



DOI Self Governance 101

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Negotiation Process

Getting Started with DOI:

“Negotiation Guidance”

- Found on SG Website
- Includes instructional material
- Includes “Model” agreements

Negotiation Process

Major Components of an Ongoing Process

- Planning
- Negotiations
- Implementation
- Monitoring

Negotiation Process

Planning Phase

- complete review of existing operations
- determination of Tribal priorities
- identification of short and long-term goals
- establish baseline measures
- research (financial, legal, programmatic)
- analysis of information; options
 - efficient & effective use of resources

Negotiation Process

Negotiation Phase

- “government-to-government”
- good faith
- results in a compromise agreement between the two parties
- allowed the flexibility to re-design programs and reallocate budgets to meet local needs

Negotiation Process

Negotiation Phase

- Ability to negotiate a single compact and funding agreement for all PSFAs
- Compact:
 - Umbrella agreement
 - General terms (authority, purpose, obligations of parties)
 - Long term
- Funding Agreement (FA):
 - Programs, Services, Functions, and Activities
 - More specific terms
 - Short term
 - Multi year option (MFA)

Negotiation Process

Negotiation Phase

Tribal Shares:

“An Indian tribe's portion of all funds and resources that support secretarial programs, services, functions, and activities (or portions thereof) that are not required by the Secretary for performance of inherent Federal functions.”

Inherent Federal functions:

“functions and responsibilities which are noncontractable”

Negotiation Process

Negotiation Phase

Funding Amounts

- Tribal Shares
 - Base (Tribal Priority Allocations)
 - Earmarked or Restricted
 - Central Office Appropriation language
- Residual Amounts (inherent federal functions)
 - federal functions which cannot legally be delegated
- Retained Services or Buybacks

Negotiation Process

Negotiation Phase

– “Reprogramming Request” or “FA Online”

- Funding document prepared annually
- Specifies funding by program line item
- Identifies base (TPA) funds
- Footnotes
- Signed by parties

Negotiation Process

Implementation-

- Both parties are responsible for executing their respective parts of the negotiated agreement.
- OMB cost principles still apply
- Must be consistent with applicable law and regulations
- Regulations can be waived upon request
- Not required to follow Federal policy

Negotiation Process

Monitoring-

Current:

- adherence to the negotiated agreement
- compliance with applicable laws and regulations
 - programmatic & financial
 - Tribal and Federal
- budget
 - earmarked/non-earmarked
- funding allocations (Did we get our fair share of \$?)
- payments (Did we get paid accurately & timely?)
- performance to tribal desired outcomes
 - efficiency and effectiveness

Negotiation Process

Monitoring-

Future:

- funding distribution methodologies
- rulemaking or policy developments
- legislative initiatives
- identify opportunities/threats regarding assumption, re-design, reprogramming and operation

Leads back to planning

Negotiation Process

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Negotiation Process

Tribal Self-Governance
demands careful and ongoing
assessment of the Tribal
organization
and its operations.

Negotiation Process

- One of the primary objectives of SG is to provide the maximum flexibility to Tribal governments to design programs, services, functions and activities to address TRIBAL PRIORITIES.
- A Tribal Council may allocate funds, redesign programs, or create new programs with SG funds (within the limitations of the law and the negotiated compact terms).

Negotiation Process

Personal Comments/Observations:

Negotiation Process

Difference in Title IV and V:

- Final Offers
- Payment (subsequent funding agreement)
- Tribal Shares/Residuals
- Formulas / Allocations

Negotiation Process

Comments/Observations:

- Acronyms
- Develop a Resource Library
- Develop a SG historical records system
- Importance of coordination and networking with other Tribes (NCAI, SGAC, etc)
- Build a "Team" of experts (Legal, Financial, Programmatic, etc)

Negotiation Process

Comments/Observations:

- Maintain periodic analysis of Funding Tables, Payments, etc
- Challenge of obtaining information/responses
- Resolution to issues can be a slow process


