

between the State of Washington and the Snoqualmie Tribe.

**DATES:** *Effective Date:* October 22, 2008.

**FOR FURTHER INFORMATION CONTACT:** Paula L. Hart, Acting Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219-4066.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100-497, 25 U.S.C. 2710, the Secretary of the Interior shall publish in the **Federal Register** notice of the approved Tribal-State compact Amendment for the purpose of engaging in Class III gaming activities on Indian lands. This Amendment extends the six month conditional waiting period to twelve months, increases the gaming stations, incorporates the agreement to transfer gaming stations and allows the Tribe to operate one more gaming facility on its Indian lands. This Amendment is hereby approved.

Dated: October 14, 2008.

**George T. Skibine,**

*Acting Deputy Assistant Secretary for Policy and Economic Development—Indian Affairs.*  
[FR Doc. E8-25197 Filed 10-22-08; 8:45 am]

**BILLING CODE 4310-4N-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### No Child Left Behind Act of 2001

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of intent to form a negotiated rulemaking committee; request for nominations for tribal representatives for No Child Left Behind Negotiated Rulemaking Committee membership.

**SUMMARY:** The Secretary of the Interior is announcing the Department's intent to form a negotiated rulemaking committee to develop recommendations for proposed regulations regarding Bureau of Indian Education (BIE)-funded school facilities under the No Child Left Behind Act of 2001. As required by the No Child Left Behind Act, the Secretary will select representatives of Indian tribes for the committee from among individuals nominated by tribes whose students attend BIE-funded schools either operated by the bureau or by the tribe through a contract or grant. To the maximum extent possible, the proportional representation of tribes on the committee will reflect the proportionate share of students from

tribes served by the BIE-funded school system. In addition, the Secretary will consider the balance of representation with regard to geographical location, size, and type of school and facility, as well as the interests of parents, teachers, administrators, and school board members, in selecting tribal committee representatives.

As required in the NCLB Act, the committee shall prepare and submit to the Secretary of the Interior a report or reports setting out:

- A method for creating a catalog of school facilities;
- The school replacement and new construction needs of the interested parties, and a formula for the equitable distribution of funds to address those needs;
- The major and minor renovation needs of the interested parties, and a formula for the equitable distribution of funds to address such needs; and
- Facilities standards for home-living (dormitory) situations.

**DATES:** Nominations from tribes for membership in the negotiated rulemaking committee and comments on the establishment of this committee, including additional interests other than those identified in this notice, must be postmarked or faxed no later than December 8, 2008.

**ADDRESSES:** Send nominations and comments to the Designated Federal Official, at the following address: Michele F. Singer, Director, Office of Regulatory Management, Office of the Assistant Secretary—Indian Affairs, 1001 Indian School Road, NW., Suite 312, Albuquerque, NM 87104. Or fax to (505) 563-3811.

**FOR FURTHER INFORMATION CONTACT:** Michele F. Singer, Designated Federal Official. Telephone: (505) 563-3805. Fax: (505) 563-3811.

#### **SUPPLEMENTARY INFORMATION:**

- I. Introduction
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- VI. Request for Nominations
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#### **I. Introduction**

The purpose of the No Child Left Behind Negotiated Rulemaking Committee is to serve as an advisory committee under the Federal Advisory

Committee Act (FACA) and the Negotiated Rulemaking Act (NRA) to provide recommendations to the Secretary of the Interior for proposed report(s) under the No Child Left Behind Act (Pub. L. 107-110, codified at 25 U.S.C. 2001 *et seq.*). The objectives of the committee are to represent the interests that will be significantly affected by the final report or regulations, to negotiate in good faith, and to reach consensus, where possible, on recommendations to the Secretary for the report or proposed regulations.

