

negotiated rulemaking procedures in 5 U.S.C. 565.

**§ 1000.2 Definitions.**

*403(c) Program* means a non-BIA program eligible under section 403(c) of the Indian Self-Determination and Education Assistance Act of 1975, as amended, 25 U.S.C. 450 *et seq.* and, specifically, a program, function, service, or activity that is of special geographic, historical or cultural significance to a self-governance Tribe/Consortium. These programs may be referred to, also, as “nexus” programs.

*Act* means the Tribal Self-Governance Act, Title IV of the Indian Self-Determination and Education Assistance Act of 1975, Pub. L. 93-638, as added by Pub. L. 103-413, amended by Pub. L. 104-109, as amended.

*Applicant pool* means Tribes/Consortia that the Director of the Office of Self-Governance has determined are eligible to participate in self-governance in accordance with §1000.16 of these regulations.

*BIA* means the Bureau of Indian Affairs of the Department of the Interior.

*BIA Program* means any program, service, function, or activity, or portion thereof, that is performed or administered by the Department through the Bureau of Indian Affairs.

*Bureau* means a bureau or office of the Department of the Interior.

*Compact* means an executed document that affirms the government-to-government relationship between a self-governance Tribe and the United States. The compact differs from an annual funding agreement (AFA) in that parts of the compact apply to all bureaus within the Department of the Interior rather than a single bureau.

*Consortium* means an organization of Indian Tribes that is authorized by those Tribes to participate in self-governance under this part and is responsible for negotiating, executing, and implementing annual funding agreements and compacts.

*Construction management services (CMS)* means activities limited to administrative support services, coordination, oversight of engineers and construction activities. CMS services include services that precede project design: all project design and actual con-

struction activities are subject to Subpart K of these regulations whether performed by a Tribe subcontractor, or consultant.

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

*Director* means the Director of the Office of Self-Governance (OSG).

*DOI or Department* means the Department of the Interior.

*Funding year* means either fiscal or calendar year.

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

*Indian Tribe or 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 corporations as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

*Indirect cost rates* means the rate(s) arrived at through negotiation between an Indian Tribe/Consortium and the appropriate Federal agency.

*Indirect costs* means costs incurred for a common or joint purpose benefitting more than one program and that are not readily assignable to individual programs.

*Nexus Program* means a 403(c) Program as defined in this section.

*Non-BIA Bureau* means any bureau or office within the Department of the Interior other than the Bureau of Indian Affairs.

*Non-BIA programs* means those programs administered by bureaus or offices other than the Bureau of Indian Affairs within the Department of the Interior.

*Office of Self-Governance (OSG)* means the office within the Office of the Assistant Secretary-Indian Affairs responsible for the implementation and development of the Tribal Self-Governance Program.

*Program* means any program, service, function, or activity, or portions of

programs administered by a bureau within the Department of the Interior.

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

*Reassumption* means that the Secretary reassumes control or operation of a program under § 1000.300 *et seq.*

*Retained Tribal shares* those funds that were available as a Tribal share but under the AFA were left with BIA to administer.

*Retrocession* means the voluntary return by a Tribe/Consortium to a bureau of a program operated under an AFA before the agreement expires.

*Secretary* means the Secretary of the Interior (DOI) or his or her designee authorized to act on the behalf of the Secretary as to the matter at hand.

*Self-governance Tribe/Consortium* means a Tribe or Consortium that participates in permanent self-governance through application and selection from the applicant pool or has participated in the Tribal self-governance demonstration project. May also be referred to as "participating Tribe/Consortium."

*Successor AFA* means a funding agreement negotiated after a Tribe's/Consortium's initial agreement with a bureau for continuing to perform a particular program. The parties to the AFA should generally use the terms of the existing AFA to expedite and simplify the exchange of information and the negotiation process.

*Tribal share* means the amount determined for that Tribe/Consortium for a particular program at BIA region, agency, and central office levels under sec. 403(g)(3) and 405(d) of the Act.

### § 1000.3 Purpose and scope.

(a) *General.* This part codifies uniform and consistent rules for the Department of the Interior (DOI) in implementing Title IV of the Indian Self-Determination and Education Assistance Act (ISDEA) Public Law 93-638, 25 U.S.C. 450 *et seq.*, as amended by Title II of Pub. L. 103-413, the Tribal Self-Governance Act of 1994 (108 Stat. 4250, October 25, 1994).

(b) *Information Collection.* The information provided by the Tribes will be used by the Department for a variety

of purposes. The first purpose will be to ensure that qualified applicants are admitted into the applicant pool consistent with the requirements of the Act. In addition, Tribes seeking grant assistance to meet the planning requirements for admission into the applicant pool, will provide information so that grants can be awarded to Tribes meeting basic eligibility (*i.e.* Tribal resolution indicating that the Tribe wants to plan for Self-Governance and has no material audit exceptions for the last three years of audits). There is no confidential information being solicited and confidentiality is not extended under the law. Other documentation is required to meet the reporting requirements as called for in section 405 of the Act. The information being provided by the Tribes is required to obtain a benefit, however, no person is required to respond to an information collection request unless the form or regulation requesting the information has a currently valid OMB control (clearance) number. Comments were solicited from the Tribes and the general public with respect to this collection. No adverse comments were received. The information collection has been cleared by OMB. The number is OMB control #1076-0143. The approval expires on April 30, 2003.

### § 1000.4 Policy statement.

(a) *Congressional findings.* In the Tribal Self-Governance Act of 1994, the Congress found that:

(1) The Tribal right of self-governance flows from the inherent sovereignty of Indian Tribes and nations;

(2) The United States recognizes a special government-to-government relationship with Indian Tribes, including the right of the Tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian Tribes;

(3) Although progress had been made, the Federal bureaucracy, with its centralized rules and regulations, had eroded Tribal self-governance and dominated Tribal affairs;

(4) The Tribal Self-Governance Demonstration Project was designed to improve and perpetuate the government-to-government relationship between