

§ 137.361

of construction if the Self-Governance Tribe is required to submit planning or design documents as a part of the scope of work under a construction project agreement.

§ 137.361 Does the Secretary have any other opportunities to approve planning or design documents prepared by the Self-Governance Tribe?

Yes, but only if there is an amendment to the construction project agreement that results in a significant change in the original scope of work.

§ 137.362 May construction project agreements be amended?

Yes, the Self-Governance Tribe, at its discretion, may request the Secretary to amend a construction project agreement to include additional projects. In addition, amendments are required if there is a significant change from the original scope of work or if funds are added by the Secretary. The Self-Governance Tribe may make immaterial changes to the performance period and make budget adjustments within available funding without an amendment to the construction project agreement.

§ 137.363 What is the procedure for the Secretary's review and approval of amendments?

(a) The Secretary shall promptly notify the Self-Governance Tribe in writing of any concerns or issues that may lead to disapproval. The Secretary shall share relevant information and documents, and make a good faith effort to resolve all issues and concerns of the Self-Governance Tribe. If, after consultation with the Self-Governance Tribe, the Secretary intends to disapprove the proposed amendment, then the Secretary shall follow the procedures set forth in §137.330 through 137.334.

(b) The time allowed for Secretarial review, comment, and approval of amendments is 30 days, or within a longer time if agreed to by the Self-Governance Tribe in writing. Absence of a written response by the Secretary within 30 days shall be deemed approved.

(c) The timeframe set forth in paragraph (b) of this section is intended to be the maximum time and may be re-

42 CFR Ch. I (10-1-14 Edition)

duced based on urgency and need, by agreement of the parties. If the Self-Governance Tribe requests reduced timeframes for action due to unusual or special conditions (such as limited construction periods), the Secretary shall make a good faith effort to accommodate the requested timeframes.

§ 137.364 What constitutes a significant change in the original scope of work?

A significant change in the original scope of work is:

(a) A change that would result in a cost that exceeds the total of the project funds available and the Self-Governance Tribe's contingency funds; or

(b) A material departure from the original scope of work, including substantial departure from timelines negotiated in the construction project agreement.

§ 137.365 What is the procedure for the Secretary's review and approval of project planning and design documents submitted by the Self-Governance Tribe?

(a) The Secretary shall review and approve planning documents to ensure compliance with planning standards identified in the construction project agreement. The Secretary shall review and approve design documents for general compliance with requirements of the construction project agreement.

(b) The Secretary shall promptly notify the Self-Governance Tribe in writing of any concerns or issues that may lead to disapproval. The Secretary shall share relevant information and documents, and make a good faith effort to resolve all issues and concerns of the Self-Governance Tribe. If, after consultation with the Self-Governance Tribe, the Secretary intends to disapprove the documents, then the Secretary shall follow the procedures set forth in §137.333.

(c) The time allowed for Secretarial review, comment, and approval of planning and design documents is 21 days, unless otherwise agreed to by the Self-Governance Tribe in writing. Absence of a written response by the Secretary within 21 days shall be deemed approved.