

meet the planning phase requirement of Pub. L. 103-413; and

(3) Financial assistance for tribes/consortia to plan for negotiating for non-BIA programs, services, functions and activities, as described in §1001.10.

(c) Will grants always be made available to meet the planning phase requirement as described in section 402(d) of Pub. L. 103-413? No. Grants to cover some or all of the planning costs that a tribe/consortium may incur may be made available depending upon the availability of funds appropriated by Congress. We will publish notice of availability of grants in the FEDERAL REGISTER as described in this section.

(d) May a tribe use its own resources to meet its planning and negotiation expenses in preparation for entering into self-governance? Yes. A tribe/consortium may use its own resources to meet these costs. Receiving a grant is not necessary to meet the planning phase requirement of the Act or to negotiate a compact and annual funding agreement.

(e) What happens if there are insufficient funds to meet the anticipated tribal requests for planning and negotiation grants in any given year? If appropriated funds are available but insufficient to meet the total requests from tribes/consortia, we will give first priority to those that have been selected from the applicant pool to negotiate an annual funding agreement. We will give second priority to tribes/consortia that require advance funds to meet the planning requirement for entry into the self-governance program. We will give third priority to tribes/consortia that require negotiation/planning funds to negotiate for DOI non-BIA programs.

(f) How many grants will the Department make each year and what funding will be available? The number and size of grants awarded each year will depend on Congressional appropriations and tribal interest. Each year, we will publish a notice in the FEDERAL REGISTER which provides relevant details about the application process, including: The funds available, timeframes, and requirements for negotiation and advance planning specified in this part.

[61 FR 17831, Apr. 23, 1996]

§1001.8 Selection criteria for tribes/consortia to receive a negotiation grant.

(a) Who may be selected to receive a negotiation grant? Any tribe/consortium that has been accepted into the applicant pool in accordance with §1001.5 and has been selected to negotiate a self-governance annual funding agreement is eligible to apply for a negotiation grant. Each year, we will publish a notice in the FEDERAL REGISTER with all relevant details as to how tribes/consortia which have been selected can apply for negotiation grants.

(b) What must a tribe/consortium do to receive a negotiation grant?

(1) To receive a negotiation grant, a tribe/consortium must:

(i) Be selected from the applicant pool to negotiate an annual funding agreement;

(ii) Be identified as eligible to receive a negotiation grant; and

(iii) Not have received a negotiation grant within the 3 years preceding the date of the latest FEDERAL REGISTER announcement described in §1001.7.

(2) The tribe/consortium must submit a letter affirming its readiness to negotiate and formally request a negotiation grant to prepare for and negotiate a self-governance agreement. These grants are not competitive.

(c) May a selected tribe negotiate without applying for a negotiation grant? Yes. In this case, the tribe should notify us in writing so that funds can be reallocated for other grants.

[61 FR 17832, Apr. 23, 1996]

§1001.9 Selection criteria for tribes/consortia seeking advance planning grant funding.

(a) Who is eligible to apply for a planning grant that will be awarded before a tribe/consortium is admitted into the applicant pool? Any tribe/consortium that is not a self-governance tribe and needs advance funding in order to complete the planning phase requirement may apply. Tribes/consortia that have received a planning grant within 3 years preceding the date of the latest FEDERAL REGISTER announcement described in §1001.7 are not eligible.

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(b) What must a tribe/consortium seeking a planning grant submit in order to meet the planning phase requirements? A tribe/consortium must submit the following material:

(1) A tribal resolution or other final action of the tribal governing body indicating a desire to plan for tribal self-governance;

(2) Audits from the last 3 years which document that the tribe meets the requirement of being free from any material audit exception;

(3) A proposal that describes the tribe's/consortium's plans to conduct:

(i) Legal and budgetary research, and

(ii) Internal tribal government and organization planning;

(4) A timeline indicating when planning will start and end; and

(5) Evidence that the tribe/consortium can perform the tasks associated with its proposal (i.e., submit resumes and position descriptions of key staff or consultants to be used).

(c) How will tribes/consortia know when and how to apply for planning grants? Each year, we will publish in the FEDERAL REGISTER a notice of the availability of planning grants for additional tribes as described in §1001.7. This notice will identify the specific details for applying.

(d) What criteria will be used to award planning grants to those tribes/consortia requiring advance funding to meet the planning phase requirement of Public Law 103-413? Advance planning grants are discretionary and based on need. The following criteria will be used to determine whether to award a planning grant to a tribe/consortium before the tribe is being selected into the applicant pool:

(1) A complete application as described in §§ 1001.9(b) and 1001.9(c);

(2) A demonstration of financial need. We will rank applications according to the percentage of tribal resources to total resources as indicated in the latest A-128 audit. We will give priority to applications that demonstrate financial need by having a lower level of tribal resources as a percent of total resources; and

(3) Other factors that demonstrate the readiness of the tribe/consortium to enter into a self-governance agreement, including previous efforts of the

tribe/consortium to participate in self-governance.

(e) Can tribes/consortia that receive advance planning grants also apply for a negotiation grant? Yes. Tribes/consortia that receive advance planning grants may submit a completed application to be included in the applicant pool. Once approved for inclusion in the applicant pool, the tribe/consortium may apply for a negotiation grant according to the process identified in §1001.7 above.

(f) When and how will a tribe/consortium know whether it has been selected to receive an advance planning grant? Within 30 days of the deadline for submitting applications we will notify the tribe/consortium by letter whether it has been selected to receive an advance planning grant.

[61 FR 17832, Apr. 23, 1996]

§ 1001.10 Selection criteria for other planning and negotiating financial assistance.

(a) What is the purpose of this section? This section describes how to apply for other financial assistance for planning and negotiating of a DOI non-BIA program, service, function or activity that may be available, as well as the selection process.

(b) Are there other funds that may be available to self-governance tribes/consortia for planning and negotiating with DOI non-BIA bureaus? Yes. Tribes/consortia may contact the Director, Office of Self-Governance to determine if funds are available for the purpose of planning and negotiating with DOI non-BIA bureaus under this section. A tribe/consortium may also request information from a DOI non-BIA bureau on any funds which may be available from that bureau.

(c) Who is eligible to apply for financial assistance to plan and negotiate for a DOI non-BIA program? Any existing self-governance tribe/consortium is eligible.

(d) Under what circumstances may planning and negotiation financial assistance be made available to tribes/consortia? At the discretion of the Director, grants may be awarded when requested by the tribe and coordinated with the DOI non-BIA agency involved.