

§ 137.5 Effect of these regulations on Federal program guidelines, manual, or policy directives.

Unless expressly agreed to by the Self-Governance Tribe in the compact or funding agreement, the Self-Governance Tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the IHS, except for the eligibility provisions of section 105(g) of the Act [25 U.S.C. 450j(g)] and regulations promulgated under section 517 of the Act [25 U.S.C. 458aaa-16(e)].

§ 137.6 Secretarial policy.

In carrying out Tribal self-governance under Title V, the Secretary recognizes the right of Tribes to self-government and supports Tribal sovereignty and self-determination. The Secretary recognizes a unique legal relationship with Tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. The Secretary supports the self-determination choices of each Tribe and will continue to work with all Tribes on a government-to-government basis to address issues concerning Tribal self-determination.

Subpart B—Definitions

§ 137.10 Definitions.

Unless otherwise provided in this part:

Act means sections 1 through 9 and Titles I and V of the Indian Self-Determination and Education Assistance Act of 1975, Public Law 93-638, as amended.

Appeal means a request by an Indian Tribe for an administrative review of an adverse decision by the Secretary.

Compact means a legally binding and mutually enforceable written agreement, including such terms as the parties intend shall control year after year, that affirms the government-to-government relationship between a Self-Governance Tribe and the United States.

Congressionally earmarked competitive grants as used in section 505(b)(1) of the Act [25 U.S.C. 458aaa-4(b)(1)] means statutorily mandated grants as

defined in this section and used in subpart H of this part.

Contract means a self-determination contract as defined in section 4(j) of the Act [25 U.S.C. 450b].

Days means calendar days; except where the last day of any time period specified in these regulations falls on a Saturday, Sunday, or a Federal holiday, the period shall carry over to the next business day unless otherwise prohibited by law.

Department means the Department of Health and Human Services.

Director means the Director of the Indian Health Service.

Funding agreement means a legally binding and mutually enforceable written agreement that identifies the PSFAs that the Self-Governance Tribe will carry out, the funds being transferred from the Service Unit, Area, and Headquarter's levels in support of those PSFAs and such other terms as are required, or may be agreed upon, pursuant to Title V.

Gross mismanagement means a significant, clear, and convincing violation of a compact, funding agreement, or regulatory or statutory requirements applicable to Federal funds transferred to an Indian Tribe by a compact or funding agreement that results in a significant reduction of funds available for the PSFAs assumed by a Self-Governance Tribe.

IHS means Indian Health Service.

IHS discretionary grant means a grant established by IHS pursuant to the IHS' discretionary authority without any specific statutory directive.

Indian means a person who is a member of an Indian Tribe.

Indian Tribe means any Indian Tribe, band, nation, or other organized group, or community, including pueblos, rancherias, colonies, and any Alaska Native Village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; provided that in any case in which an Indian Tribe has authorized another Indian Tribe, an inter-Tribal consortium, or a Tribal organization to

plan for or carry out programs, services, functions, or activities (or portions thereof) on its behalf under Title V, the authorized Indian Tribe, inter-Tribal consortium or Tribal organization shall have the rights and responsibilities of the authorizing Indian Tribe (except as otherwise provided in the authorizing resolution or in this part). In such event, the term “Indian Tribe” as used in this part includes such other authorized Indian Tribe, inter-Tribal consortium, or Tribal organization.

Indirect costs shall have the same meaning as it has in 25 CFR 900.6 as applied to compacts, funding agreements and construction project agreements entered into under this part.

Inherent Federal functions means those Federal functions which cannot legally be delegated to Indian Tribes.

Inter-Tribal consortium means a coalition of two or more separate Indian Tribes that join together for the purpose of participating in self-governance, including Tribal organizations.

OMB means the Office of Management and Budget.

PSFA means programs, services, functions, and activities (or portions thereof).

Real property means any interest in land together with the improvements, structures, and fixtures and appurtenances thereto.

Reassumption means rescission, in whole or part, of a funding agreement and assuming or resuming control or operation of the PSFAs by the Secretary without consent of the Self-Governance Tribe.

Retained Tribal share means those funds that are available as a Tribal share but which the Self-Governance Tribe elects to leave with the IHS to administer.

Retrocession means the voluntary return to the Secretary of a self-governance program, service, function or activity (or portion thereof) for any reason, before or on the expiration of the term of the funding agreement.

Secretary means the Secretary of Health and Human Services (and his or her respective designees.)

Self-Governance means the program of self-governance established under

section 502 of the Act [25 U.S.C. 458aaa–1].

Self-Governance Tribe means an Indian Tribe participating in the program of self-governance pursuant to section 503(a) of the Act [25 U.S.C. 458aaa–2(a)] or selected and participating in self-governance pursuant to section 503(b) of the Act [25 U.S.C. 458aaa–2(b)].

Statutorily mandated grant as used in this section and subpart F of this part means a grant specifically designated in a statute for a defined purpose.

Title I means sections 1 through 9 and Title I of the Indian Self-Determination and Education Assistance Act of 1975, Pub. L. 93–638, as amended.

Title V means Title V of the Indian Self-Determination and Education Assistance Act of 1975, Pub. L. 93–638, as amended.

Tribal organization means the recognized governing body of any Indian Tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; provided, that in any case where a contract or compact is entered into, or a grant is made, to an organization to perform services benefitting more than one Indian Tribe, the approval of each such Indian Tribe shall be a prerequisite to the entering into or making of such contract, compact, or grant.

Tribal Self-Governance Advisory Committee means the Committee established by the Director of IHS that consists of Tribal representatives from each of the IHS Areas participating in Self-Governance, and that provides advocacy and policy guidance for implementation of Tribal Self-Governance within IHS.

Tribal share means an Indian Tribe’s portion of all funds and resources that support secretarial PSFAs that are not required by the Secretary for the performance of inherent Federal functions.