

DEPARTMENT OF THE INTERIOR

Office of the Secretary

List of Programs Eligible for Inclusion in Funding Agreements Negotiated with Self-Governance Tribes by Interior Bureaus Other than the Bureau of Indian Affairs and Fiscal Year 2018 Programmatic Targets

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: This notice lists programs or portions of programs that are eligible for inclusion in Funding Agreements with self-governance Indian Tribes and lists Fiscal Year 2018 programmatic targets for each of the non-Bureau of Indian Affairs (BIA) bureaus in the Department of the Interior, pursuant to the Tribal Self-Governance Act.

DATES: These programs are eligible for inclusion in Funding Agreements until September 30, 2018.

ADDRESSES: Inquiries or comments regarding this notice may be directed to Sharee M. Freeman, Director, Office of Self-Governance (MS 355H-SIB), 1849 C Street NW, Washington, DC 20240-0001, telephone: (202) 219-0240, fax: (202) 219-1404, or to the bureau-specific points of contact listed below.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth D. Reinfeld, Office of Self-Governance, telephone: (703) 390-6551 or (202) 821-7107.

SUPPLEMENTARY INFORMATION:

I. Background

Title II of the Indian Self-Determination Act Amendments of 1994 (P.L. 103-413, the “Tribal Self-Governance Act” or the “Act”) instituted a permanent self-governance program at the

Department of the Interior. Under the self-governance program, certain programs, services, functions, and activities, or portions thereof, in Interior bureaus other than BIA are eligible to be planned, conducted, consolidated, and administered by a self-governance Tribe.

Under section 405(c) of the Tribal Self-Governance Act, the Secretary of the Interior is required to publish annually: (1) A list of non-BIA programs, services, functions, and activities, or portions thereof, that are eligible for inclusion in agreements negotiated under the self-governance program and (2) programmatic targets for these bureaus.

Under the Tribal Self-Governance Act, two categories of non-BIA programs are eligible for self-governance funding agreements:

(1) Under section 403(b)(2) of the Act, any non-BIA program, service, function, or activity that is administered by Interior that is “otherwise available to Indian tribes or Indians,” can be administered by a Tribe through a self-governance funding agreement. The Department interprets this provision to authorize the inclusion of programs eligible for self-determination contracts under Title I of the Indian Self-Determination and Education Assistance Act (Pub .L. 93-638, as amended). Section 403(b)(2) also specifies, “nothing in this subsection may be construed to provide any tribe with a preference with respect to the opportunity of the tribe to administer programs, services, functions, and activities, or portions thereof, unless such preference is otherwise provided for by law.”

(2) Under section 403(c) of the Act, the Secretary may include other programs, services, functions, and activities or portions thereof that are of “special geographic, historical, or cultural significance” to a self-governance Tribe.

Under section 403(k) of the Tribal Self-Governance Act, funding agreements cannot include programs, services, functions, or activities that are inherently Federal or where the statute

establishing the existing program does not authorize the type of participation sought by the Tribe. However, a Tribe (or Tribes) need not be identified in the authorizing statutes in order for a program or element to be included in a self-governance funding agreement. While general legal and policy guidance regarding what constitutes an inherently Federal function exists, the non-BIA bureaus will determine whether a specific function is inherently Federal on a case-by-case basis considering the totality of circumstances. In those instances where the Tribe disagrees with the bureau's determination, the Tribe may request reconsideration from the Secretary.

Subpart G of the self-governance regulations found at 25 CFR part 1000 provides the process and timelines for negotiating self-governance funding agreements with non-BIA bureaus.

Response to Comments

Comments on a draft Federal Register Notice were requested in an April 3, 2017. Memorandum sent by the Director, Office of Self-Governance to Tribal Self-Governance Coordinators and a Consultation Session held during the Self-Governance Conference on Tuesday, April 25, 2017.

Changes Made from 2017 to 2018

To Be Provided

II. Funding Agreements between Self-Governance Tribes and non-BIA Bureaus of the Department of the Interior for Fiscal Year 2018.

