

Guidelines for Tribally Operated Wildland Fire Management Programs

**Memorandum from the Deputy Commissioner of Indian Affairs
April 6, 2001**



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

IN REPLY REFER TO:
Division of Forestry

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Memorandum

To: All Regional Directors

From: Deputy Commissioner of Indian Affairs *By Sharon Beckwith*

Subject: Guideline for Tribally Operated Wildland Fire Management Programs

The Bureau of Indian Affairs (BIA) personnel are required to use the attached guideline when negotiating annual funding agreements with self-governance tribes and when developing self-determination contracts with tribes desiring to contract for the wildland fire management program. This guideline supersedes the previous "Compact Negotiation Guidelines - Wildland Fire Management" which was issued by the Deputy Commissioner of Indian Affairs in June 1996.

This new guideline was developed in response to tribal and BIA officials expressing a need to update the existing guidance on tribal wildland fire management programs to address the many changes that have occurred over the past five years. The guideline update process began with a national workshop on tribally operated wildland fire management programs held in Denver in November 2000. The workshop was well-attended by Tribes, and Office of Self-Governance representative, an Office of Inspector General representative, BIA and tribal self-determination contracting specialists and BIA wildland fire management program personnel from all organization levels. After developing the proposed guideline based on input from the Denver workshop, personnel from BIA Regions and Tribes were provided an opportunity to review and comment on the draft guideline in February 2001. Input from the review and comment process was considered and, when possible, incorporated into this final guideline.

The information in the guidelines is critical to tribes that currently have self-governance compacts or self-determination contracts for the wildland fire management program as well as to tribes that are considering compacting or contracting the program. Please use this guideline to assist tribes in developing their tribally operated wildland fire management programs.

Attachment

3/20/01

GUIDELINE FOR TRIBALLY OPERATED SELF-GOVERNANCE AND SELF-DETERMINATION WILDLAND FIRE MANAGEMENT PROGRAMS

Information in this guideline is intended for use by the Bureau of Indian Affairs and Tribes when negotiating annual funding agreements with self-governance tribes and when developing self-determination contracts with tribes who have contracted for wildland fire management programs.

Guiding Principles

1. Tribal fire management programs will be held to standards no more stringent than BIA fire management programs. Both BIA and Tribal Programs will strive to achieve excellence.
2. Tribal and BIA fire management programs will receive equal consideration for available budget and resources.
3. The BIA is committed to working with Tribes to ensure the success of their Fire Management Programs.
4. Tribes desiring to compact or contract for National, Regional or multi-tribe agency fire program functions or services provided by BIA employees to benefit more than one tribe must have a plan to provide comparable functionality or services and the agreement of other affected tribes.

Inherently Federal Activities

1. Hiring, firing and paying Federal employees including Emergency Firefighters, Administrative Pay Team (APT), or Administrative Disbursing Officer (ADO) functions or actions. However, Tribes may designate a Tribal Official to sign as Time Officer on the Emergency Firefighter Timesheet (OF-288) when such Tribal Officials are designated in a Memorandum of Agreement or Understanding or Contract Scope of Work Statements between the Tribe and the BIA, when the OF-288s are to be paid by an APT.
2. Approval, consolidation and submission of budget requests.
3. Obligating Federal government funds.
4. Approval of Resource Management or Land Use Plans, Fire Management Plans, Fire Management Program Analysis (FMPA) documents, NEPA documents, Wildland Fire Situation Analyses (WFSAs) documents, Burned Area Emergency Stabilization/Rehabilitation Plans. To fulfill its trust responsibility in resource protection, BIA must approve the documents in the preceding sentence. Even though Tribal approval of the foregoing documents cannot be in lieu of BIA approval, it is strongly

recommended that Tribes be included in the document review process, be provided the opportunity to document concerns they may have for the record and be afforded the opportunity for joint approval.

5. Delegation of Authority to Incident Management and Burned Area

Stabilization/Rehabilitation Teams operating on reservations. It is required that the BIA approve a delegation of authority to such teams and is strongly recommended that delegation of authority documents also be approved by the Tribe.

Program Funding

Preparedness Activity

1. Readiness sub-activity (92120) – includes all activities related to being prepared to suppress fires (e.g. work force staffing costs, training, equipment and supplies, etc.)

- Use of the Fire Management Program Analysis (FMPA) system is required to develop budget requests for preparedness or readiness funds. This system uniformly and objectively identifies the Normal Year Readiness and Performance Capability base funding, (previously referred to as Most Efficient Level, MEL) for locations with fire programs. Hot Shot or Type I Crew Programs will be included in the Normal Year Readiness and Performance Capability base funding for tribes whose crews are fully qualified and are functioning according to the interagency Type I Crew standards. Indirect costs will be paid on such Type I Crew Programs. The analysis will take tribal fire management objectives into consideration.
- Congress appropriates the preparedness or readiness budget based on the Normal Year Readiness and Performance Capability or a percentage of the Normal Year Readiness and Performance Capability.
- Tribal fire programs will be budgeted at the percentage of the Normal Year Readiness and Performance Capability appropriated for a given fiscal year.
- Tribes are eligible for available tribal shares.
- Tribes are eligible for indirect costs from the wildland fire appropriation.
- The Normal Year Readiness and Performance Capability funding, tribal shares, and indirect costs may be included in Self-Governance Annual Funding Agreements (AFA) and transferred to Self-Governance Tribes by the Office of Self Governance (OSG). In cases where Tribes have negotiated for Regional Directors to distribute funds directly to a self-governance compact, AFA funds may be transferred to Tribes by the Regional Office.

