tribes/consortia selected from the applicant pool as described in § 1001.5 of these regulations;
 - (2) Planning grants for tribes/consortia requiring advance funding to