A. Bureau of Land Management (2)

Council of Athabascan Tribal Governments

Duckwater Shoshone Tribe

B. Bureau of Reclamation (5)

Gila River Indian Community

Chippewa Cree Tribe of Rocky Boy's Reservation

Hoopa Valley Tribe

Karuk Tribe of California

Yurok Tribe

C. Office of Natural Resources Revenue (none)

D. National Park Service (2)

Grand Portage Band of Lake Superior Chippewa Indians

Yurok Tribe

E. Fish and Wildlife Service (1)

Council of Athabascan Tribal Governments

F. U.S. Geological Survey (none)

G. Office of the Special Trustee for American Indians (1)

Confederated Salish and Kootenai Tribes of the Flathead Reservation

III. Eligible Programs of the Department of the Interior non-BIA Bureaus.

Below is a listing by bureau of the types of non-BIA programs, or portions thereof, that may be eligible for self-governance funding agreements because they are either "otherwise available to Indians" under Title I and not precluded by any other law, or may have "special geographic, historical, or cultural significance" to a participating Tribe. The list represents the most current information on programs potentially available to Tribes under a self-governance funding agreement.

The Department will also consider for inclusion in funding agreements other programs or activities not listed below, but which, upon request of a self-governance Tribe, the Department determines to be eligible under either sections 403(b)(2) or 403(c) of the Act. Tribes with an

interest in such potential agreements are encouraged to begin discussions with the appropriate non-BIA bureau.

A. Eligible Bureau of Land Management (BLM) Programs

The BLM carries out some of its activities in the management of public lands through contracts and cooperative agreements. These and other activities, depending upon availability of funds, the need for specific services, and the self-governance Tribe's demonstration of a special geographic, cultural, or historical connection, may also be available for inclusion in self-governance funding agreements. Once a Tribe has made initial contact with the BLM, more specific information will be provided by the respective BLM State office.

Some elements of the following programs may be eligible for inclusion in a self-governance funding agreement. This listing is not all-inclusive, but is representative of the types of programs that may be eligible for Tribal participation through a funding agreement.

Tribal Services

1. Minerals Management. Inspection and enforcement of Indian oil and gas operations: Inspection, enforcement and production verification of Indian coal and sand and gravel operations are already available for contracts under Title I of the Act and, therefore, may be available for inclusion in a funding agreement.

2. Cadastral Survey. Tribal and allottee cadastral survey services are already available for contracts under Title I of the Act and, therefore, may be available for inclusion in a funding agreement.

Other Activities

1. Cultural heritage. Cultural heritage activities, such as research and inventory, may be available in specific States.

2. Natural Resources Management. Activities such as silvicultural treatments, timber management, cultural resource management, watershed restoration, environmental studies, tree planting, thinning, and similar work, may be available in specific States.

3. Range Management. Activities, such as revegetation, noxious weed control, fencing, construction and management of range improvements, grazing management experiments, range monitoring, and similar activities, may be available in specific States.

4. Riparian Management. Activities, such as facilities construction, erosion control, rehabilitation, and other similar activities, may be available in specific States.

5. Recreation Management. Activities, such as facilities construction and maintenance, interpretive design and construction, and similar activities may be available in specific States.

6. Wildlife and Fisheries Habitat Management. Activities, such as construction and maintenance, implementation of statutory, regulatory and policy or administrative plan-based species protection, interpretive design and construction, and similar activities may be available in specific States.

7. Wild Horse Management. Activities, such as wild horse round-ups, adoption and disposition, including operation and maintenance of wild horse facilities, may be available in specific States.

For questions regarding self-governance, contact Jerry Cordova, Bureau of Land Management (MS L St-204), 1849 C Street NW, Washington, DC 20240, telephone: (202) 912-7245, fax: (202) 452-7701.

B. Eligible Bureau of Reclamation (Reclamation) Programs

The mission of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. To

this end, most of Reclamation's activities involve the construction, operation and maintenance, and management of water resources projects and associated facilities, as well as research and development related to its responsibilities. Reclamation water resources projects provide water for agricultural, municipal and industrial water supplies; hydroelectric power generation; flood control, enhancement of fish and wildlife habitats; and outdoor recreation.

