

DOI Self Governance 101 and Financial Training

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Selected Legislative
Foundation of the Self
Governance Program in the
Department of the Interior



Foundational Legislation

- **1921 – Snyder Act**
 - BIA...shall direct, supervise, and expend moneys...for the benefit, care, and assistance of the Indians throughout the United States for...purposes...(as stated)
- **1934 – Johnson O'Malley Act**
 - Authorized the DOI Secretary to enter into contracts with any State... for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State...

Indian Self Determination and Education Assistance Act of P.L. 93-638 (1975)

- Established federal policy of Indian self-determination
Title I - Directs the respective Secretaries of DOI and HHS, upon request, to enter into self-determination contracts

Horizontal lines for notes

Indian Self Determination and Education Assistance Act of P.L. 93-638 (1975)

- Title III - Tribal Self Governance Demonstration Project (1988) directed the DOI Secretary to conduct the Tribal Self Governance Project
Title IV - Tribal Self Governance Act (1994) directs the DOI Secretary to establish and carry out the Tribal Self Governance program

Horizontal lines for notes

25 CFR Part 1000 Tribal Self Governance - Final Rule

- Effected January 16, 2001
Pertinent to this session, addresses:
Application Process and Selection Criteria
AFAs for BIA Programs
AFAs for Non-BIA Programs
Negotiation Process for AFAs

Horizontal lines for notes

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Tribal Self-Governance
Application Process

Application Process

- Annual Federal Register Notice with March 1 deadline for submitting applications
- Applications are sent to the Director, Office of Self Governance (Sharee M. Freeman)

Application Process

- Contact Ken Reinfeld of the Office of Self-Governance for information the application process
- Ken can be reached:
Phone - (202) 208-5734
Fax - (202) 219-1404
E-mail - Kenneth.Reinfeld@bia.gov

Application Process

- Up to 50 additional Tribes per year may begin participation in Tribal Self-Governance
- 25 CFR Parts 1000.10 to 1000.31 govern the application process for Tribes
- Applicant pool: Tribes determined by the Director, OSG to be eligible to participate in Tribal Self-Governance

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Application Process

- To be admitted into the applicant pool, a tribe must:
 - (1) Submit a **planning report**
 - (2) Submit a **tribal resolution** and/or a final official action by the Tribal governing body
 - (3) Demonstrate financial stability and financial management capability for the **previous three** fiscal years (A133 **Audits**)

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Financial Stability & Management Capability

- Single Audit Act Audits for the previous three years of the tribe's self-determination contracts
- These audits must not contain material audit exceptions

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Financial Stability & Management Capability

- Material audit exception:
 - (1) Material weakness
 - (2) Questioned, disallowed costs exceeding \$10,000

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Financial Stability & Management Capability

- If these audits identify any of the described conditions, the tribe must also submit copies of the findings and determination(s)
- A material audit exception deems the tribe ineligible until it meets the eligibility criteria

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Application Process

- OSG accepts applications to become a member of the applicant pool at any time
- An applicant may be admitted into the applicant pool during one year and selected to negotiate a compact and FA in a subsequent year

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Planning Phase

- All prospective SG Tribes complete a planning phase (25 CFR §1000.19)
- During the planning phase, the tribe must:
 1. Conduct **legal and budgetary research**
 2. Conduct **internal tribal government and organizational planning**

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Planning Report

- The planning report must:
 - (1) **Identify BIA and non-BIA programs** that the tribe may wish to include
 - (2) Describe the tribe's **planning activities** (both for BIA and for non-BIA programs)
 - (3) Identify the **major benefits** derived from the planning activities

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Planning Report

- (4) Identify the tribal **process to resolve any complaints** by service recipients
- (5) Identify any tribal **organizational planning**
- (6) Indicate if the planning efforts reveal that its **current organization is adequate** to assume programs under Tribal Self-Governance

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Planning Report

- Describe the **process to debate and decide the setting of priorities for the funds** it will receive through a Funding Agreement
- For **non-BIA programs**, the report should describe how the Tribe proposes to perform those programs under a Funding Agreement

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Self Governance Compact

- ❖ A self-governance **compact** should generally include:
 - ❖ The authority and purpose
 - ❖ Terms, provisions, and conditions of the compact
 - ❖ Obligations of the Tribe and United States
 - ❖ Other provisions



Annual Funding Agreement (AFA)

- ❖ Annual Funding Agreements (AFAs) are legally binding and mutually enforceable written agreements negotiated and entered into annually between a self-governance Tribe/Consortium and the BIA.

Annual Funding Agreements (AFAs)

- ❖ The [AFA](#) must specify the programs.
- ❖ It must also specify the applicable funding:
 - ❖ Retained by the BIA for “inherently federal functions” identified as “residuals”
 - ❖ Transferred or to be transferred to the Tribe/Consortium
 - ❖ Retained by the BIA to carry out functions that the Tribe/Consortium could have assumed but elected to leave with the BIA

Multi-Year Agreement (MFA)

- ❖ At the option of the Tribe/Consortium, and subject to the availability of Congressional appropriations, a FA may exceed one year (“multi-year funding agreement” or MFA)

Reprogramming Request Worksheet

- ❖ Also known as “Reprogramming Request” and “FA Online”
- ❖ Key financial document to be completed at negotiations
- ❖ Specifies BIA programs
- ❖ Specifies funding amounts
- ❖ Specifies the sources of funding to be transferred
- ❖ Footnotes identify unique factors concerning programs and/or amounts
