



February 10, 2022

GENERAL MEMORANDUM 22-001

DOI Publishes List of Non-BIA Programs Eligible for Inclusion in Self-Governance Funding Agreements

On February 8, 2022, in the FEDERAL REGISTER, the Department of the Interior (DOI) published a [notice](#) which lists non-Bureau of Indian Affairs (BIA) programs, services, functions, and activities (or portions thereof) eligible to be included in self-governance funding agreements and lists the FY 2022 programmatic targets for these non-BIA bureaus. DOI annually publishes this notice in the FEDERAL REGISTER. *These programs are eligible for inclusion in Funding Agreements until September 30, 2022.*

Determining Eligible Programs, Services, Functions, and Activities (PSFAs). There are two categories of PSFAs (or portions thereof) eligible to be included in self-governance funding agreements:

- 1) Any non-BIA PSFA administered by DOI that is "otherwise available to Indian tribes or Indians;" and
- 2) Any non-BIA PSFA that is of "special geographic, historical, or cultural significance" to a tribe.

Funding agreements cannot include PSFAs that are "inherently Federal" or where the statute establishing the existing program does not authorize the types of participation sought by the tribe. However, a Tribe need not be identified in the authorizing statutes in order for a PSFA or element of such PSFA 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.

Non-BIA Bureaus. Tribes may include PSFAs from the following non-BIA bureaus in self-governance funding agreements: Bureau of Land Management; Bureau of Reclamation; Office of Natural Resources Revenue; National Park Service; Fish and Wildlife Service; U.S. Geological Survey; Office of the Special Trustee for American Indians; and the Appraisal and Valuation Services Office. The notice lists the FY 2022 tribal self-governance agreements with non-BIA agencies at the Department of the Interior.

Please let us know if we may provide additional information or assistance regarding this FEDERAL REGISTER notice.

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