2. Non-recurring ("Non-Normal Year Readiness and Performance Capability") preparedness funding (e.g. subsidiary project funding) will be applied for annually and distributed to tribes through BIA Regional Offices via cooperative agreements or contracts. These are project-based one-time transfers of funds. Indirect costs on non-recurring or "non-Normal Year Readiness and Performance Capability" preparedness funds are not authorized, however reasonable administrative and over head costs incurred

by tribes in such projects may be authorized. Tribal and BIA programs will be given equal consideration for non-recurring preparedness funding.

- Facilities Construction - (92120 for projects valued at less than \$50,000; 92150 for projects valued at more than \$50,000) - all projects for construction of fire facilities valued at greater than \$10,000 must be included in the 5-year DOI Facilities Construction Plan and identified as part of the Wildland Fire annual budget appropriation. Funding is obtained by tribes through BIA Regional Offices via cooperative agreements or contracts or through agreements with other Federal agencies to reimburse tribes for facilities construction costs on a project-by-project basis. Indirect costs for facilities construction projects are not authorized.

Operations Activity

1. Suppression sub-activity (92310) – includes all fire suppression activities.
 - Funding is obtained by tribes through agreements established by BIA Regional Offices or other Federal agencies to reimburse tribes for fire costs on a fire-by-fire basis. Indirect costs for fire suppression are not authorized.
 - Tribes and BIA may negotiate to establish an escrow account based on historical fire suppression costs. This is a one-time expense. The account will be reimbursed on a fire-by-fire basis. If a tribe should retrocede or the BIA reassumes suppression responsibilities the account will be reimbursed to BIA.
2. Burned Area Emergency Stabilization/Rehabilitation sub-activity (92320) – includes all post-fire burned area stabilization/rehabilitation activities covered by approved emergency stabilization/rehabilitation plans.
 - Funding is obtained by tribes through agreements established by BIA Regional Offices or other Federal agencies to reimburse tribes for fire costs on a project-by-project basis. Indirect costs for emergency stabilization/rehabilitation projects are not authorized, however reasonable administrative and overhead costs incurred by tribes in such projects may be authorized within stabilization/rehabilitation plans.
3. Hazard Fuel Reduction, Fire Use sub-activity (92330) – includes costs associated with planning and the operational implementation of hazardous natural fuel reduction projects and restoration of fire to the ecosystem through the use of prescribed fire except prescribed fire fuel treatment projects specifically planned to treat hazardous fuels adjacent to "high risk" wildland/urban interface communities.
 - Funding is obtained by tribes through agreements established by BIA Regional Offices or other Federal agencies to reimburse tribes for actual costs on a project-by-project basis. Indirect costs for hazard fuel reduction, fire use projects and authorized fuels personnel costs are authorized and will be provided to Tribes through agreements established by Regional BIA Offices or other Federal

agencies. Indirect costs funded from this sub-activity will be paid from funding in this sub-activity.

4. Hazard Fuel Reduction, Mechanical subactivity (92340) – includes costs associated with planning and the operational implementation of hazardous natural fuel reduction projects through the use of mechanical treatment(s) except when such mechanical treatment projects are specifically planned to treat hazardous fuels adjacent to the “high risk” wildland/urban interface communities.

- Funding is obtained by tribes through agreements established by BIA Regional Offices or other Federal agencies to reimburse tribes for actual costs on a project-by-project basis. Indirect costs for hazard fuel reduction, mechanical projects are authorized and will be provided to Tribes through agreements established by Regional BIA Offices or other Federal agencies. Indirect costs for projects funded from this sub-activity will be paid from funding in this sub-activity.

5. Hazard Fuel Reduction, Wildland Urban Interface subactivity (92370) - includes costs associated with planning and the operational implementation of projects to treat fuels adjacent to “high risk” wildland/urban interface communities through mechanical means (thinning, brushing, herbicide, etc.) or prescribed fire.

- Funding is obtained by tribes through agreements established by BIA Regional Offices or other Federal agencies to reimburse tribes for actual costs on a project-by-project basis. Indirect costs for hazard fuel reduction, wildland urban interface projects and authorized fuels personnel staffing costs are authorized and will be provided to Tribes through agreements established by Regional BIA Offices or other Federal agencies. Indirect costs funded from this sub-activity will be paid from funding in this sub-activity.

6. Severity subactivity (92350) – authority and funding for activities necessary to augment initial attack capability when abnormal fire conditions occur throughout a region resulting in the fire season starting earlier than normal, or exceeding average high fire danger ratings for prolonged periods.

