

The applicant requests a permit to take the Karner blue butterfly (*Lycaeides melissa samuelis*) in Wisconsin. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE091328.

Applicant: John Chenger, Bat Conservation and Management, Inc., Carlisle, Pennsylvania.

The applicant requests a permit amendment to take the Indiana bat (*Myotis sodalis*) throughout Illinois, Kentucky, Missouri, North Carolina, South Carolina, and Tennessee. The scientific research is aimed at enhancement of survival of the species in the wild.

Dated: March 14, 2005.

Jeffery C. Gosse,

Acting Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

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BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Guidance for Distributing Fiscal Year 2005 Contract Support Funds and Indian Self-Determination Funds

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of methodology for distribution and use of FY 2005 Contract Support Funds and Indian Self-Determination Funds.

SUMMARY: The Bureau of Indian Affairs (Bureau) is publishing this notice to inform the public, the tribes, and Federal staff of the methodology that will be used for the distribution of CSF and ISDF for FY 2005. These funds are distributed as authorized by the Indian Self-Determination and Education Assistance Act of 1975, as amended, and financed with funds appropriated under the Snyder Act. This distribution methodology is published to ensure eligible recipients and responsible federal employees are aware of program operations for this fiscal year. This is a guidance document, it is not establishing regulations.

DATES: The "FY 2005 CSF Needs Report" is due June 30, 2005. Final distribution of CSF will be made on a pro-rata basis on or about July 19, 2005. FY 2005 ISDF will be distributed on a first come, first served basis, until funds are depleted.

ADDRESSES: Submit the "FY 2005 CSF Needs Report" to: Harry Rainbolt, Bureau of Indian Affairs, Office of Tribal Services, 1951 Constitution Avenue

NW., Mail Stop 320-SIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT:

Harry Rainbolt, (202) 513-7630.

SUPPLEMENTARY INFORMATION: Title I and title IV of Public Law 93-638, the Indian Self-Determination and Education Assistance Act of 1975, as amended, authorizes the Bureau to annually distribute CSF and ISDF. In making these distributions for FY 2005, the Bureau will follow the procedures in this notice.

The request for FY 2005 ISDF for new and expanded contracts and self-governance funding agreements may be submitted to the Bureau throughout the year as the need arises. Approved requests will be funded until the ISDF is depleted.

Part 1—Contract Support Funds

1.1 What Is the Purpose of Contract Support Funds (CSF)?

The Bureau provides CSF to meet the indirect cost need identified for ongoing/existing self-determination contracts and self-governance compacts that are financed with funds appropriated pursuant to the Snyder Act (25 U.S.C. 13). [Note that 25 U.S.C. 450j-3, restricts the use of CSF for only self-determination contracts and self-governance compacts. Congress directed in the FY 2005 appropriations bill, however, that the Secretary continue to distribute indirect and administrative cost funds to Tribes and tribal organizations that received such funds in FY 2003 or FY 2004.

1.2 How Does BIA Determine Eligibility for CSF?

All self-determination contractors and self-governance tribes/consortia with either an approved indirect cost rate, a current indirect cost proposal on file with the National Business Center (NBC), or an approved current lump sum agreement are eligible to receive CSF.

1.3 How Does the Bureau Determine Indirect Cost Need and CSF Amounts for Contracts and Annual Funding Agreements?

The methodology used to determine indirect cost amount and CSF need is as follows:

(1) Total current year Program fund amount;

(2) Less exclusions; exclusions are determined as follows:

(a) For Construction under Public Law 93-638, as amended, title I, section 106(h), the amount of construction funding provided for the actual "on-the-

ground" construction activities is an exclusion.

(b) For a Direct Cost Base consisting of Salaries and Wages, all costs except "Salaries and Wages" are exclusions.

(c) For a Direct Cost Base consisting of "total direct costs less capital expenditures and pass-through, such as those items requiring minimal administrative effort," capital expenditures and pass-through items are considered exclusions.

Capital Expenditure: The acquisition of items of personal property with an individual value of \$5,000 or more, and real property acquisition, renovation or repair with a value of \$5,000 or more.

