

requests shall be considered for a fee waiver under the Freedom of Information Act.

§ 1000.173 How does a newly selected Tribe/Consortium initiate the negotiation phase?

(a) To initiate the negotiation phase, an authorized official of the newly selected Tribe/Consortium submits a written request to negotiate an AFA as indicated in the following table:

For a . . .	the Tribe/Consortium should submit the request to . . .	and the request should identify . . .
(1) BIA program	the Director, OSG.	the lead negotiator(s) for the Tribe/Consortium.
(2) Non-BIA program	the bureau representative designated to respond to the Tribe's/Consortium's request for information.	the lead negotiator(s) for the Tribe/Consortium and the specific program(s) that the Tribe/Consortium seeks to negotiate.

(b) The Tribal/Consortium official must submit the information required by paragraph (a) of this section by the deadline shown in the following table:

Type of program	Type of tribe/consortium	Submission deadline
(1) BIA	Fiscal year	April 1.
(2) BIA	Calendar year	May 1.
(3) Non-BIA	Fiscal year or calendar year	May 1*.

*The request may be submitted later than this date where the bureau and the Tribe/Consortium agree that administration for a partial year funding agreement is feasible.

§ 1000.174 How and when does the bureau respond to a request to negotiate?

(a) Within 15 days of receiving a Tribe's/Consortium's request to negotiate, the bureau will take the steps in this section. If more than one bureau is involved, a lead bureau must be designated to conduct negotiations.

(b) If the program is contained on the section 405(c) list, the bureau will identify the lead negotiator(s) and awarding official(s) for executing the AFA.

(c) If the program is potentially of a special geographic, cultural, or historic significance to a Tribe/Consortium, the bureau will schedule a pre-negotiation meeting with the Tribe/Consortium as soon as possible. The purpose of the meeting is to assist the bureau in determining if the program is available for negotiation.

(d) Within 10 days after convening a meeting under paragraph (c) of this section:

(1) If the program is available for negotiation, the bureau will identify the lead negotiator(s) and awarding official(s); or

(2) If the program is unavailable for negotiation, the bureau will give to the Tribe/Consortium a written expla-

nation of why the program is unavailable for negotiation.

§ 1000.175 What is the process for conducting the negotiation phase?

(a) Within 30 days of receiving a written request to negotiate, the bureau and the Tribe/Consortium will agree to a date to conduct an initial negotiation meeting. Subsequent meetings will be held with reasonable frequency at reasonable times.

(b) Tribe/Consortium and bureau lead negotiators must:

(1) Be authorized to negotiate on behalf of their government; and

(2) Involve all necessary persons in the negotiation process.

(c) Once negotiations have been successfully completed, the bureau and Tribe/Consortium will prepare and either execute or disapprove an AFA within 30 days or by a mutually agreed upon date.

§ 1000.176 What issues must the bureau and the Tribe/Consortium address at negotiation meetings?

The negotiation meetings referred to in § 1000.175 must address at a minimum the following:

§ 1000.177

(a) The specific Tribe/Consortium proposal(s) and intentions;

(b) Legal or program issues that the bureau or the Tribe/Consortium identify as concerns;

(c) Options for negotiating programs and related budget amounts, including mutually agreeable options for developing alternative formats for presenting budget information to the Tribe/Consortium;

(d) Dates for conducting and concluding negotiations;

(e) Protocols for conducting negotiations;

(f) Responsibility for preparation of a written summary of the discussions; and

(g) Who will prepare an initial draft of the AFA.

§ 1000.177 What happens when the AFA is signed?

(a) After all parties have signed the AFA, a copy is sent to the Tribe/Consortium.

(b) The Secretary forwards copies of the AFA to:

(1) The House Subcommittee on Native Americans and Insular Affairs; and

(2) The Senate Committee on Indian Affairs;

(c) For BIA programs, the AFA is also forwarded to each Indian Tribe/Consortium served by the BIA Agency that serves any Tribe/Consortium that is a party to the AFA.

§ 1000.178 When does the AFA become effective?

The effective date is not earlier than 90 days after the AFA is submitted to the Congressional committees under § 1000.177(b).

§ 1000.179 What happens if the Tribe/Consortium and bureau negotiators fail to reach an agreement?

(a) If the Tribe/Consortium and bureau representatives do not reach agreement during the negotiation phase by the mutually agreed to date for completing negotiations, the Tribe/Consortium and the bureau may each make a last and best offer to the other party.

(b) If a last and best offer is not accepted within 15 days, the bureau will provide a written explanation to the

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Tribe/Consortium explaining its reasons for not entering into an AFA for the requested program, together with the applicable statement prescribed in subpart R of this part, concerning appeal or review rights.

(c) The Tribe/Consortium has 30 days from receipt of the bureau's written explanation to file an appeal. Appeals are handled in accordance with subpart R of this part.

NEGOTIATION PROCESS FOR SUCCESSOR ANNUAL FUNDING AGREEMENTS

§ 1000.180 What is a successor AFA?

A successor AFA is 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.

§ 1000.181 How does the Tribe/Consortium initiate the negotiation of a successor AFA?

Although a written request is desirable to document the precise request and date of the request, a written request is not mandatory. If either party anticipates a significant change in an existing program in the AFA, it should notify the other party of the change at the earliest possible date so that the other party may plan accordingly.

§ 1000.182 What is the process for negotiating a successor AFA?

The Tribe/Consortium and the bureau use the procedures in §§ 1000.173–1000.179.

Subpart H—Limitation and/or Reduction of BIA Services, Contracts, and Funds

§ 1000.190 What is the purpose of this subpart?

This subpart prescribes the process that the Secretary uses to determine whether a BIA self-governance funding agreement causes a limitation or reduction in the services, contracts, or funds that any other Tribe/Consortium