The NCLB directs the Secretary to conduct a negotiated rulemaking pursuant to the NRA. The NRA requires an agency head to give consideration to seven factors when determining whether a negotiate rulemaking is appropriate, specifically, whether:

- (1) There is a need for a rule;
- (2) There are a limited number of identifiable interests that will be significantly affected by the rule;
- (3) There is a reasonable likelihood that a committee can be convened with a balanced representation of persons who—

(A) Can adequately represent the interests identified under paragraph (2); and

(B) Are willing to negotiate in good faith to reach a consensus on the proposed rule;

(4) There is a reasonable likelihood that a committee will reach a consensus on the proposed rule within a fixed period of time;

(5) The negotiated rulemaking procedure will not unreasonably delay the notice of proposed rulemaking and the issuance of the final rule;

(6) The agency has adequate resources and is willing to commit such resources, including technical assistance, to the committee; and

(7) The agency, to the maximum extent possible consistent with the legal obligations of the agency, will use the consensus of the committee with respect to the proposed rule as the basis for the rule proposed by the agency for notice and comment.

Upon reviewing the analysis of these seven considerations set out in the convening report, the Secretary, through the authority delegated to George Skibine, Acting Deputy Assistant Secretary for Policy and Economic Development—Indian Affairs, has determined that a negotiated rulemaking is appropriate.

#### **II. Background**

In the fall of 2006, the Department sought assistance with this effort from the U.S. Institute for Environmental Conflict Resolution (U.S. Institute), an

independent impartial government entity with expertise in the alternative dispute resolution process. The U.S. Institute's statutory authority is the Environmental Policy and Conflict Resolution Act of 1998 (Pub. L. 105–156, codified at 20 U.S.C. 5601 *et seq.*). (For more information on the U.S. Institute, please visit <http://www.ecr.gov>.) The U.S. Institute conducted a convening assessment and contracted with an independent, impartial convening team, the Consensus Building Institute (CBI), to carry out interviews and prepare a draft convening report. Pursuant to the mandates of the No Child Left Behind Act, the topics covered in CBI's interviews were: Methods used to catalog school facilities, formulas for prioritizing and funding school replacement construction and new construction, and formulas for prioritizing and funding school renovation and repair. To understand the range of perspectives on or interests in these topics, the convening team conducted confidential interviews with tribal officials or their designees, representatives of BIE-operated or tribally controlled schools, and others with an interest in BIE-funded school facilities construction. The team also conducted two focus group sessions at the July 2007 BIE's first National Partnership Conference, organized by the National Indian School Board Association. Altogether, the team spoke with 198 individuals, representing some 99 different schools. In its final report, CBI provided recommendations to assign committee seats according to the Congressional mandate for proportionality using student enrollment figures from 2006 and also suggested that seats be allocated to other tribes and tribal entities to maximize representation. The Final Convening Report prepared by CBI was released on March 5, 2008, and can be accessed at [http://ecr.gov/pdf/BIA\\_FinalConvRpt200803.pdf](http://ecr.gov/pdf/BIA_FinalConvRpt200803.pdf);

The No Child Left Behind Act requires the Secretary to establish a negotiated rulemaking committee to issue reports to the Secretary relating to several specific areas of Indian education (see 25 U.S.C. 2018). In addition, the Act requires the Secretary to:

- Form the negotiated rulemaking committee under the NRA and FACA to negotiate and develop recommendations for certain reports and proposed regulations;
- Convene regional meetings, prior to establishing the negotiated rulemaking committee, to consult with personnel of the BIE, educators at BIE-funded

schools, and tribal officials, parents, teachers, administrators, and school board members of tribes to provide guidance to the Secretary;

- Reflect the unique government-to-government relationship between Indian tribes and the United States in accordance with Executive Order 13175 dated November 6, 2000, in establishing a negotiated rulemaking committee;
- Ensure that the membership of the committee includes only representatives of the Federal Government and of tribes served by BIE-funded schools;
- Select the tribal representatives for the committee from among individuals nominated by the tribes; and
- Ensure, to the maximum extent possible, that the tribal membership on the committee reflects the proportionate share of students from tribes served by the BIE-funded school system. (To access the recommended tribal representative membership on the committee reflected by the proportionate share from tribes served by the BIE-funded school system, please refer to the Final Convening Report prepared by CBI at [http://ecr.gov/pdf/BIA\\_FinalConvRpt200803.pdf](http://ecr.gov/pdf/BIA_FinalConvRpt200803.pdf).)