Pass-Through: Those programs expenditures for items requiring minimal level of effort to be performed by tribal administrative personnel, such as: grants to individuals (i.e., scholarship grants, general assistance grants, etc.); leases; subcontracts; management and/or professional agreements; etc.

(3) Direct Cost Base amount;

(4) Times indirect cost rate;

(5) Indirect cost amount;

(6) Times current CSF funding percentage; and

(7) CSF amount.

1.4 What Is Designated as an Ongoing/Existing Contract or Funding Agreement?

An ongoing/existing contract or annual funding agreement is a Bureau program operated under a self-determination contract or a self-governance compact on an ongoing basis, which was entered into before the current fiscal year. Examples:

(1) All contracted or compacted programs, functions, services, activities or those included in annual funding agreements in the previous fiscal year and continued in the current fiscal year that are financed with funds appropriated to the Bureau;

(2) Direct funding increases for programs financed with funds appropriated to the Bureau; and

(3) Programs, functions, services, or activities started or expanded in the current fiscal year that are a result of a change in priorities from other already contracted, annual funding agreement programs, functions, services, or activities financed with funds appropriated to the Bureau.

1.5 Does an Increase or Decrease in the Level of Funding From Year to Year Affect the Designation of a Contract or Annual Funding Agreement?

No.

1.6 Can I Use Current Fiscal Year CSF To Pay a Prior Year Indirect Cost Shortfall?

No. The use of current year CSF to pay prior year indirect cost shortfall is not authorized.

1.7 Are There Any Restrictions on Distributing CSF for Indirect Cost?

Yes. The following conditions must be met before the Bureau distributes CSF to pay indirect cost:

(1) Programs, functions, services, activities, or portions thereof, must be financed with funds appropriated under the Snyder Act (25 U.S.C. 13) or the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 *et seq.*); and

(2) Programs, functions, services, activities, or portions thereof, must be included in a Bureau self-determination contract or a self-governance funding

agreement or in a grant under the Tribally Controlled Schools Act of 1988.

1.8 Is There Any Other Exclusion?

Yes. Self-determination contracts or self-governance agreements that receive appropriated funds from other Department of the Interior bureaus, offices, or other sources are not eligible to receive CSF.

1.9 How Can Tribes or Tribal Organizations Find Funding To Pay for Their Indirect Cost Needs for Programs That Are Excluded From Receiving CSF?

Those programs that are not eligible to receive CSF or ISDF to cover indirect cost needs must contact the specific program funding source to determine the methodology for covering the indirect cost need for those programs. This may entail using funds provided for the contracted services to cover the

indirect cost need. For example, funding for Indian Reservation Roads construction is transferred to the Bureau from the Federal Highway Trust Fund by the Department of Transportation. Therefore, this program is excluded from receiving CSF to cover the indirect cost need and must use funds provided for the construction activity to cover their indirect cost needs.

1.10 How Does the Bureau Determine the Amount of CSF a Tribe or Tribal Organization Is Eligible To Receive?

See the computation methodology in section 1.3 of this notice.

1.11 How Does the Bureau Decide What Direct Cost Base To Use To Determine CSF Need?

BIA will use the following procedures to determine the direct cost base:

If a tribe's direct cost base is . . .	Then BIA will make the following adjustments . . .
(1) Total direct cost, less capital expenditures and pass-through	Total direct cost, minus exclusions = direct cost base amount. (Exclusions will be on-the-ground construction costs, capital expenditures and pass-through.)
(2) Total salaries and wages	Look at program budget and identify amount for salaries and wages. (The exclusions will be funding amounts for everything except salaries and wages.)
(3) A negotiated Lump Sum Agreement direct cost base is the total current year program funds, less amount for on-the-ground construction costs, capital expenditures and pass-through.	The exclusions will be amounts for on-the-ground construction costs, capital expenditures and pass-through funds.

1.12 How Does the Bureau Determine What Indirect Cost Rate To Use When Calculating the Amount CSF Eligible Tribes or Tribal Organizations Will Receive?