- Funding is obtained by tribes through agreements established by BIA Regional Offices or other Federal agencies to reimburse tribes for severity costs incurred under an approved fire severity cost request. Indirect costs for severity funds are not authorized.

7. Rural Fire Assistance (92360) - authority and funding for assisting Rural Fire Departments (RFD) that have cooperative agreements with the BIA to provide wildland fire suppression services on trust Indian lands. Funding is for wildland fire fighting training, equipment and supplies that increase the safety and effectiveness of RFD operations in the wildland.

- Funding may be applied for and, if a Tribe's RFD Assistance proposal is approved by BIA, will be distributed to tribes through BIA Regional Offices via cooperative agreements or contracts. These are project-based one-time transfers of funds. Indirect costs for Rural Fire Assistance funding are not authorized.

Program Operational Standards

Unless waivers to the following standards are explicitly approved pursuant to self-governance in Annual Funding Agreements or in Self-Determination Contracts, the following standards will apply to Tribal Fire Management Programs. In the case of Self-Governance Compacts, alternative standards may be approved by Regional Directors and, in the case of Self-Determination Contracts, alternative standards may be approved by Self-Determination Contracting Officers.

1. Fire program personnel that will be assigned to wildland fire incidents or prescribed fire projects must meet the National Wildland Fire Coordinating Group (NWCG) standards for the positions held and functions performed. Tribal Fire Management Officers are responsible for certifying tribal program employee qualifications and maintaining records of their employee qualifications. They may use the Firefighter Qualifications/Certification Component of the Shared Application Computer System (SACS) located at the National Interagency Fire Center (NIFC) if they choose to do so, but are not required to use that system.
 - NWCG position standards are considered the "industry standard" in the United States wildland fire community and are essential for safe operations in the hazardous wildland fire environment. Failure to meet the standard will prohibit participation in off reservation fire activities and could put tribal fire fighters at personal risk.
2. Fire Occurrence reports will be encoded to the Shared Application Computer System (SACS) located at the National Interagency Fire Center (NIFC) within two weeks after a fire is declared out.
 - Obligating government funds is an inherently Federal activity and fire reports are an essential element in accounting for the obligation of Federal funds.
3. Placing resource orders for: Incident Management Teams to manage extended, large fire operations, Administrative Payment Teams (APT) to pay firefighters or vendors used on incidents, or for Burned Area Stabilization/Rehabilitation Teams requires the involvement of BIA.
 - All three actions require that BIA approve delegations of authority to teams, because they involve the commitment to obligate large amounts of Federal funds and/or involve operations critical to meeting the BIA trust responsibility on Indian land.

4. The "Interagency Incident Business Management Handbook" will be used as a guide for suppression operations financial business.
 - Fire suppression operations require the obligation of large amounts of Federal funds and the "Interagency Incident Business Management Handbook" is the "industry standard" for the conduct of financial business by the wildland fire community. It provides fair and prudent business practice guidance to situations common to wildland fire project operations.
5. Approved Fire Management Plans and documented compliance with environmental and cultural resource management laws must be complete to receive project funding for fuels treatment projects involving prescribed fire or mechanical treatments. The desired condition is to have a fire management plan that compliments an approved Integrated Resource Management Plan or Forest Management Plan.
 - Prescribed fire operations have potential for large liability and are critical to the BIA trust responsibility on Indian land so quality program and project level implementation planning for its use is required.

Indirect Cost Rates

In January of each fiscal year, the Budget Officer in the Branch of Fire Management will contact the Regional Offices and the Office of Self-Governance to get the applicable indirect cost rates for self-determination and self-governance Tribes that are contracting and compacting the Wildland Fire Management Program.

In January of each fiscal year, the Branch of Fire management will distribute indirect cost funding to OSG for compacting tribes and the BIA Regional Offices for contracting tribes.

In January of each fiscal year, indirect cost funding for self-determination and self-governance tribes for hazardous fuel reduction program activities will be distributed to tribes with such programs. The Budget Officer in the Branch of Fire Management will distribute indirect cost funding for hazardous fuel reduction activities to tribes through agreements established by BIA Regional Offices. Self-determination and self-governance tribes submitting fuels projects for funding should **not** build indirect costs into their proposals.

Minimum Contract and Annual Funding Agreement Provisions

The minimum topics that are recommended to be included in self-determination contracts and self-governance annual funding agreements follow:

1. Amount of Base Program Funding (Normal Year Readiness and Performance Capability).

2. Estimated amount of Indirect Cost Funding with language subjecting the final amount to the process identified in the foregoing Indirect Cost Rates section.
3. When applicable, the identity of fire program components or functions to be retained by BIA.
4. When applicable, the identity of fire program tasks or functions to be performed by the tribe.
6. When applicable, the identity of any fire program operational standards waived by the tribe and the identity of the alternative standard to be used.

Approval:


Deputy Commissioner of Indian Affairs

4-6-01
Date