### III. The Concept of Negotiated Rulemaking

The negotiated rulemaking process is fundamentally different from the usual process for proposed regulations. Most proposed regulations are drafted by a Federal agency without public participation and are then published for public comment. Affected parties submit comments supporting their positions during the public comment period without communicating with other affected parties. Under the negotiated rulemaking process, an advisory committee of representatives of the interests that will be significantly affected by the final rule negotiates the provisions of the proposed regulations with the agency. Negotiated rulemaking allows the Federal agency and the affected interests represented on the committee to discuss possible approaches to various issues and to negotiate the content of the regulations before proposed regulations are published. It also allows the affected parties to share information, knowledge, expertise, and technical abilities and to resolve their concerns about the regulations before publication.

The key principles of negotiated rulemaking are that agreement is by consensus of all the interests and that no one interest or group controls or dominates the process. The NRA defines consensus as the unanimous concurrence among interests represented on a negotiated rulemaking

committee, unless the committee agrees to define such term to mean a general but not unanimous concurrence or agrees upon another specified definition. The agency head, to the maximum extent possible consistent with the agency's legal obligations, uses the consensus of the advisory committee as the basis for proposed regulations.

### IV. Facilitation

Experience of various Federal agencies in negotiated rulemaking has demonstrated that using a trained neutral to facilitate the process will assist all parties during negotiations to identify their real interest, evaluate their positions, communicate effectively, find common ground, and reach consensus where possible. The Secretary is using the facilitation of CBI (contractor) through the U.S. Institute for Environmental Conflict Resolution to assist with convening and facilitating the first committee meeting. With the approval of the committee, the contractor will facilitate the subsequent committee meetings and provide other services as outlined in the NRA.

The facilitation team will be available to assist tribes or groups of tribes in selecting nominees who can meet the nomination criteria and represent the interests of multiple tribes and schools. For such assistance, Tribes may contact Sarah Palmer, Senior Program Manager, U.S. Institute for Environmental Conflict Resolution, 130 South Scott Avenue, Tucson, AZ 85701, Direct Telephone: (520) 901-8556 E-mail: [palmer@ecr.gov](mailto:palmer@ecr.gov). Web site: [www.ecr.gov](http://www.ecr.gov).

### V. The No Child Left Behind Negotiated Rulemaking Committee

As required by the Act, the No Child Left Behind Negotiated Rulemaking Committee will be formed and will operate under the NRA and FACA.

#### A. Purpose of the Committee

As required in the NCLB Act, the committee shall prepare and submit to the Secretary of the Interior a report or reports setting out:

- A method for creating a catalog of school facilities that takes into consideration 25 U.S.C. 2005(a)(5)(A)(i)(I)–(V);
- The school replacement and new construction needs of the interested parties, and a formula for the equitable distribution of funds to address those needs, based on the requirements of 25 U.S.C. 2005(a)(5)(A)(ii);
- The major and minor renovation needs of the interested parties, and a formula for the equitable distribution of funds to address such needs, based on

the requirements of 25 U.S.C. 2005(a)(5)(A)(iii); and

- Facilities standards for home-living (dormitory) situations, based on the requirements of 25 U.S.C. 2002(a)(1).

#### B. Committee Member Responsibilities

The Committee is expected to meet approximately five times. The meetings will be held at various locations across Indian country, and will last two to three days each. Committee members will also be expected to participate in at least one of several regional consultations. The Committee's work is expected to occur over the course of 12–18 months.

Committee members will not receive pay for their membership, but will be compensated for travel and *per diem* expenses while performing official committee business, consistent with the provisions of 5 U.S.C. 568(c) and Federal travel regulations. The neutral convener will have resources available to fund travel and/or expenses for additional caucusing efforts. Alternate members will not be permitted to represent those individuals appointed by the Secretary without prior written agreement with the Department. An appointed committee member may be removed and replaced if that committee member fails to attend two consecutive meetings or fails to attend a total of three committee meetings. The resulting vacancy would be filled in the same manner as the original appointment was made.

Because of the scope and complexity of the tasks at hand, committee members must be able to invest considerable time and effort in the negotiated rulemaking process. Committee members must be able to attend committee meetings, work on committee work groups, consult with their constituencies between committee meetings, and negotiate in good faith toward a consensus on issues before the committee. Because of the complexity of the issues under consideration, as well as the need for continuity, the Secretary reserves the right to replace any member who is unable to fully participate in the committee's meetings.