When calculating the amount CSF eligible tribes or tribal organizations

will receive, BIA follows the following procedures:

If . . .	Then . . .
(1) The tribe or tribal organization has an approved indirect cost rate negotiated with the National Business Center (NBC) or an indirect cost proposal currently under consideration by the NBC.	The Regional Director or Office of Self-Governance Director must use the tribe's or tribal organization's current rate, if approved, or, if not approved, the proposed indirect cost rate currently under consideration.
(2) The tribe or tribal organization proposes to use the prior-year approved rate.*	The most current rate must be used.*
(3) A tribe or tribal organization that can document that they are unable to negotiate an indirect cost rate because of circumstances beyond their control may request negotiation of a lump sum amount.**	The Awarding Official may negotiate a reasonable lump sum amount (not to exceed 15%) with the tribe or tribal organization for FY 2005.**

*This rate is temporary and subject to finalization through negotiation with NBC, and may result in actual over or under recovery of indirect cost.

**Beginning in FY 2004, a reasonable lump sum amount must not exceed 15 percent of total current year program funds, less capital expenditure and pass-through.

1.13 What Happens If the Amount Identified in the "FY 2005 CSF Needs Report" Exceeds the Available FY 2005 CSF Amount?

The CSF distribution will be made on a pro rata basis so that all eligible tribes and tribal organizations receive the same percentage of their reported need.

For example, if the pro rata amount is 92 percent, each tribe or tribal organization will receive 92 percent of their identified indirect cost need.

1.14 Who Is Responsible for Submitting the "CSF Needs Report" to the Bureau?

Each regional office and the Office of Self-Governance must submit a "CSF Needs Report" for ongoing/existing contracts and funding agreements.

1.15 How Does the Bureau Distribute CSF to Tribes and Tribal Organizations?

(1) In the initial distribution of CSF, the Bureau will distribute to each regional office and the Office of Self-governance 85 percent of the total amount of CSF provided in the previous fiscal year. From this 85 percent, the regional office will award 75 percent of the CSF need identified for each contract or annual funding agreement that meets the established criteria.

(2) In the second or final allotment of CSF, all tribal contractors and self-governance tribes/consortia will receive a pro-rated share of the CSF, based on the program funds in the contract or annual funding agreement at that time.

1.16 What Can I Do To Cover My Total CSF Needs If the CSF Provided Is Insufficient?

If your CSF funds are insufficient, you may reprogram funds provided for the operation of programs to make up deficiencies to recover your full indirect cost need. This reprogramming authority is limited to funds in the Tribal Priority Allocation (TPA) portion of the Bureau budget, or annual funding agreement.

1.17 Can Funds From Other Bureau Programs That Are Not in the TPA Be Used To Meet CSF Shortfall?

No. Congressional appropriation language does not provide authority for the Bureau to reprogram funds from other Bureau programs to meet any CSF shortfall.

1.18 What Are the Definitions of the Terms "New Contract or Annual Funding Agreement" and "Expanded Contract or Annual Funding Agreement"?

(a) A new contract or annual funding agreement is defined as the initial transfer of a program, function, service, or activity previously operated by the Bureau to a tribe, tribal organization or consortium.

(b) An expanded contract or annual funding agreement is defined as a contract or annual funding agreement which has become enlarged, during the current fiscal year through the assumption of additional programs, functions, services, or activities (or portion thereof) previously operated by the Bureau.

Part 2—Indian Self-Determination Funds

2.1 How Are Indian Self-Determination Funds (ISDF) Distributed?

The Bureau provides ISDF on a "first-come, first-served" basis. The Bureau will fund requests at 100 percent of the "identified and approved need" until the ISDF is depleted.

2.2 How Does the Bureau Distribute ISDF for a New and Expanded Contract or Annual Funding Agreement?

Each regional office or the Office of Self-Governance must submit an "ISDF Needs Request" to the Office of Tribal Services when a new contract or annual

funding agreement is awarded, or existing contracts or annual funding agreements are expanded.

