

compact or funding agreement or prevent the Department from awarding funds to the Tribe that may be included in a funding agreement.

POST-AWARD DISPUTES

**§ 29.912 What is a post-award dispute?**

A post-award dispute is a claim that arises under the Contract Disputes Act of 1978 (CDA), 41 U.S.C. 7101-7109. Such disputes arise once a compact or funding agreement is executed. Post-award disputes include:

- (a) Disputed interpretation of a provision of an executed compact or funding agreement;
- (b) Disallowance of costs under a funding agreement;
- (c) Suspension of payments under a funding agreement;
- (d) Allocation, distribution, or reduction of funds when a dispute arises between a consortium and a withdrawing Tribe;
- (e) Failure to comply with the terms of a funding agreement; and
- (f) Any other claim arising out of a compact or funding agreement.

**§ 29.913 What is a claim under the Contract Disputes Act?**

A Contract Disputes Act claim is a written demand filed by a Tribe that seeks one or more of the following:

- (a) Payment of a specific sum of money under the funding agreement;
- (b) Adjustment or interpretation of terms in a funding agreement;
- (c) Payment that is disputed as to liability or amount;
- (d) Payment that the Department has not acted upon in a reasonable time following a demand for payment; or
- (e) Any other claim relating to the terms of the compact or funding agreement.

**§ 29.914 How does a Tribe file a Contract Disputes Act claim?**

A Tribe must submit its claim in writing to the Self-Governance Official, who serves as the Department's awarding official for the purposes of Contract Disputes Act claims. The Self-Governance Official will document the receipt of the claim.

**§ 29.915 Must a Tribe certify a Contract Disputes Act claim?**

A Tribe must certify a claim for more than \$100,000 in accordance with the Contract Disputes Act. The Tribe must certify that:

- (a) The claim is made in good faith;
- (b) Documents or data supporting the claim are accurate and complete to the best of the Tribe's knowledge and belief;
- (c) The amount claimed accurately reflects the amount the Tribe believes is owed; and
- (d) The individual making the certification is authorized to make the claim on behalf of the Tribe and bind the Tribe with respect to the claim.

**§ 29.916 Who bears the burden of proof in a Contract Disputes Act claim?**

The Tribe bears the burden of proof to demonstrate, by a preponderance of the evidence, the validity of a Contract Disputes Act claim.

**§ 29.917 What is the Department's role in processing a Contract Disputes Act claim?**

- (a) The Department must document the date that the Self-Governance Official received the claim.
- (b) The Self-Governance Official must provide the Tribe with an opportunity to resolve the claim informally with assistance from Department officials who have not substantially participated in the disputed matter. Such informal mechanisms may include participating in dispute resolution pursuant to § 29.901.
- (c) If the Department and the Tribe do not agree on a settlement, the Self-Governance Official must issue a written decision on the claim by any method that provides a receipt.

**§ 29.918 What information must the Self-Governance Official's decision contain?**

- (a) The Self-Governance Official's decision must:
  - (1) Describe the claim or dispute;
  - (2) Reference the relevant terms of the compact or funding agreement;
  - (3) Set forth the factual areas of agreement and disagreement; and