

**§ 137.35 What is the term of a self-governance compact?**

Upon approval and execution of a self-governance compact, the compact remains in effect for so long as permitted by Federal law or until terminated by mutual written agreement or retrocession or reassumption of all PSFAs.

**Subpart E—Funding Agreements****§ 137.40 What is a funding agreement?**

A funding agreement is a legally binding and mutually enforceable written agreement that identifies the PSFAs that the Self-Governance Tribe will carry out, the funds being transferred from service unit, area and headquarters levels in support of those PSFAs and such other terms as are required or may be agreed upon pursuant to Title V.

**§ 137.41 What PSFAs must be included in a funding agreement?**

At the Self-Governance Tribe's option, all PSFAs identified in and in accordance with section 505(b) of the Act must be included in a funding agreement, subject to section 507(c) of the Act [25 U.S.C. 458aaa–6(c)].

**§ 137.42 What Tribal shares may be included in a funding agreement?**

All Tribal shares identified in sections 505(b)(1) [25 U.S.C. 458aaa–4(b)(1)] and 508(c) of the Act [25 U.S.C. 458aaa–7(c)] may be included in a funding agreement, including Tribal shares of IHS discretionary grants.

**§ 137.43 May a Tribe negotiate and leave funds with IHS for retained services?**

Yes, at the discretion of the Self-Governance Tribe, Tribal shares may be left, in whole or in part, with IHS for certain PSFAs. These shares are referred to as a “retained Tribal shares.”

**TERMS IN A FUNDING AGREEMENT****§ 137.45 What terms must be included in a funding agreement?**

A funding agreement must include terms required under section 505(d) of the Act [25 U.S.C. 458aaa–4(d)] and provisions regarding mandatory reporting

and reassumption pursuant to section 507(a) of the Act [25 U.S.C. 458aaa–6(a)], unless those provisions have been included in a compact.

**§ 137.46 May additional terms be included in a funding agreement?**

Yes, at the Self-Governance Tribe's option, additional terms may be included as set forth in sections 506 [25 U.S.C. 458aaa–5] and 516(b) of the Act [25 U.S.C. 458aaa–15(b)]. In addition, any other terms to which the Self-Governance Tribe and the Secretary agree may be included.

**§ 137.47 Do any provisions of Title I apply to compacts, funding agreements, and construction project agreements negotiated under Title V of the Act?**

(a) Yes, the provisions of Title I listed in section 516(a) of the Act [25 U.S.C. 458aaa–15(a)] and section 314 of Pub. L. 101–512, as amended, [25 U.S.C. 450f note] mandatorily apply to a compact, funding agreement and construction project agreement to the extent they are not in conflict with Title V. In addition, at the option of a Self-Governance Tribe, under section 516(b) of the Act [25 U.S.C. 458aaa–15(b)] any provisions of Title I may be included in the compact or funding agreement.

(b) The provisions of Title I referenced in section 516(a) of the Act [25 U.S.C. 458aaa–15(a)] are sections 5 [25 U.S.C. 450c], 6 [25 U.S.C. 450d], 7 [25 U.S.C. 450e], 102(c) and (d) [25 U.S.C. 450f(c) and (d)], 104 [25 U.S.C. 450i], 105(k) and (l) [25 U.S.C. 450j(k) and (l)], 106(a) through (k) [25 U.S.C. 450j–1(a) through (k)], and 111 [25 U.S.C. 450n] of the Act.

**§ 137.48 What is the effect of incorporating a Title I provision into a compact or funding agreement?**

The incorporated Title I provision shall have the same force and effect as if it were set out in full in Title V.

**§ 137.49 What if a Self-Governance Tribe requests such incorporation at the negotiation stage of a compact or funding agreement?**

In that event, such incorporation shall be deemed effective immediately and shall control the negotiation and

resulting compact and funding agreement.

TERM OF A FUNDING AGREEMENT

**§ 137.55 What is the term of a funding agreement?**

A funding agreement shall have the term mutually agreed to by the parties. Absent notification from an Indian Tribe that it is withdrawing or retroceding the operation of one or more PSFAs identified in the funding agreement, the funding agreement shall remain in full force and effect until a subsequent funding agreement is executed.

**§ 137.56 Does a funding agreement remain in effect after the end of its term?**

Yes, the provisions of a funding agreement, including all recurring increases received and continuing eligibility for other increases, remain in full force and effect until a subsequent funding agreement is executed. Upon execution of a subsequent funding agreement, the provisions of such a funding agreement are retroactive to the end of the term of the preceding funding agreement.

**§ 137.57 How is a funding agreement amended during the effective period of the funding agreement?**

A funding agreement may be amended by the parties as provided for in the funding agreement, Title V, or this part.

**Subpart F—Statutorily Mandated Grants**

**§ 137.60 May a statutorily mandated grant be added to a funding agreement?**

Yes, in accordance with section 505(b)(2) of the Act [25 U.S.C. 458aaa-4(b)(2)], a statutorily mandated grant may be added to the funding agreement after award.

**§ 137.65 May a Self-Governance Tribe receive statutorily mandated grant funding in an annual lump sum advance payment?**

Yes, grant funds shall be added to the funding agreement as an annual lump

sum advance payment after the grant is awarded.

**§ 137.66 May a Self-Governance Tribe keep interest earned on statutorily mandated grant funds?**

Yes, a Self-Governance Tribe may keep Interest Earned on Statutorily Mandated Grant Funds.

**§ 137.67 How may a Self-Governance Tribe use interest earned on statutorily mandated grant funds?**

Interest earned on such funds must be used to enhance the grant program including allowable administrative costs.

**§ 137.68 May funds from a statutorily mandated grant added to a funding agreement be reallocated?**

No, unless it is permitted under the statute authorizing the grant or under the terms and conditions of the grant award, funds from a statutorily mandated grant may not be reallocated.

**§ 137.69 May a statutorily mandated grant program added to a funding agreement be redesigned?**

No, unless it is permitted under the statute authorizing the grant or under the terms and conditions of the grant award, a program added to a funding agreement under a statutorily mandated grant may not be redesigned.

**§ 137.70 Are the reporting requirements different for a statutorily mandated grant program added to a funding agreement?**

Yes, the reporting requirements for a statutorily mandated grant program added to a funding agreement are subject to the terms and conditions of the grant award.

**§ 137.71 May the Secretary and the Self-Governance Tribe develop separate programmatic reporting requirements for statutorily mandated grants?**

Yes, the Secretary and the Self-Governance Tribe may develop separate programmatic reporting requirements for statutorily mandated grants.