

§ 137.76 When must the Secretary transfer to a Self-Governance Tribe funds identified in a funding agreement?

When a funding agreement requires an annual transfer of funding to be made at the beginning of a fiscal year, or requires semiannual or other periodic transfers of funding to be made commencing at the beginning of a fiscal year, the first such transfer shall be made not later than 10 days after the apportionment of such funds by the OMB to the Department, unless the funding agreement provides otherwise.

§ 137.77 When must the Secretary transfer funds that were not paid as part of the initial lump sum payment?

The Secretary must transfer any funds that were not paid in the initial lump sum payment within 10 days after distribution methodologies and other decisions regarding payment of those funds have been made by the IHS.

§ 137.78 May a Self-Governance Tribe negotiate a funding agreement for a term longer or shorter than one year?

Yes, upon Tribal request, the Secretary must negotiate a funding agreement for a term longer or shorter than a year. All references in these regulations to funding agreements shall also include funding agreements for a term longer or shorter than one year.

§ 137.79 What funds must the Secretary include in a funding agreement?

The Secretary must include funds in a funding agreement in an amount equal to the amount that the Self-Governance Tribe would have been entitled to receive in a contract under Title I, including amounts for direct program costs specified under section 106(a)(1) of the Act and amounts for contract support costs specified under section 106(a)(2), (3), (5), and (6) of the Act [25 U.S.C. 450j-1(a)(2), (3), (5) and (6)]. In addition, the Secretary shall include any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the Self-Governance Tribe or its members, all without regard to the organizational

level within the Department where such functions are carried out.

PROHIBITIONS

§ 137.85 Is the Secretary prohibited from failing or refusing to transfer funds that are due to a Self-Governance Tribe under Title V?

Yes, sections 508(d)(1)(A) and (B) of the Act [25 U.S.C. 458aaa-7(d)(1)(A) and (B)] expressly prohibit the Secretary from:

(a) Failing or refusing to transfer to a Self-Governance Tribe its full share of any central, headquarters, regional, area, or service unit office or other funds due under Title V, except as required by Federal law, and

(b) From withholding portions of such funds for transfer over a period of years.

§ 137.86 Is the Secretary prohibited from reducing the amount of funds required under Title V to make funding available for self-governance monitoring or administration by the Secretary?

Yes, the Secretary is prohibited from reducing the amount of funds required under Title V to make funding available for self-governance monitoring or administration.

§ 137.87 May the Secretary reduce the amount of funds due under Title V in subsequent years?

No, in accordance with section 508(d)(1)(C)(ii) of the Act [25 U.S.C. 458aaa-7(d)(1)(C)(ii)], the Secretary is prohibited from reducing the amount of funds required under Title V in subsequent years, except pursuant to:

(a) A reduction in appropriations from the previous fiscal year for the program or function to be included in a compact or funding agreement;

(b) A Congressional directive in legislation or accompanying report;

(c) A Tribal authorization;

(d) A change in the amount of pass-through funds subject to the terms of the funding agreement; or

(e) Completion of a project, activity, or program for which such funds were provided.