Components of the following water resource projects listed below may be eligible for inclusion in a self-governance annual funding agreement. This list was developed with consideration of the proximity of identified self-governance Tribes to Reclamation projects.

1. Klamath Project, California and Oregon
2. Trinity River Fishery, California
3. Central Arizona Project, Arizona
4. Rocky Boy's/North Central Montana Regional Water System, Montana
5. Indian Water Rights Settlement Projects, as authorized by Congress

Upon the request of a self-governance Tribe, Reclamation will also consider for inclusion in funding agreements other programs or activities which Reclamation determines to be eligible under Section 403(b)(2) or 403(c) of the Act.

For questions regarding self-governance, contact Mr. Kelly Titensor, Policy Analyst, Native American and International Affairs Office, Bureau of Reclamation (96-43000) (MS 7069-MIB); 1849 C Street NW, Washington DC 20240, telephone: (202) 513-0558, fax: (202) 513-0311.

C. Eligible Office of Natural Resources Revenue (ONRR) Programs

The Office of Natural Resources Revenue (ONRR) collects, accounts for, and distributes mineral revenues from both Federal and Indian mineral leases.

The ONRR also evaluates industry compliance with laws, regulations, and lease terms, and

offers mineral-owning Tribes opportunities to become involved in its programs that address the intent of Tribal self-governance. These programs are available to self-governance Tribes and are a good preparation for assuming other technical functions. Generally, ONRR program functions are available to Tribes because of the Federal Oil and Gas Royalty Management Act of 1983 (FOGRMA) at 30 U.S.C. 1701. The ONRR promotes Tribal self-governance and self-determination over trust lands and resources through the following program functions that may be available to self-governance Tribes:

1. Audit of Tribal Royalty Payments. Audit activities for Tribal leases, except for the issuance of orders, final valuation decisions, and other enforcement activities. (For Tribes already participating in ONRR cooperative audits, this program is offered as an option.)

2. Verification of Tribal Royalty Payments. Financial compliance verification, monitoring activities, and production verification.

3. Tribal Royalty Reporting, Accounting, and Data Management.

Establishment and management of royalty reporting and accounting systems including document processing, production reporting, reference data (lease, payor, agreement) management, billing and general ledger.

4. Tribal Royalty Valuation. Preliminary analysis and recommendations for valuation, and allowance determinations and approvals.

5. Royalty Internship Program. An orientation and training program for auditors and accountants from mineral-producing Tribes to acquaint Tribal staff with royalty laws, procedures, and techniques. This program is recommended for Tribes that are considering a self-governance funding agreement, but have not yet acquired mineral revenue expertise via a FOGRMA section 202 cooperative agreement, as this term is defined in FOGRMA and

implementing regulations at 30 CFR 228.4.

For questions regarding self-governance, contact Paul Tyler, Program Manager, Office of Natural Resources Revenue, Denver Federal Center, 6th & Kipling, Building 67, Room 698, Denver, Colorado 80225-0165, telephone: (303) 231-3413 or fax: (303) 231-3091.

D. Eligible National Park Service (NPS) Programs

NPS administers the National Park System, which is made up of national parks, monuments, historic sites, battlefields, seashores, lake shores and recreation areas. NPS maintains the park units, protects the natural and cultural resources, and conducts a range of visitor services such as law enforcement, park maintenance, and interpretation of geology, history, and natural and cultural resources.

Some elements of the following programs may be eligible for inclusion in a self-governance funding agreement. This list below was developed considering the proximity of an identified self-governance Tribe to a national park, monument, preserve, or recreation area and the types of programs that have components that may be suitable for administering through a self-governance funding agreement. This list is not all-inclusive, but is representative of the types of programs which may be eligible for Tribal participation through funding agreements.

