

family attendance at such gathering is a condition of program participation and failure to attend will be grounds for possible termination of their continued or future program participation; and

(4) Require that the organization's local counselor responsible for the au pair placement contacts the host family and au pair within forty-eight hours of the au pair's arrival and meets, in person, with the host family and au pair within two weeks of the au pair's arrival at the host family's home.

(j) *Stipend and hours.* Sponsors shall require that au pair participants:

(1) Are compensated at a rate of not less than \$115.00 per week;

(2) Do not provide more than a reasonable number of hours of child care on any given day;

(3) Receive a minimum of one and a half days off per week in addition to one complete weekend off each month; and

(4) Receive two weeks of paid vacation.

(k) *Educational component.* Sponsors shall require that during the period of program participation, all au pair participants are enrolled in an accredited post-secondary institution for not less than six hours of academic credit or its equivalent. As a condition of program participation, host family participants must agree to facilitate the enrollment and attendance of the au pair and to pay the cost of such academic course work in an amount not to exceed \$500.

(l) *Monitoring.* Sponsors shall fully monitor all au pair exchanges, and at a minimum shall:

(1) Require monthly personal contact by the local counselor with each au pair and host family for which the counselor is responsible. Counselors shall maintain a record of this contact;

(2) Require quarterly contact by the regional counselor with each au pair and host family for which the counselor is responsible. Counselors shall maintain a record of this contact;

(3) Require that all local and regional counselors are appraised of their obligation to report unusual or serious situations or incidents involving either the au pair or host family; and

(4) Promptly report to the Agency any incidents involving or alleging a crime of moral turpitude or violence.

(m) *Reporting requirements.* Along with the annual report required by regulations set forth at § 514.17, sponsors shall file with the Agency the following information:

(1) A summation of the results of an annual survey of all host family and au pair participants regarding satisfaction with the program, its strengths and weaknesses;

(2) A summation of all complaints regarding host family or au pair participation in the program, specifying the nature of the complaint, its resolution, and whether any unresolved complaints are outstanding;

(3) A summation of all situations which resulted in the placement of an au pair participant with more than one host family;

(4) A report by a certified public accountant attesting to the sponsor's compliance with the procedures and reporting requirements set forth in this subpart;

(5) A report detailing the name of the au pair, his or her host family placement, location, and the names of the local and regional organizational representatives; and

(6) A complete set of all promotional materials, brochures, or pamphlets distributed to either host family or au pair participants.

(n) *Sanctions.* In addition to the sanctions provisions set forth at § 514.50, the Agency may undertake immediate program revocation procedures upon documented evidence that a sponsor has failed to:

(1) Comply with the au pair placement requirements set forth in paragraph (e) of this section;

(2) Satisfy the selection requirements for each individual au pair as set forth in paragraph (d) of this section; and

(3) Enforce and monitor host family's compliance with the stipend and hours requirements set forth in paragraph (j) of this section.

[FR Doc. 95-3597 Filed 2-14-95; 8:45 am]

BILLING CODE 8230-01-M

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

#### 25 CFR Chapter VI

RIN 1076-AD19

#### Tribal Self-Governance Program Selection Criteria

**AGENCY:** Office of Self-Governance, Office of the Secretary, Interior

**ACTION:** Interim rule.

**SUMMARY:** In this interim rule, the Office of Self-Governance (OSG) announces the criteria for tribes to be included in an applicant pool and the establishment of the selection process for tribes to negotiate agreements pursuant to the Tribal Self-Governance Act of 1994.

**DATES:** Effective date of this interim rule is February 15, 1995. Written comments concerning this rule must be received

on or before April 17, 1995. The closing date for submission of complete application packages for consideration for negotiations in 1996 is May 16, 1995. No application package will be dated as received before March 17, 1995.

Applications requesting to be included in the applicant pool may be submitted at any time. All tribes wishing to be considered for participation in FY 1996 must respond to this announcement, except for those which are (1) currently involved with negotiations with the Department or (2) one of the 29 tribes with signed agreements in the Demonstration Project.

