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638 Agreements and Tribal Co-Stewardship

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Tribal Costewardship

- USDO I Report (2024):

Indigenous people hold title to their lands and have stewarded these places since time immemorial in the United States. In caring for and administering the lands and waters within its jurisdiction, the Department of the Interior is working toward honoring the United States longstanding treaty and trust responsibilities to protect Tribal sovereignty, including through the revitalization of and access to subsistence resources and sacred sites, and further recognizing the power of cultural practices and Indigenous Knowledge to improve resources management.



June 6, 2024: Five Tribes signs a costewardship agreement for the Pactola/He-Sapa Visitor Center in the Black Hills with the U.S. Forest Service.

638 Compacts and Tribal Co- Stewardship

- Non-BIA Interior Agencies:
 - BLM, USFWS, NPS, USGS, etc.
 - Tribal PFSAs + “nexus” PFSAs
 - Nexus: “special geographic, historical or cultural significance”
- PLUS:
- Tribal Forest Protection Act (TFPA) of 2004:
 - Expanded contracting authority to USFS for some projects on certain lands bordering on or adjacent to tribal lands
- 2018 Farm Bill:
 - Expanded 638 contracting to USFS for carrying out TFPA projects (also Good Neighbor Authority for Tribes)

[Tribal Forest Protection Act/638 Project Authority | US Forest Service](#)

638 Compacts and Co-Stewardship Opportunities

- Range of non-BIA (but DOI) agency programs
- Established – and FLEXIBLE – structure for agreements
- Pursuant to S.O. 3403, the Departments’ agencies have a directive to facilitate agreements with Tribes to collaborate in the co-stewardship of Federal lands and waters and to strengthen Tribal homelands. Pursuant to Executive Order 13175, the Department supports Tribal sovereignty and self-determination, and encourages Indian Tribes to develop their own policies to achieve the objectives of the Act for non-BIA Programs. Where possible, the Department will defer to Indian Tribes to establish standards for non-BIA Programs. Together, these policy documents demonstrate, and the Department reiterates, a desire to further inclusion of non-BIA programs in self governance funding agreements

[2023-17192.pdf](#)

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

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Fiscal Year 2023 List of Programs Eligible for Inclusion in Funding Agreements Negotiated With Self-Governance Tribes by Interior Bureaus Other Than the Bureau of Indian Affairs; Fiscal Year 2024 Programmatic Targets

AGENCY: Office of the Secretary, Interior.
ACTION: Notice.

SUMMARY: This notice lists: fiscal year 2024 programmatic targets for each of the non-Bureau of Indian Affairs (BIA) bureaus in the Department of the Interior (Department), pursuant to title IV of the Act, as amended, and list of fiscal year 2023 programs or portions of programs eligible for inclusion in self-governance funding agreements with Indian Tribes. Revisions to this list are based upon feedback received during Tribal Consultations held in January 2023 on what information would be most helpful to Indian Tribes seeking ways to develop collaborative arrangements in the co-stewardship of Federal lands and waters.

DATES: Programs on this list are eligible for inclusion in self-governance funding agreements until September 30, 2024.

ADDRESSES: Inquiries or comments regarding this notice may be directed to the bureau-specific points of contact listed below.

FOR FURTHER INFORMATION CONTACT: Contacts from the following bureaus and offices are available to answer questions:

- *Office of Self Governance:* Vickie Hanvey, Program Policy Analyst, Office of Self Governance; telephone: (918) 931-0745; email: vickie.hanvey@bia.gov.
- *Bureau of Land Management:* Byron Loosle, Division Chief for National Conservation Lands; telephone: (202) 302-1442; email: bloosle@blm.gov.
- *Bureau of Reclamation:* Mr. Kelly Titensor, Native American Affairs Advisor; telephone: (202) 513-0558; email: ktitensor@usbr.gov.
- *Office of Natural Resources Revenue:* Bethany Hagen-Templin, Tribal Liaison Officer; telephone: 303-231-3667; email: onrrtriballiaisonofficer@onrr.gov.
- *National Park Service:* Dorothy FireCloud, Native American Affairs Liaison; telephone: (202) 354-2090; email: dorothy_firecloud@nps.gov.
- *U.S. Fish and Wildlife Service:* Scott Aikin, National Native American

Programs Coordinator; telephone:(202) 285-3411; email: scott_aikin@fws.gov.