Elements of Programs that may be Eligible for Inclusion in a Self-Governance Funding

Agreement

1. Archaeological Surveys
2. Comprehensive Management Planning
3. Cultural Resource Management Projects
4. Ethnographic Studies
5. Erosion Control

6. Fire Protection
7. Gathering Baseline Subsistence Data – Alaska
8. Hazardous Fuel Reduction
9. Housing Construction and Rehabilitation
10. Interpretation
11. Janitorial Services
12. Maintenance
13. Natural Resource Management Projects
14. Operation of Campgrounds
15. Range Assessment – Alaska
16. Reindeer Grazing – Alaska
17. Road Repair
18. Solid Waste Collection and Disposal
19. Trail Rehabilitation
20. Watershed Restoration and Maintenance
21. Beringia Research
22. Elwha River Restoration
23. Recycling Programs

Locations of National Park Service Units with Close Proximity to Self-Governance Tribes

1. Aniakchack National Monument & Preserve -- Alaska
2. Bering Land Bridge National Preserve -- Alaska
3. Cape Krusenstern National Monument – Alaska
4. Denali National Park & Preserve -- Alaska

5. Gates of the Arctic National Park & Preserve – Alaska
6. Glacier Bay National Park and Preserve -- Alaska
7. Katmai National Park and Preserve – Alaska
8. Kenai Fjords National Park -- Alaska
9. Klondike Gold Rush National Historical Park – Alaska
10. Kobuk Valley National Park -- Alaska
11. Lake Clark National Park and Preserve – Alaska
12. Noatak National Preserve -- Alaska
13. Sitka National Historical Park – Alaska
14. Wrangell-St. Elias National Park and Preserve – Alaska
15. Yukon-Charley Rivers National Preserve – Alaska
16. Casa Grande Ruins National Monument – Arizona
17. Hohokam Pima National Monument – Arizona
18. Montezuma Castle National Monument – Arizona
19. Organ Pipe Cactus National Monument – Arizona
20. Saguaro National Park – Arizona
21. Tonto National Monument – Arizona
22. Tumacacori National Historical Park – Arizona
23. Tuzigoot National Monument – Arizona
24. Arkansas Post National Memorial -- Arkansas
25. Death Valley National Park – California
26. Devils Postpile National Monument -- California
27. Joshua Tree National Park – California

28. Lassen Volcanic National Park – California
29. Point Reyes National Seashore -- California
30. Redwood National Park – California
31. Whiskeytown National Recreation Area – California
32. Yosemite National Park -- California
33. Hagerman Fossil Beds National Monument – Idaho
34. Effigy Mounds National Monument – Iowa
35. Fort Scott National Historic Site – Kansas
36. Tallgrass Prairie National Preserve -- Kansas
37. Boston Harbor Islands National Recreation Area – Massachusetts
38. Cape Cod National Seashore – Massachusetts
39. New Bedford Whaling National Historical Park – Massachusetts
40. Isle Royale National Park -- Michigan
41. Sleeping Bear Dunes National Lakeshore – Michigan
42. Grand Portage National Monument – Minnesota
43. Voyageurs National Park – Minnesota
44. Bear Paw Battlefield, Nez Perce National Historical Park – Montana
45. Glacier National Park – Montana
46. Great Basin National Park – Nevada
47. Aztec Ruins National Monument – New Mexico
48. Bandelier National Monument – New Mexico
49. Carlsbad Caverns National Park – New Mexico
50. Chaco Culture National Historic Park – New Mexico

51. Pecos National Historic Park – New Mexico
52. White Sands National Monument – New Mexico
53. Fort Stanwix National Monument – New York
54. Great Smoky Mountains National Park – North Carolina/Tennessee
55. Cuyahoga Valley National Park – Ohio
56. Hopewell Culture National Historical Park – Ohio
57. Chickasaw National Recreation Area – Oklahoma
58. Crater Lake National Park -- Oregon
59. John Day Fossil Beds National Monument – Oregon
60. Alibates Flint Quarries National Monument – Texas
61. Guadalupe Mountains National Park – Texas
62. Lake Meredith National Recreation Area – Texas
63. Ebey’s Landing National Recreation Area – Washington
64. Fort Vancouver National Historic Site -- Washington
65. Mount Rainier National Park – Washington
66. Olympic National Park – Washington
67. San Juan Islands National Historic Park – Washington
68. Whitman Mission National Historic Site -- Washington

For questions regarding self-governance, contact Joe Watkins, Chief, American Indian Liaison Office, National Park Service (Org. 2560, 9th Floor), 1201 Eye Street NW, Washington, DC 20005-5905, telephone: (202) 354-6962, fax: (202) 371-6609, or e-mail: joe_watkins@nps.gov.