**ADDRESSES:** Written comments concerning this rulemaking should be sent to Director, Office of Self-Governance, U.S. Department of the Interior, 1849 C Street NW., Mail Stop 2548, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Verner V. Duus, U.S. Department of the Interior, Office of Self-Governance, 1849 C Street NW., Mail Stop 2548, Washington, DC 20240, 202-219-0240.

#### SUPPLEMENTARY INFORMATION:

##### Justification for Interim Rule

Implementation of this rule is not rulemaking subject to the provisions of section 553 of the Administrative Procedure Act (5 U.S.C. 551, *et seq.*) (APA). Section 553(a)(2) excepts from the scope of rulemaking rules "relating to agency management or personnel or to public property, loans, grants, benefits, or contracts."

Even if this rule were considered rulemaking subject to the provisions of section 553 of the APA, good cause exists to publish this interim rule without prior opportunity for public comment for the following reasons.

Section 553 outlines the following rulemaking steps: (1) Publication of a notice of proposed rulemaking, (2) solicitation of public comment on the proposed rule, (3) review of comments received prior to developing the final rule, and (4) publication of the final rule 30 days prior to the effective date. Using this process at this time would not serve the goal of the Tribal Self-Governance Act of 1994, which is to expand tribal participation in the Self-Governance Program, because the process would delay selection of new participating tribes for FY 1996. Under the Tribal Self-Governance Act of 1994, the Secretary may select up to 20 additional participating tribes for the Tribal Self-Governance Program, and negotiate and enter into an annual written funding agreement with each participating tribe. The Act mandates that the Secretary

submit copies of the funding agreements at least 90 days before the proposed effective date to the appropriate committees of the Congress and to each tribe that is served by the BIA agency that is serving the tribe that is a party to the funding agreement. Initial negotiations with a tribe located in an area and/or agency which has not previously been involved with self-governance negotiations, will take approximately 3 months from start to finish. Since agreements for tribes on an October 1 to September 30 fiscal year need to be signed and submitted by July 1, new participating tribes would need to be selected by April 1 to allow sufficient time for negotiations. Publication of this interim rule without prior opportunity for public comment is necessary to complete the above procedures in a timely fashion. Therefore, pursuant to 5 U.S.C. 553(b)(3)(B), good cause is found that notice and public comment procedures are impracticable, and pursuant to 5 U.S.C. 553(d), good cause exists to make the rule effective immediately.

### Background

The Tribal Self-Governance Program is designed to promote self determination by allowing tribes to assume more control of programs operated by the Department of the Interior through negotiated agreements. The new law allows for negotiations to be conducted for programs operated by the Bureau of Indian Affairs (BIA) and for programs operated by other bureaus and offices within the Department that are available to Indians or where there is an historical, cultural, or geographic connection to an Indian tribe.

At the time of this announcement, 29 compacts have been signed under the provisions of the Demonstration Project. In addition to these 29 tribal entities, the newly enacted Tribal Self-Governance Act of 1994, Public Law 103-413, authorizes the Secretary to negotiate with up to 20 new tribes per year. Congress has also provided guidance concerning the handling of signatory tribes in Alaskan consortiums. If they are eligible to negotiate on their own and choose to do so, they should not be counted as part of the 20 new tribes.

### Purpose of Rule

This interim rule identifies the procedures and criteria that the Office of Self-Governance will use in establishing the priority listing of the additional participating tribes under the Tribal Self-Governance Act of 1994. While this interim rule may be changed at a later date by the rulemaking established

pursuant to the Act, the Act stipulates that the lack of promulgated regulations will not limit its effect. This rule will take immediate effect to allow the application and selection process for the upcoming year to begin.