- *U.S. Geological Survey:* Chris Hammond, Head, Office of Tribal Relations; telephone: (703) 648-6621; email: chammond@usgs.gov.
- *Bureau of Trust Funds Administration:* Lee Frazier, Program Analyst; telephone: (202) 208-7587; email: lee_frazier@btfa.gov.
- *Appraisal and Valuation Services Office (AVSO):* Eldred F. Lesansee, Associate Deputy Director, Office of Tribal Sovereignty; telephone: (505) 414-3805; email: eldred_lesansee@ios.doi.gov.

Alternatively, inquiries may also be submitted by mail to: Director, Office of Self Governance, 1849 C Street NW—3624 MIB, U.S. Department of the Interior, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: Title IV of the Indian Self-Determination and Education Assistance Act (Act), Public Law 93-638, instituted a permanent self-governance program for each of the Department bureaus other than the BIA. Under the self-governance program, certain programs, services, functions, and activities, or portions thereof, in Department bureaus other than the BIA are eligible to be planned, conducted, consolidated, and administered by a self-governance Tribe.

Section 412(c) of the Act requires the Secretary of the Interior (Secretary) to annually publish a list of, and programmatic targets for, non-BIA programs, services, functions, and activities, or portions thereof, that are eligible for inclusion in agreements negotiated under the self-governance program.

I. Background

Two kinds of non-BIA programs are eligible for self-governance funding agreements. section 403(b)(2) of the Act provides that any non-BIA program, service, function, or activity that is administered by the Department 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 IV of the Act. 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.” Section 403(c) of the Act adds that the Secretary may include other programs, services, functions, and

PROGRESS Act

The Practical Reforms & Other Goals
to Reinforce the Effectiveness of Self
Governance & Self Determination for
Indian Tribes Act

- Final Regs published December 2024
(25 CFR Part 1000):
 - Inherently Federal Functions?
 - Non-BIA/Nexus programs?
 - CSCs?
 - Negotiations/process?

638 Compacts and Co-Stewardship Challenges

- Discretionary agency approval
- Eligibility requirements – demonstrated performance, clean audits, etc.
- Not available: Inherently Federal Functions...what does that mean?
 - so intimately related to the public interest as to require performance by Federal Government employees ...
 - requiring “either the exercise of discretion in applying Federal Government authority or the making of value judgments in making decisions for the Federal Government, including judgments relating to monetary transactions and entitlement”
 - Other considerations as well....
 - BUT: Bureaus retain significant latitude to use agreements with outside partners to support their government operations without inappropriate transfers of agency authority.