2.3 What Must a Complete "ISDF Request Package" for New and Expanded Contracts/Annual Funding Agreements Contain?

A complete request package for new/expanded contracts or annual funding agreement must contain:

- (1) Indirect cost needs; and
- (2) Startup cost needs.

2.4 What Happens If Requests Are Received After the ISDF Have Been Depleted?

The ISDF request will not be funded for the fiscal year. However, requests received after the ISDF have been depleted will be considered first for ISDF funding in the following fiscal year.

2.5 How Does the Bureau Compute the Indirect Cost Need?

We compute the indirect cost need following the indirect cost computation methodology provided in this announcement at section 1.3.

2.6 How Does BIA Determine What Indirect Cost Rate To Use When Calculating the Amount of ISDF Eligible Tribes or Tribal Organizations Will Receive?

When calculating the amount ISDF eligible tribes or tribal organizations will receive, the Bureau follows the following procedures:

If . . .	Then . . .
(1) The tribe or tribal organization has an approved indirect cost rate negotiated with the National Business Center (NBC) or an indirect cost proposal currently under consideration by the NBC.	The Regional Director or Office of Self-Governance Director must use the tribe's or tribal organization's current rate, if approved, or, if not approved, the proposed indirect cost rate currently under consideration.
(2) The tribe or tribal organization proposes to use the prior-year approved NBC rate.*	The most current NBC rate must be used.*
(3) A tribe or tribal organization that can document that they are unable to negotiate an indirect cost because of circumstances beyond their control may request negotiation of a lump sum amount.**	The Awarding Official may negotiate a reasonable lump sum amount (not to exceed 15 percent) with the tribe or tribal organization for FY 2004.**

*This rate is temporary and subject to finalization through negotiation with NBC, and may result in actual over or under recovery of indirect cost.

**Beginning in FY 2004, a reasonable lump sum amount must not exceed 15 percent of total current year program funds, less capital expenditure and pass-through.

2.7 What Is Considered "Startup Cost" Need?

Startup costs are direct costs for items that are identified in the program operational budget for the new or expanded contract/annual funding agreements. These costs must be allowable costs, allocable to the new or expanded program, and reasonable within the context of the operational budget.

2.8 What Information for a "Startup Cost" Request Must I Include in the ISDF Request Package?

The request must contain:

- (1) A copy of the program operational budget for the new or expanded contract/annual funding agreement activity, with the startup cost items identified;
- (2) A copy of the program operational budget narrative; and

(3) Documentation of the provision of technical assistance and negotiation in regard to the startup cost items.

2.9 Will the Bureau Consider Funding Requests That Do Not Meet the Requirement of 2.8?

No. The Bureau will not consider funding ISDF requests that do not contain the items in section 2.8 of this notice.

2.10 Are There Any Contracts or Agreements That Cannot Receive ISDF?

Yes. Self-determination contracts or self-governance agreements that receive appropriated funds from other Department of the Interior bureaus, offices, or other sources are not eligible to receive ISDF.

2.11 Are There Any Guidelines That Can Be Used To Help Provide Technical Assistance?

Yes. Use the "Guidance for Contract Support Costs" handbook to assist in the negotiation and providing technical assistance for startup cost. You may obtain a copy of this handbook by calling the telephone number provided in the **FOR FURTHER INFORMATION CONTACT** section.

2.12 What Happens to an Incomplete ISDF Request?

The request will be returned to the office of origin for proper completion and resubmission.

Dated: March 15, 2005.

Michael D. Olsen,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 05-5841 Filed 3-23-05; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

California Bay-Delta Public Advisory Committee Public Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the California Bay-Delta Public Advisory Committee will meet jointly with the California Bay-Delta Authority on April 13 and 14, 2005. The agenda for the joint meeting will include reports from the Director, the Lead Scientist, and the Bay-Delta Public Advisory Committee Subcommittees; updates on the Delta Improvements Package and the State Water Plan; and discussions leading to recommendations on several grant awards, the Finance Plan, and the Multi-Year Program Plans with State and Federal agency representatives.