The Secretary's decision on the actual number of tribes that will enter negotiations will be made at a later date. Being on the list will not guarantee that a tribe will actually be provided the opportunity to negotiate in any given year; however, it does mean that a tribe will not be passed over for a tribe farther down on the list or an unlisted tribe with the exception of tribes that are already in the negotiations process. For example, if the Department determines that 20 tribes will be afforded the opportunity to negotiate self-governance agreements in 1996, the first 20 tribes on the list would be notified and negotiations would be scheduled. The tribe numbered 21 on the list would become number one on the list for 1997 or might enter negotiations in 1996 if one of the first 20 dropped out.

The Department is adopting this rule before beginning the negotiated rulemaking process as required by Congress to establish definitive rules for the total self-governance program. This interim rule governing the selection process and criteria will be subject to negotiation and amendment by the negotiated rulemaking committee. The committee will use any comments received following the publication of this interim rule in negotiating the final rule. Furthermore, the portion of the rule governing selection will be subject to additional comment once the proposed regulations recommended by the negotiated rulemaking committee are published in the **Federal Register**. The final published rule will supersede this interim rule.

#### A. E.O. 12612

The Department has determined that this interim rule does not have significant federalism effects.

#### B. E.O. 12630

In accordance with Executive Order 12630, the Department had determined that this rule does not have significant takings implications.

#### C. E.O. 12778

The Department has certified to the Office of Management and Budget that this interim rule meets the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

#### D. E.O. 12866

This interim rule is not a significant regulatory action under Executive Order

12866, and therefore will not be reviewed by the Office of Management and Budget.

#### E. Regulatory Flexibility Act Statement

This interim rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### F. NEPA Statement

The Department has determined that this interim rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

#### G. Information Collection Statement

The information collection requirements contained in this interim rule are included in current collections 1076-0090, 0091, 0096, 1030 and OMB circulars A-102, A-110, and SF-424.

#### H. Authorship Statement

The primary author of this document is Verner V. Duus, Office of Self-Governance.

### List of Subjects in Part 1001

Indians, Native Americans.

For the reasons set forth in the preamble, a new chapter VI consisting at this time of part 1001 is added to Title 25 of the Code of Federal Regulations as follows:

#### CHAPTER VI—OFFICE OF THE ASSISTANT SECRETARY—INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

#### PART 1001—SELF-GOVERNANCE PROGRAM

Sec.

- 1001.1 Purpose.
- 1001.2 Applicant eligibility.
- 1001.3 Priority ranking for negotiations.
- 1001.4 Application review and approval.
- 1001.5 Application review and selection process for negotiations for funding agreements.
- 1001.6 Submitting applications.

**Authority:** 25 U.S.C. 450 note, 458aa-458gg.

#### § 1001.1 Purpose.

The purpose of this rule is to establish the process for tribes to apply for entry into the Self-Governance program and to establish the selection criteria by which the Department will identify eligible tribes and select tribes to begin the negotiations process.

#### § 1001.2 Applicant eligibility.

Any tribe or consortium of tribes seeking inclusion in the applicant pool

must meet the following eligibility criteria:

(a) Be a federally recognized tribe or a consortium of federally recognized tribes as defined in Public Law 93-638.

(b) Document, with an official action of the tribal governing body, a formal request to enter negotiations with the Department of Interior (Department) under the Tribal Self-Governance Act authority. In the case of a consortium of tribes, the governing body of each participating tribe must authorize participation by an official action by the tribal governing body.

(c) Demonstrate financial stability and financial management capability by furnishing organization-wide single audit reports as prescribed by Public Law 96-502, the Single Audit Act of 1984, for the previous three years. These audits must not contain material audit exceptions. In the case of tribal consortiums, each signatory to the agreement must meet this requirement. Non-signatory tribes participating in the consortium do not have to meet this requirement.

(d) Successfully complete the planning phase for self-governance. A final planning report must be submitted which demonstrates that the tribe has conducted—

(1) legal and budgetary research; and  
(2) internal tribal government and organizational planning.

(e) To be included in the applicant pool, tribes or tribal consortiums may submit their applications at any time. The application should state which year the tribe desires to enter negotiations.