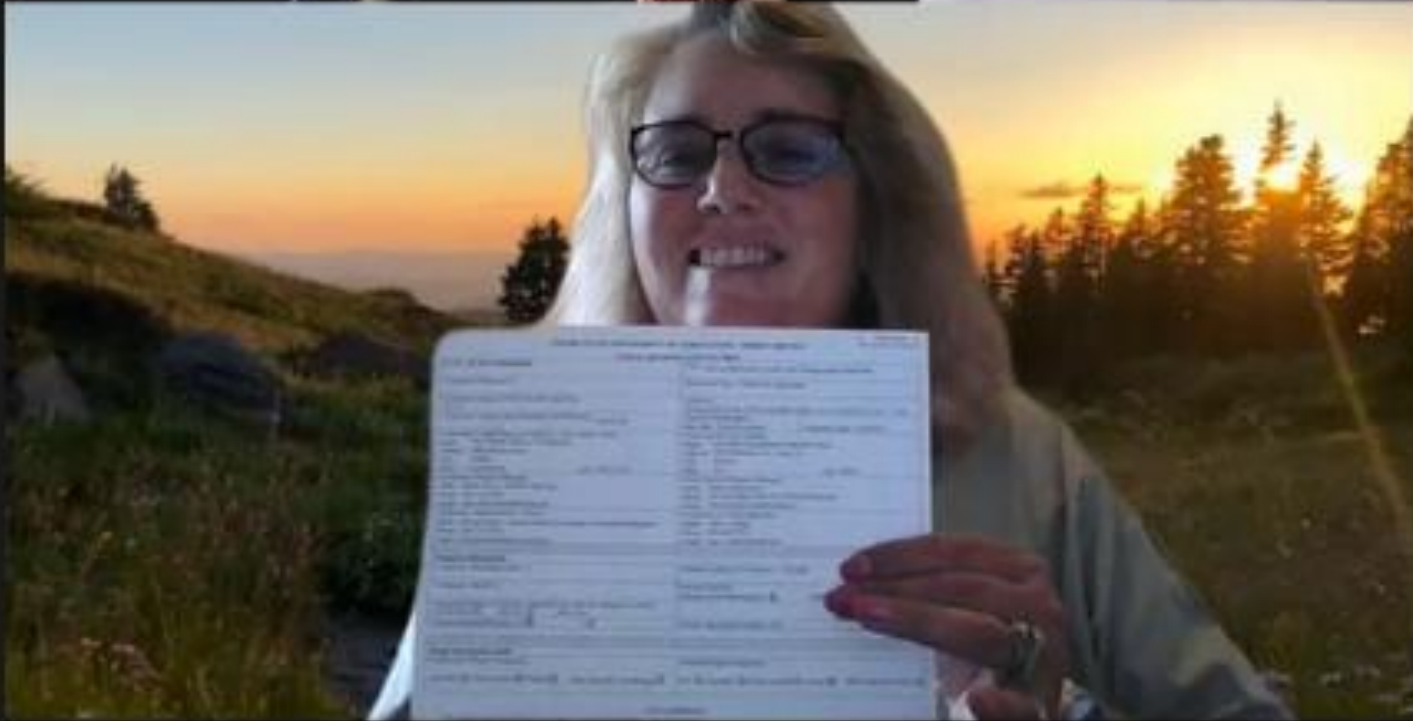
638 Compacts and Co-Stewardship Challenges

- Funding
- Agency reluctance
- For USFS, TFPA limitations: tribal lands/forest lands “bordering on or adjacent to ...”
- Other federal laws...NEPA, etc.

A scenic landscape photograph featuring a wooden cabin on a grassy hill. The cabin has a dark roof and a chimney. In the foreground, there are trees with yellow and green autumn leaves. In the background, a large blue lake is visible, surrounded by a forested hill under a clear blue sky. The text "Examples ..." is overlaid in the center of the image.

Examples ...









SOVEREIGN-TO-SOVEREIGN COOPERATIVE AGREEMENTS

Introduction

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Introduction

This repository is a work in progress based on a collaboration between The [Native American Rights Fund](#), the Gallagher Law Library and the [Native American Law Center](#) at the [University of Washington School of Law](#), the [Bolle Center for People and Forests](#) at the University of Montana, the [Wilderness Society](#), the [Natural Resources Defense Council](#), the [Henry Luce Foundation](#), the [Wilburforce Foundation](#), and the [First Nations Development Institute](#).

What's next?

Governor, First Lady urge continued focus on state-tribal relationships at sixth G2G Conference

[<< All News](#)

Tuesday, June 25, 2024 - 04:11 pm

Gov. Doug Burgum and First Lady Kathryn Burgum today addressed attendees at the sixth Strengthening Government to Government (G2G) Conference, outlining the significant progress made on state-tribal relations during the past eight years and urging tribal leaders, government agencies and other stakeholders to continue building on that progress with the five sovereign tribal nations with whom North Dakota shares geography.



THANK YOU!

QUESTIONS/COMMENTS?

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