E. Eligible Fish and Wildlife Service (Service) Programs

The mission of the Service is to conserve, protect, and enhance fish, wildlife, and their habitats for the continuing benefit of the American people. Primary responsibilities are for migratory birds, endangered species, freshwater and anadromous fisheries, and certain marine mammals. The Service also has a continuing cooperative relationship with a number of Indian Tribes throughout the National Wildlife Refuge System and the Service's fish hatcheries. Any self-governance Tribe may contact a National Wildlife Refuge or National Fish Hatchery directly concerning participation in Service programs under the Tribal Self-Governance Act. This list is not all-inclusive, but is representative of the types of Service programs that may be eligible for Tribal participation through an annual funding agreement.

1. Subsistence Programs within the State of Alaska. Evaluate and analyze data for annual subsistence regulatory cycles and other data trends related to subsistence harvest needs and facilitate Tribal Consultation to ensure ANILCA Title VII terms are being met, as well as activities fulfilling the terms of Title VIII of ANILCA.

2. Technical Assistance, Restoration and Conservation. Conduct planning and implementation of population surveys, habitat surveys, restoration of sport fish, capture of depredating migratory birds, and habitat restoration activities.

3. Endangered Species Programs. Conduct activities associated with the conservation and recovery of threatened or endangered species protected under the Endangered Species Act (ESA) or candidate species under the ESA. These activities may include, but are not limited to, cooperative conservation programs, development of recovery plans and implementation of recovery actions for threatened and endangered species, and implementation of status surveys for high priority candidate species.

4. Education Programs. Provide services in interpretation, outdoor classroom instruction,

visitor center operations, and volunteer coordination both on and off national Wildlife Refuge lands in a variety of communities, and assist with environmental education and outreach efforts in local villages.

5. Environmental Contaminants Program. Conduct activities associated with identifying and removing toxic chemicals, to help prevent harm to fish, wildlife and their habitats. The activities required for environmental contaminant management may include, but are not limited to, analysis of pollution data, removal of underground storage tanks, specific cleanup activities, and field data gathering efforts.

6. Wetland and Habitat Conservation Restoration. Provide services for construction, planning, and habitat monitoring and activities associated with conservation and restoration of wetland habitat.

7. Fish Hatchery Operations. Conduct activities to recover aquatic species listed under the Endangered Species Act, restore native aquatic populations, and provide fish to benefit National Wildlife Refuges and Tribes that may be eligible for a self-governance funding agreement. Such activities may include, but are not limited to: Tagging, rearing and feeding of fish, disease treatment, and clerical or facility maintenance at a fish hatchery.

8. National Wildlife Refuge Operations and Maintenance. Conduct activities to assist the National Wildlife Refuge System, a national network of lands and waters for conservation, management and restoration of fish, wildlife and plant resources and their habitats within the United States. Activities that may be eligible for a self-governance funding agreement may include, but are not limited to: Construction, farming, concessions, maintenance, biological program efforts, habitat management, fire management, and implementation of comprehensive conservation planning.

Locations of Refuges and Hatcheries with Close Proximity to Self-Governance Tribes

The Service developed the list below based on the proximity of identified self-governance Tribes to Service facilities that have components that may be suitable for administering through a self-governance funding agreement.