#### § 1001.3 Priority ranking for negotiations.

In addition to the eligibility criteria identified above, a tribe or consortium of tribes seeking priority ranking for negotiations must submit a description of the efforts of the tribe or consortium to seek to enter negotiations and/or prepare for operations under the self-governance option. This narrative should identify any activities that the tribe has pursued, carefully identifying and documenting the dates involved, including, but not limited to, the following:

(a) Prior planning activities related to self-governance, noting the source of funding for the planning activity and whether or not it was sanctioned by the Office of Self-Governance (OSG), including documentation as applicable.

(b) Prior efforts to secure planning and/or negotiation grants.

(c) Meetings with the OSG or other Departmental offices in which the tribe expressed an interest in participating in the Self-Governance Project.

(d) Correspondence between the tribe and the Department in which the tribe has expressed an interest in participating in the Self-Governance Project.

(e) All actions of the tribal governing body related to participating in the self-governance option.

#### § 1001.4 Application review and approval.

Upon receipt of an application, the OSG will review the package and determine whether or not it is complete. Upon determination that it is complete, the name of the tribe or consortium will be included in the official applicant pool. Incomplete submissions will be returned with the deficiencies identified. Revised applications may be resubmitted for consideration at any time.

#### § 1001.5 Application review and selection process for negotiations for funding agreements.

Upon acceptance into the applicant pool, the OSG will assign to each tribe or consortium a ranking relative to other applicants based upon the date the OSG receives the complete application package. This ranking will constitute a master list that will be maintained and updated on a continuous basis from year to year. When receipt dates are the same for two or more applications, several other factors will be considered in determining the placement of the tribe or consortium on the list. These factors are identified in priority order as follows:

(a) Designation by the Congress through report language that a tribe should be considered for participation. These designations will be considered based upon the actual language of the report.

(b) Documentation of OSG sanctioning of the tribe's self-governance planning and subsequent evidence of actual planning by the tribe.

(c) Submission of a completed planning or negotiation grant application in the previous year.

(d) A signed agreement pursuant to the Indian Health Service (IHS) self-governance project.

(e) Receipt of a planning grant awarded by the IHS.

#### § 1001.6 Submitting Applications.

(a) Applications for inclusion in the applicant pool will be accepted on an on-going basis.

(b) Applications may be mailed or hand-delivered.

(c) Applications for negotiations in 1996 that are mailed must be postmarked no later than May 16, 1995.

(d) Applications must be sent to: Director, Office of Self Governance,

Department of the Interior, 1849 C Street, NW MIB RM/MS-2548, Washington, DC 20240.

Dated: February 6, 1995.

**Ada E. Deer,**

*Assistant Secretary, Indian Affairs.*

[FR Doc. 95-3445 Filed 2-14-95; 8:45 am]

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## PENSION BENEFIT GUARANTY CORPORATION

### 29 CFR Parts 2619 and 2676

#### Valuation of Plan Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Amendments Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

**SUMMARY:** This final rule amends the Pension Benefit Guaranty Corporation's ("PBGC's") regulations on Valuation of Plan Benefits in Single-Employer Plans and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal. The former regulation contains the interest assumptions that the PBGC uses to value benefits under terminating single-employer plans. The latter regulation contains the interest assumptions for valuations of multiemployer plans that have undergone mass withdrawal. The amendments set out in this final rule adopt the interest assumptions applicable to single-employer plans with termination dates in March 1995, and to multiemployer plans with valuation dates in March 1995. The effect of these amendments is to advise the public of the adoption of these assumptions.

**EFFECTIVE DATE:** March 1, 1995.

**FOR FURTHER INFORMATION CONTACT:** Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202-326-4024 (202-326-4179 for TTY and TDD). (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:** This rule adopts the March 1995 interest assumptions to be used under the Pension Benefit Guaranty Corporation's ("PBGC's") regulations on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619, the "single-employer regulation") and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676, the "multiemployer regulation").