

**Subpart I—Operational Provisions**

## CONFLICTS OF INTEREST

**§ 137.160 Are Self-Governance Tribes required to address potential conflicts of interest?**

Yes, self-Governance Tribes participating in self-governance under Title V must ensure that internal measures are in place to address conflicts of interest in the administration of self-governance PSFAs.

## AUDITS AND COST PRINCIPLES

**§ 137.165 Are Self-Governance Tribes required to undertake annual audits?**

Yes, under the provisions of section 506(c) of the Act [25 U.S.C. 458aaa-5(c)], Self-Governance Tribes must undertake annual audits pursuant to the Single Audit Act, 31 U.S.C. 7501 *et seq.*

**§ 137.166 Are there exceptions to the annual audit requirements?**

Yes, the exceptions are described in 31 U.S.C. 7502 of the Single Audit Act.

**§ 137.167 What cost principles must a Self-Governance Tribe follow when participating in self-governance under Title V?**

A Self-Governance Tribe must apply the cost principles of the applicable OMB circular, except as modified by:

(a) Section 106 (k) of the Act [25 U.S.C. 450j-1],

(b) Other provisions of law, or

(c) Any exemptions to applicable OMB circulars subsequently granted by the OMB.

**§ 137.168 May the Secretary require audit or accounting standards other than those specified in § 137.167?**

No, no other audit or accounting standards shall be required by the Secretary.

**§ 137.169 How much time does the Federal Government have to make a claim against a Self-Governance Tribe relating to any disallowance of costs, based on an audit conducted under § 137.165?**

Any right of action or other remedy (other than those relating to a criminal offense) relating to any disallow-

ance of costs is barred unless the Secretary provides notice of such a disallowance within 365 days from receiving any required annual agency single audit report or, for any period covered by law or regulation in force prior to enactment of the Single Agency Audit Act of 1984, any other required final audit report.

**§ 137.170 When does the 365 day period commence?**

For the purpose of determining the 365 day period, an audit report is deemed received on the date of actual receipt by the Secretary, at the address specified in § 137.172, if, within 60 days after receiving the audit report, the Secretary does not give notice of a determination by the Secretary to reject the single-agency audit report as insufficient due to non-compliance with chapter 75 of title 31, United States Code or noncompliance with any other applicable law.

**§ 137.171 Where do Self-Governance Tribes send their audit reports?**

(a) For fiscal years ending on or before June 30, 1996, the audit report must be sent to: National External Audit Review Center, Lucas Place Room 514, 323 W. 8th St., Kansas City, MO 64105.

(b) For fiscal years, beginning after June 30, 1996, the audit report must be sent to: Single Audit Clearinghouse, 1201 E. 10th St., Jeffersonville, IN 47132.

**§ 137.172 Should the audit report be sent anywhere else to ensure receipt by the Secretary?**

Yes, the Self-Governance Tribe should also send the audit report to: National External Audit Review Center, Lucas Place Room 514, 323 W. 8th St., Kansas City, MO 64105.

**§ 137.173 Does a Self-Governance Tribe have a right of appeal from a disallowance?**

Yes, the notice must set forth the right of appeal and hearing to the Interior Board of Contract Appeals, pursuant to section 110 of the Act [25 U.S.C. 450m-1].

RECORDS

**§ 137.175 Is a Self-Governance Tribe required to maintain a record-keeping system?**

Yes. Tribes are required to maintain records and provide Federal agency access to those records as provided in § 137.177.

**§ 137.176 Are Tribal records subject to the Freedom of Information Act and Federal Privacy Act?**

No, except to the extent that a Self-Governance Tribe specifies otherwise in its compact or funding agreement, the records of the Self-Governance Tribe shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

**§ 137.177 Is the Self-Governance Tribe required to make its records available to the Secretary?**

Yes, after 30 days advance written notice from the Secretary, the Self-Governance Tribe must provide the Secretary with reasonable access to such records to enable the Department to meet its minimum legal record-keeping system requirements under sections 3101 through 3106 of title 44 United States Code.

**§ 137.178 May Self-Governance Tribes store patient records at the Federal Records Centers?**

Yes, at the option of a Self-Governance Tribe, patient records may be stored at Federal Records Centers to the same extent and in the same manner as other Department patient records in accordance with section 105(o) of the Act [25 U.S.C. 450j(o)].

**§ 137.179 May a Self-Governance Tribe make agreements with the Federal Records Centers regarding disclosure and release of the patient records stored pursuant to § 137.178?**

Yes, a Self-Governance Tribe may make agreements with the Federal Records Centers regarding disclosure and release of the patient records stored pursuant to § 137.178.

**§ 137.180 Are there other laws that govern access to patient records?**

Yes, a Tribe must consider the potential application of Tribal, Federal and state law and regulations that may apply to requests for access to Tribal patient records, such as the provisions 42 CFR 2.1–2.67 pertaining to records regarding drug and/or alcohol treatment.

REDESIGN

**§ 137.185 May a Self-Governance Tribe redesign or consolidate the PSFAs that are included in a funding agreement and reallocate or redirect funds for such PSFAs?**

Yes, a Self-Governance Tribe may redesign or consolidate PSFAs included in a funding agreement and reallocate or redirect funds for such PSFAs in any manner which the Self-Governance Tribe deems to be in the best interest of the health and welfare of the Indian community being served, only if the redesign or consolidation does not have the effect of denying eligibility for services to population groups otherwise eligible to be served under applicable Federal law.

NON-DUPLICATION

**§ 137.190 Is a Self-Governance Tribe that receives funds under Title V also entitled to contract under section 102 of the Act [25 U.S.C. 450(f)] for such funds?**

For the period for which, and to the extent to which, funding is provided under the compact or funding agreement, the Self-Governance Tribe is not entitled to contract with the Secretary for the same funds or PSFA under section 102 of the Act [25 U.S.C. 450f]. Such Self-Governance Tribe is eligible for new programs on the same basis as other Indian Tribes.

HEALTH STATUS REPORTS

**§ 137.200 Are there reporting requirements for Self-Governance Tribes under Title V?**

Yes, compacts or funding agreements negotiated between the Secretary and a Self-Governance Tribe must include a provision that requires the Self-Governance Tribe to report on health status and services delivery. These reports