#### C. Composition of the Committee

The Secretary is seeking nominations for tribal representatives, consistent with the provisions of 25 U.S.C. 2018, to serve on the committee who have a demonstrated ability to communicate well with groups about interests they will represent.

Tribal committee membership must:

- Meet the Act's requirements for proportionate representation of tribes served by BIE-funded schools;

- Be selected from among individuals nominated by tribes who have students attending BIE-funded schools either operated by the bureau or by the tribe through a contract or grant;

- Mirror the proportionate share of students from the tribes served by the BIE-funded school system; and
- Reflect the interests identified in comments submitted to the Department in response to the **Federal Register** notices at 72 FR 59556 and 72 FR 72391, or other interests identified in response to this notice.

The Act requires the Secretary to ensure that the various interests affected by the proposed report, reports or rules be represented on the negotiated rulemaking committee. In making membership decisions, the Secretary shall consider whether the interest represented by a nominee will be affected significantly by the final products of the committee, which may include report(s) and/or proposed regulations, whether that interest is already adequately represented by tribal nominees, and whether the potential addition would adequately represent that interest.

If nominations received in response to this notice do not adequately meet the statutory requirements for tribal committee membership, or do not represent the interests that will be significantly affected by the regulations, the Secretary may add representatives of his own choosing. The Secretary's decisions regarding the addition of representatives will be based on: meeting the requirements of the Act; achieving a balanced committee; and assessing whether an interest will be affected significantly by the final rule, whether that interest is already adequately represented by tribal nominees, and whether the potential addition would adequately represent that interest.

#### D. Administrative and Technical Support

The BIA Office of Facilities Management and Construction (OFMC) will provide technical support for the committee. A Project Management Officer (PMO) will arrange meeting sites and accommodations, ensure adequate logistical support (equipment, personnel, etc.) at committee meetings, provide committee members with all relevant information, distribute written materials, ensure timely reimbursement of authorized expenses for committee members, maintain records of the committee's work, and support the committee as otherwise required. OFMC personnel will provide technical

support on various school construction and related issues as needed.

#### E. Training and Organization

At the first meeting of the No Child Left Behind Negotiated Rulemaking Committee, a neutral facilitator will provide training on negotiated rulemaking, interest-based negotiations, consensus-building, and team-building. In addition, at the first meeting, committee members will make organizational decisions concerning protocols, scheduling, and facilitation of the committee. All committee members must attend the first meeting and all subsequent meetings.

#### F. Interests Identified Through Consultation

Under Section 562 of the NRA, "interest" is defined as follows: " 'interest' means, with respect to an issue or matter, multiple parties which have a similar point of view or which are likely to be affected in a similar manner." Through interviews with BIE personnel, educators at Bureau schools, and tribal officials, parents, teachers, administrators, and school board members of tribes served by BIE-funded schools, and through written comments, the interests detailed in Section VI were identified.

There may be other interests not yet identified that will be significantly affected by the final report, reports, or regulations. The Department is accepting comments until the date listed in the **DATES** section of this notice, identifying other interests that may be significantly affected by the final products of the committee, which may include report(s) and/or proposed regulations.

#### VI. Request for Nominations

Under the requirements stated in the **Background** section, the Secretary invites tribes whose students attend BIE-funded schools either operated by the Bureau or by the tribe through a contract or grant, to nominate tribal representatives to serve on the committee and tribal alternates to serve when the representative is unavailable. With the use of the proportionate share of students, some tribes similar in affiliation or geography are grouped together for one seat. There will be a need for nominating tribes to either agree to nominate and thus share a representative across tribal-jurisdictions or each at least have the opportunity to nominate a member for that particular seat. Each nomination is expected to include a nomination for a representative and an alternate who can fulfill the obligations of membership

should the representative be unable to attend. Because committee membership should reflect the diversity of tribal interests, representatives of tribal and tribally operated schools should nominate representatives and alternates who will:

- Have knowledge of school facilities and their repair, renovation, and construction (this may include knowledge and skills of construction project management, school facilities operation and management, construction cost estimation, education program space needs, budgeting and appropriation, engineering);

- Have relevant experience as past or present superintendents, principals, facility managers, teachers, or school board members or possess direct experience with school construction projects;

- Be able to coordinate, to the extent possible, with other tribes and schools who may not be represented on the committee;

- Be able to represent the tribe(s) with the authority to embody tribal views, communicate with tribal constituents, and have a clear means to reach agreement on behalf of the tribe(s);

- Be able to negotiate effectively on behalf of the tribe(s) represented;

- Be able to commit the time and effort required to attend and prepare for meetings; and

- Be able to collaborate among diverse parties in a consensus-seeking process.