1. Alaska National Wildlife Refuges – Alaska
2. Alchesay National Fish Hatchery – Arizona
3. Humboldt Bay National Wildlife Refuge – California
4. Kootenai National Wildlife Refuge – Idaho
5. Agassiz National Wildlife Refuge – Minnesota
6. Mille Lacs National Wildlife Refuge – Minnesota
7. Rice Lake National Wildlife Refuge – Minnesota
8. National Bison Range – Montana
9. Ninepipe National Wildlife Refuge – Montana
10. Pablo National Wildlife Refuge -- Montana
11. Sequoyah National Wildlife Refuge – Oklahoma
12. Tishomingo National Wildlife Refute – Oklahoma
13. Bandon Marsh National Wildlife Refuge – Washington
14. Dungeness National Wildlife Refuge -- Washington
15. Makah National Fish Hatchery – Washington
16. Nisqually National Wildlife Refuge – Washington
17. Quinault National Fish Hatchery – Washington
18. San Juan Islands National Wildlife Refuge – Washington
19. Tamarac National Wildlife Refuge – Wisconsin

For questions regarding self-governance, contact Scott Aikin, Fish and Wildlife Service, National Native American Programs Coordinator, 1211 SE Cardinal Court, Suite 100, Vancouver, Washington 98683, telephone (360) 604-2531 or fax (360) 604-2505.

F. Eligible U.S. Geological Survey (USGS) Programs

The mission of the USGS is to collect, analyze, and provide information on biology, geology, hydrology, and geography that contributes to the wise management of the Nation's natural resources and to the health, safety, and well-being of the American people. This information is usually publicly available and includes maps, data bases, and descriptions and analyses of the water, plants, animals, energy, and mineral resources, land surface, underlying geologic structure, and dynamic processes of the earth. The USGS does not manage lands or resources. Self-governance Tribes may potentially assist the USGS in the data acquisition and analysis components of its activities.

For questions regarding self-governance, contact Monique Fordham, Esq., National Tribal Liaison, U.S. Geological Survey, 12201 Sunrise Valley Drive, Reston, Virginia 20192, telephone (703) 648-4437 or fax (703) 648-6683.

G. Eligible Office of the Special Trustee for American Indians (OST) Programs

The Department of the Interior has responsibility for what may be the largest land trust in the world, approximately 56 million acres. OST oversees the management of Indian trust assets, including income generated from leasing and other commercial activities on Indian trust lands, by maintaining, investing and disbursing Indian trust financial assets, and reporting on these transactions. The mission of the OST is to serve Indian communities by fulfilling Indian fiduciary trust responsibilities. This is to be accomplished through the implementation of a Comprehensive Trust Management Plan (CTM) that is designed to improve trust beneficiary

services, ownership information, management of trust fund assets, and self-governance activities.

A Tribe operating under self-governance may include the following programs, services, functions, and activities or portions thereof in a funding agreement:

1. Beneficiary Processes Program (Individual Indian Money Accounting Technical Functions).

2. Appraisal Services Program. Tribes/consortia that currently perform these programs under a self-governance funding agreement with the Office of Self-Governance (OSG) may negotiate a separate memorandum of understanding (MOU) with OST that outlines the roles and responsibilities for management of these programs.

The MOU between the Tribe/Consortium and OST outlines the roles and responsibilities for the performance of the OST program by the Tribe/consortium. If those roles and responsibilities are already fully articulated in the existing funding agreement with the OSG, an MOU is not necessary. To the extent that the parties desire specific program standards, an MOU will be negotiated between the Tribe/Consortium and OST, which will be binding on both parties and attached and incorporated into the OSG funding agreement.

If a Tribe/Consortium decides to assume the operation of an OST program, the new funding for performing that program will come from OST program dollars. A Tribe's newly-assumed operation of the OST program(s) will be reflected in the Tribe's OSG funding agreement.

For questions regarding self-governance, contact Lee Frazier, Program Analyst, Office of External Affairs, Office of the Special Trustee for American Indians (MS 5140-- MIB), 1849 C Street NW, Washington, DC 20240-0001, phone: (202) 208-7587, fax: (202) 208-7545.

IV. Programmatic Targets

The programmatic target for Fiscal Year 2017 provides that, upon request of a self-

governance Tribe, each non-BIA bureau will negotiate funding agreements for its eligible programs beyond those already negotiated.

V. Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated:

Ryan Zinke,
Secretary.