DATES: The meeting will be held on Wednesday, April 13, 2005, from 9 to 4 p.m., and on Thursday, April 14, 2005, from 9 a.m. to 4 p.m. If reasonable accommodation is needed due to a disability, please contact Pauline Nevins at (916) 445-5511 or TDD (800) 735-

2929 at least 1 week prior to the meeting.

ADDRESSES: The meeting will be held at the Sheraton Grand Hotel, 1230 J Street, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Jamie Cameron-Harley, California Bay-Delta Authority, at 916-445-5511, or Diane Buzzard, Bureau of Reclamation, at 916-978-5022.

SUPPLEMENTARY INFORMATION: The Committee was established to provide recommendations to the Secretary of the Interior, other participating Federal agencies, the Governor of the State of California, and the California Bay-Delta Authority on implementation of the CALFED Bay-Delta Program. The Committee makes recommendations on annual priorities, integration of the eleven Program elements, and overall balancing of the four Program objectives of ecosystem restoration, water quality, levee system integrity, and water supply reliability. The Program is a consortium of State and Federal agencies with the mission to develop and implement a long-term comprehensive plan that will restore ecological health and improve water management for beneficial uses of the San Francisco/Sacramento and San Joaquin Bay Delta.

Committee and meeting materials will be available on the California Bay-Delta Authority Web site at <http://calwater.ca.gov> and at the meeting. This meeting is open to the public. Oral comments will be accepted from members of the public at the meeting and will be limited to 3-5 minutes.

(Authority: The Committee was established pursuant to the Department of the Interior's authority to implement the Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et. seq.*, the Endangered Species Act, 16 U.S.C. 1531 *et. seq.*, and the Reclamation Act of 1902, 43 USC 371 *et. seq.*, and the acts amendatory thereof or supplementary thereto, all collectively referred to as the Federal Reclamation laws, and in particular, the Central Valley Project Improvement Act, Public Law 102-575.)

Dated: March 3, 2005.

Allan Oto,

Special Projects Officer, Mid-Pacific Region, U.S. Bureau of Reclamation.

[FR Doc. 05-5799 Filed 3-23-05; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Orlando Ortega-Ortiz, M.D. Revocation of Registration

On February 20, 2004, the Deputy Assistant Administrator, Office of

Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Orlando Ortega-Ortiz, M.D. (Dr. Ortega-Ortiz) of Penuelas, Puerto Rico, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration B07925766, as a practitioner, under 21 U.S.C. 824(a)(5) and deny any pending applications for renewal or modification of that registration. As a basis for revocation, the Order to Show Cause alleged that Dr. Ortega-Ortiz has been mandatorily excluded from participating in federal health programs pursuant to 42 U.S.C. 1320-7(a). The order also notified Dr. Ortega-Ortiz that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Ortega-Ortiz at his address of record at 656h Infanteria 319, Penuelas, Puerto Rico 00624. The letter was delivered to the registered address prior to April 1, 2004, and received for by Dr. Ortega-Ortiz. DEA has not received a request for a hearing or any other reply from Dr. Ortega-Ortiz or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Ortega-Ortiz is deemed to have waived his hearing right. *See* Samuel S. Jackson, D.D.S., 67 FR 65145 (2002); David W. Linder, 67 FR 12579 (2002). After considering material from the investigative file, the Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that Dr. Ortega-Ortiz currently possesses DEA Certificate of Registration B07925766. The Deputy Administrator further finds that as a result of Dr. Ortega-Ortiz's fraudulent activities, pursuant to his guilty pleas, on September 17, 2002, he was convicted in the United States District Court, District of Puerto Rico of 11 counts of conspiring to solicit and receive kickbacks in relation to Medicare referrals, in violation of 18 U.S.C. 371. He was sentenced to three years probation and a \$7,500.00 fine.

As a result of Dr. Ortega-Ortiz's convictions, he was notified by the Department of Health and Human Services of his five-year mandatory exclusion from participation in the Medicare program pursuant to 42 U.S.C. 1320a-7(a). Exclusion from Medicare is an independent ground for revoking a DEA registration. 21 U.S.C. 824(a)(5);