In addition, in order for tribes and schools with too few students to be represented under the proportional membership computation, the Secretary invites nominations from the following parties who would be affected by the final products of the committee may include report(s) and/or proposed regulations:

- Tribes served by BIE-funded schools not represented by the tribes allocated seats according to share of student enrollment, (please refer to the Final Convening Report prepared by CBI, p.38 at [http://ecr.gov/pdf/BIA\\_FinalConvRpt200803.pdf](http://ecr.gov/pdf/BIA_FinalConvRpt200803.pdf));

- Tribes who will help to increase the geographic diversity of representation on the committee;

- Representatives who will help to increase the diversity of types of schools represented (e.g., off-reservation boarding schools, dorms, and schools serving multiple tribes);

- Representatives who might be nominated by multiple tribes or regional tribal associations and have ability to coordinate and represent a coalition or group of like-minded tribes and schools; and

- Representatives of regional or national Indian education organizations. Nominees of these interests, like the proportionate-share nominees, must meet the criteria of this section.

## VII. Submitting Nominations

The Secretary will consider only nominations for tribal committee representatives nominated through the process identified in this **Federal Register** notice. Nominations received in any other manner or for Federal representatives will not be considered. Only the Secretary may appoint Federal employees to the committee.

Nominations must include the following information about each tribal committee member nominee:

(1) The nominee's name, tribal affiliation, job title, major job duties, employer, business address, business telephone and fax numbers (and business e-mail address, if applicable);

(2) The tribal interest(s) to be represented by the nominee (see section V of this notice) and whether the nominee will represent other interest(s) related to this rulemaking, as the tribe may designate;

(3) A resume reflecting the nominee's qualifications and experience in Indian education (including being a parent of a student attending a BIE-funded school) and experience in any phase of school facility construction (including master planning, project planning, design, construction, and facility management), to adequately represent the interest(s) identified in (2) above; and

(4) A brief description of how they will represent tribal views, communicate with tribal constituents, and have a clear means to reach agreement on behalf of the tribe(s) they are representing. Additionally, a statement whether the nominee is only representing one tribe's views or whether the expectation is that the nominee represents a group of tribes.

To be considered, nominations must be received by the close of business on the date listed in the **DATES** section, at the location indicated in the **ADDRESSES** section. Nominations and comments received will be available for inspection at the address listed above from 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

Dated: October 14, 2008.

**George T. Skibine,**

*Acting Deputy Assistant Secretary for Policy and Economic Development—Indian Affairs.*  
[FR Doc. E8-25190 Filed 10-21-08; 8:45 am]

**BILLING CODE 4310-W7-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[F-14912-B; AK-964-1410-KC-P]

#### Alaska Native Claims Selection

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of decision approving lands for conveyance.

**SUMMARY:** As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving the surface and subsurface estates in certain lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Northway Natives, Incorporated. The lands are in the vicinity of Northway, Alaska, and are located in:

#### Copper River Meridian, Alaska

T. 14 N., R. 20 E.,

Secs. 3, 10, 14, and 15;

Secs. 23, 24, and 25.

Containing approximately 4,480 acres.

T. 16 N., R. 17 E.,

Sec. 4, excluding Veteran Native

Allotment Application F-93244-A;

Secs. 5 and 9;

Sec. 15.

Containing approximately 2,276 acres.

Aggregating approximately 6,756 acres.

Notice of the decision will also be published four times in the Fairbanks Daily News-Miner.

**DATES:** The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until November 21, 2008 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

**ADDRESSES:** A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7504.

**FOR FURTHER INFORMATION, CONTACT:** The Bureau of Land Management by phone at 907-271-5960, or by e-mail at [ak.blm.conveyance@ak.blm.gov](mailto:ak.blm.conveyance@ak.blm.gov). Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8330, 24 hours a day, seven days a