

**§ 137.270**

incurred after the effective date of re-assumption.

**Subpart N—Construction**

PURPOSE AND SCOPE

**§ 137.270 What is covered by this subpart?**

This subpart covers IHS construction projects carried out under section 509 of the Act [25 U.S.C. 458aaa-8].

**§ 137.271 Why is there a separate subpart in these regulations for construction project agreements?**

Construction projects are separately defined in Title V and are subject to a separate proposal and review process. Provisions of a construction project agreement and this subpart shall be liberally construed in favor of the Self-Governance Tribe.

**§ 137.272 What other alternatives are available for Self-Governance Tribes to perform construction projects?**

Self-Governance Tribes also have the option of performing IHS construction projects under a variety of other legal authorities, including but not limited to Title I of the Act, the Indian Health Care Improvement Act, Public Law 94-437, and Public Law 86-121. This subpart does not cover projects constructed pursuant to agreements entered into under these authorities.

**§ 137.273 What are IHS construction PSFAs?**

IHS construction PSFAs are a combination of construction projects as defined in §137.280 and construction programs.

**§ 137.274 Does this subpart cover construction programs?**

No, except as provided in §137.275, this subpart does not cover construction programs such as the:

- (a) Maintenance and Improvement Program;
- (b) Construction program functions; and,
- (c) Planning services and construction management services.

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

**§ 137.275 May Self-Governance Tribes include IHS construction programs in a construction project agreement or in a funding agreement?**

Yes, Self-Governance Tribes may choose to assume construction programs in a construction project agreement, in a funding agreement, or in a combination of the two. These programs may include the following:

- (a) Maintenance and improvement program;
- (b) Construction program functions; and
- (c) Planning services and construction management services.

CONSTRUCTION DEFINITIONS

**§ 137.280 Construction Definitions.**

ALJ means administrative law judge.  
APA means Administrative Procedures Act, 5 U.S.C. 701-706.

Budget means a statement of the funds required to complete the scope of work in a construction project agreement. For cost reimbursement agreements, budgets may be stated using broad categories such as planning, design, construction, project administration, and contingency. For fixed price agreements, budgets may be stated as lump sums, unit cost pricing, or a combination thereof.

Categorical exclusion means a category of actions that do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

CEQ means Council on Environmental Quality in the Office of the President.

Construction management services (CMS) means activities limited to administrative support services; coordination; and monitoring oversight of the planning, design, and construction process. CMS activities typically include: