

Rosebud Sioux Assumption  
FAQ's

1. How do we get doctors to Rosebud to live and work long term?

*There are different types of recruiting possibilities and incentives that can be used to bring doctors to Rosebud. Examples are competitive pay based on industry standards, a generous benefits package with a 401(k)-retirement package, and a housing allowance for existing IHS housing next to the hospital. One widely used incentive available to doctors is participating in the IHS Loan Repayment Program. Eligible doctors can have their student loans paid by IHS while working for SOHS.*

2. Is everyone at the hospital going to get fired?

*No. The current staff at the hospital will not be terminated because of operations being assumed by the tribe. Staff will have the opportunity to transfer to be an employee of the Sicangu Oyate Health System or work as an IPA employee from IHS.*

3. Are we losing our sovereignty?

*No. The Rosebud Sioux Tribe will not lose any form of sovereignty for assuming health operations. If anything, the tribe will be able to exercise its sovereignty at much higher level under P.L. 93-638, as amended.*

4. Will the hospital be open when the president calls for Admin Leave?

*As with any hospital operation, the hospital will remain open regardless of the tribe closing for holidays and administrative leave.*

5. Will the Council be running to hospital?

*No. The Sicangu Oyate Health System charter was created to operate the hospital. SOHS will have an organizational structure with the Sicangu Oyate Health System Board of Directors having oversight of the hospital's executive personnel.*

6. Does the trust and treaty responsibility of the government to the tribe go away with assumption?

*No. The trust and treaty responsibility of the government does not change. Instead of relying on the government to provide health care to the RST reservation, the RST will have the ability to provide health care services to its members based upon the medical needs of the RST membership. The government will be required to provide funding for the operation of all health programs and the hospital through a compact and funding agreement with Indian Health Service. This does not waive the tribe's sovereignty, nor does it release the government from its trust and treaty responsibility.*

7. Will the health organization have the flexibility to create new programs or restart old programs?

*Yes. A Title V compact under Public Law 93-638, as amended, allows the health organization to redesign, create, or even restart programs, without IHS approval, if funds are available in the Funding Agreement.*

*Under a Title I contract, the health organization can redesign programs, services, function, and activities, however, IHS must approve the redesign. Funds in the Funding Agreement can be re-budgeted without IHS approval if it is to fulfill contract requirements.*

8. How will the government be held accountable to provide healthcare to the tribe?

*When a Title I contract or Title V compact is entered into by the Tribe and IHS, IHS is obligated to provide the funding to the Tribe or Tribal Organization to operate the contracted or compacted programs. The funds coming through a funding agreement are only used for health operations, programs, services, functions, and activities.*

*A contract or compact can be considered a means of the government upholding its trust and treaty obligations.*

9. Will IHS have any part of hiring employees for the health organization?

*No. Once health operations are assumed, IHS will cease to be involved in the hiring process. The Sicangu Oyate Health System will have a Human Resource Department and will vet the prospective employees to be hired.*

10. Will health care change for our tribal members?

*Health care services to the Rosebud Tribal members are expected to improve from the current state. Instead of IHS dictating health care to tribal members, SOHS will have the flexibility to provide health care based on community health care needs and tribal members will have more input in their health care.*

11. Does a contract or compact have an end date?

*A Title I contract is an annual agreement and must be renewed every year if the tribe is willing to operate the contracted programs. The associated funding agreement must also be renewed every year, but there are no guaranteed increases to the funding agreement.*

*Under a Title V compact, the compact between the Tribe and IHS does not end. The compact can be updated or amended from time to time. The associated funding agreement can be for multiple years, but no longer than five years. The funding*

*agreement can also be updated or amended; however, increases above the base funding amounts are not guaranteed and are not on a recurring basis.*

12. If health operations do not improve, is there a way to give the operation back to IHS?

*IHS would rather not take back health operations and programs. IHS can provide technical assistance to help the health organization until issues are resolved. If operations do not improve, the Tribe has the option to retrocede or give back some or all compacted or contracted health programs. This option would allow the Tribe to take back programs at an agreed later date.*

*If health operations and programs are in imminent jeopardy, mismanaged and services lacking, IHS has the option to reassume some or all health programs and operations. This option is a last resort for both the Tribe and IHS. Reassumption is the worst-case scenario and the chance for the Tribe to regain operations and programs is slim at best.*

*In both cases, funding associated with retroceded or reassumed operations and programs also goes back to IHS.*



The Indian Self-Determination and Education Assistance Act, P.L. 93-638  
Differences between Title I - Self-Determination Contracts and Title V – Self-Governance Compacts

Title I Contract	Title V Compact
The RST currently operates specific health programs through a contract with IHS. This does not include the hospital. The RST will have to negotiate with IHS to contract some or all of the hospital's functions.	The RST is in the process of attempting to enter into a compact with IHS. This will give the RST through the Sicangu Oyate Health System Charter the ability to assume full control and funding for the health programs the RST wishes to assume, which includes the hospital.
If the RST wants to redesign how the health programs provide services under the current contract, IHS must approve.	The RST, through the charter, will be able to redesign programs and services to fit tribal members' health care needs without IHS approval. Old and new programs can also be started as long as funds are available.
The RST must renew the contract and funding agreement with IHS every year.	The RST will not have to renew a compact. It is perpetual and has no end date. The funding agreement can be 1, 3, or no longer than 5 years depending on negotiated length of time. At that time the funding agreement can be revisited or renew for another negotiated length of time.
The contract with IHS is a standard model agreement. There is very little opportunity to negotiate the contract language.	A compact is unique to the tribe entering into a compact. It will set general terms of the nation-to-nation relationship, each nation's responsibilities.
The funding agreement under a contract will show the specific programs to be administered and the associated funds.	The funding agreement under a compact shows the general programs, services, functions, and activities (PSFA) to be performed or administered by RST, through the charter, and financial terms and conditions. It will also show the responsibilities of the Secretary of HHS, which is part of the United States trust and treaty obligations.
Funds are provided for only the programs in the contract. Funds must be used specifically for contracted programs.	Funds are provided for the PSFA in the funding agreement, with the flexibility to reallocate funds to within the funding agreement. Funds cannot be used outside of health and health related activities.
Increases in funding come through the funding agreement and are specific to the contracted programs. Increase may not reoccur for the programs.	Increases in funding come through the funding agreement. Some increases will reoccur in the base funding amount. Other increases are one time only.

Title I Self-Determination contracts are a way to work towards a Title V compact, which is known as Self-Governance. The goal is to compact health programs and the hospital so that RST can provide health care better than IHS. IHS will continue to provide funding through a contract or compact, but under a compact, IHS cannot dictate how health care is provided.





## Differences Between Title I Contracting and Title V Compacting Under the Indian Self-Determination Education Assistance Act (ISDEAA)

This document is a quick reference guide for illustrative purposes.  
Citations are provided to assist the reader, not to replace the statute, regulations or legal counsel.

	Title I	Title V
Program Authority	Title I of the ISDEAA 25 U.S.C. § 450 et seq. 25 C.F.R. § 900 et seq.	Title V of the ISDEAA 25 U.S.C. § 458aaa et seq. 42 C.F.R. § 137 et seq.
Program Summary	Federally recognized Tribes or Tribal Organizations <b>contract</b> with the IHS to plan, conduct, and administer one or more individual programs, functions, services or activities (PFSAs), or portions thereof, that the IHS would otherwise provide for Indians because of their status as Indians.  25 U.S.C. § 450f	Federally recognized Tribes or Tribal Organizations <b>compact</b> with the IHS to assume full funding and control over programs, services, functions or activities (PSFAs), or portions thereof, that the IHS would otherwise provide for Indians because of their status as Indians.  25 U.S.C. § 458aaa-3-4(b)
Eligibility	Any federally recognized Tribe or Tribal Organization is eligible for Title I contracting upon request of the Tribe by Tribal resolution.  25 U.S.C. § 450f(a)(1) 25 C.F.R. § 900.8	Eligibility for Title V requires that the Tribe or Tribal Organization (1) successfully complete a planning phase, (2) request participation in the Tribal Self-Governance Program by Tribal resolution or other official action by the governing body of each Tribe to be served, and (3) demonstrate three fiscal years of financial stability and financial management capability.  25 U.S.C. § 458aaa-2 42 C.F.R. §§ 137.15-23
Documents Required	(1) A <u>Contract</u> that includes the model agreement in the ISDEAA and any other provisions agreed to by the parties, and (2) an <u>Annual Funding Agreement</u> (AFA) describing all PFSAs to be performed or administered, the associated funding, and method of payment.  25 U.S.C. § 450f 25 C.F.R. § 900.8	(1) A <u>Compact</u> that sets forth the general terms of the nation-to-nation relationship between the Tribe or Tribal Organization and the Secretary, and (2) an annual or multi-year <u>Funding Agreement</u> (FA) that generally identifies the PSFAs to be performed or administered by the Tribe, the financial terms and conditions, and the responsibilities of the Secretary. There is no model Compact, but the ISDEAA does require some mandatory provisions.  25 U.S.C. §§ 458aaa-3-4 42 C.F.R. §§ 137.30-46
Process	The eligible Tribe or Tribal Organization submits a Letter or Notice of Intent. Technical assistance is provided as necessary. The Tribe or Tribal Organization submits a Self-Determination Contract proposal for review. A draft Contract and AFA are produced, and negotiations are held with the Tribe or Tribal Organization. Within 90 days after receipt of the proposal, the IHS Area contracting officer must either approve the proposal and award the Contract or provide written declination of the proposal based on the five ISDEAA declination criteria. In the event of a declination, the IHS must sever and award any portion of the proposal not declined.  See generally 25 U.S.C. § 450f-n 25 C.F.R. § 900 et seq.	The Tribe or Tribal Organization produces a draft Compact and FA. The IHS Agency Lead Negotiator (ALN) assembles a negotiation team and reviews the draft. Following pre-negotiation discussions, the ALN negotiates with the Tribe or Tribal Organization on behalf of the IHS Director.  See generally 25 U.S.C. § 458aaa et seq. 42 C.F.R. § 137.1 et seq.

Continued on back



	Title I	Title V
Appeal	<p>If a Contract proposal is declined, the Tribe or Tribal Organization must be provided with a written statement of any objections, assistance to overcome the stated objections, and a hearing on the record with the opportunity for appeal on the objections raised.</p> <p>25 U.S.C. § 450f(b) 25 C.F.R. §§ 900.28-31</p>	<p>If issues arise on which the parties cannot reach agreement, the Tribe or Tribal Organization may submit a final offer to the IHS. Within 45 days, the Agency must make a determination on the final offer in accordance with the ISDEAA.</p> <p>25 U.S.C. §§ 458aaa-6(b)-(d) 43 C.F.R. §§ 137.131-150</p>
Redesign and Funding Reallocation	<p>A Tribe or Tribal Organization may redesign PSFAs with IHS approval and may rebudget funding to meet Contract requirements without IHS approval in accordance with the ISDEAA.</p> <p>25 U.S.C. §§ 450j(i) &amp; 450j-1(o)</p>	<p>A Tribe or Tribal Organization may redesign or consolidate PSFAs and reallocate or redirect funding without IHS approval in accordance with the ISDEAA.</p> <p>25 U.S.C. §§ 458aaa-4 &amp; 458aaa-5(e) 42 C.F.R. § 137.185</p>
Performance Monitoring	<p>Generally, for routine monitoring, the IHS is limited to not more than one performance-monitoring visit per Contract; exceptions may apply.</p> <p>25 U.S.C. § 450(c)(b)(7)(C)</p>	<p>No routine monitoring is required. No citation.</p>
Mandatory Reporting	<p>For mature Contracts, an annual agency audit as required by the Single Agency Audit Act of 1984 and a brief annual program report. All other reporting requirements are negotiable.</p> <p>25 U.S.C. § 450(c) 25 C.F.R. § 900.65</p>	<p>Annual single agency audit as required by the Single Agency Audit Act of 1984 and Health Status Reports.</p> <p>25 U.S.C. §§ 458aaa-5(c) &amp; 458aaa-6(a)(1) 42 C.F.R. §§ 137.165-173 &amp; 137.200-207</p>
Grants	<p>Grants cannot be added to Title I Contracts or AFAs. No citation.</p>	<p>Statutorily mandated grants may be included in FAs.</p> <p>25 U.S.C. § 458aaa-4(b) 42 C.F.R. §§ 137.75-77</p>
Retrocession	<p>A Tribe or Tribal Organization may choose to retrocede individual PSFAs or the entire Contract award to the IHS.</p> <p>25 U.S.C. § 450j(e) 25 C.F.R. §§ 900.240-245</p>	<p>A Tribe or Tribal Organization may choose to partially or fully retrocede to the IHS any PSFA, or portion thereof, included in the FA.</p> <p>25 U.S.C. § 458aaa-5(f) 42 C.F.R. § 137.185</p>
Reassumption by the IHS	<p>The IHS may rescind a Contract, in whole or in part, and take control of the PSFA involved if there is: (1) a violation of rights or endangerment of the health, safety, or welfare of any persons, or (2) gross negligence or mismanagement in the handling or use of Contract funds.</p> <p>25 U.S.C. § 450m 25 C.F.R. §§ 900.246-256</p>	<p>The IHS may reassume operation of a PSFA and its associated funding if there is a specific finding of: (1) imminent endangerment of the public health caused by an act or omission of the Tribe or Tribal Organization and arising out of a failure to carry out the Compact or FA, or (2) gross mismanagement of the funds transferred to the Tribe or Tribal Organization by the Compact and FA.</p> <p>25 U.S.C. § 458aaa-6(a)(2) 42 C.F.R. §§ 137.255-265</p>
Funding Available for Planning and Negotiation	<p>Tribal Management Grants are available for planning purposes. They cannot be added to Title I Contracts or AFAs and may not be used for Title V planning or negotiation activities.</p> <p>25 U.S.C. §§ 450h(a) &amp; (b)</p>	<p>Cooperative Agreements are available for Title V planning and negotiation activities. Receipt of a Cooperative Agreement is not required to participate in Title V.</p> <p>25 U.S.C. § 458aaa-2(e) 42 C.F.R. §§ 137.24-26</p>

**Office of Tribal Self-Governance  
Indian Health Service**

801 Thompson Ave.  
Reyes Building, Suite 240  
Rockville, MD 20852

Phone (301) 443-7821  
Fax: (301) 443-1050  
[www.ihs.gov/SelfGovernance](http://www.ihs.gov/SelfGovernance)





## Contact Us

# Frequently Asked Questions

- What is the Indian Health Service (IHS) Tribal Self-Governance Program (TSGP)?
- How do you get started?
- Who is eligible to participate in the TSGP?
- What are the steps to participating in the TSGP?
- What is the difference between Title V Compacting and Title I Contracting under the Indian Self-Determination and Education Assistance Act (ISDEAA)?
- Is there funding available to help with planning for Title V participation?
- How does a Tribe apply for a TSGP Planning Cooperative Agreement?
- Is there funding to help with the negotiation of a Self-Governance Compact and Funding Agreement?
- How does a Tribe apply for a TSGP Negotiation Cooperative Agreement?
- What is the award period for the IHS TSGP Planning and Negotiation Cooperative Agreements?
- If a Tribe has already received a Planning or Negotiation Cooperative Agreement, can the Tribe apply for an additional award?
- What is a Tribal Self-Governance Compact?
- What is a Funding Agreement?
- Can a Tribe obtain copies of existing Compacts and Funding Agreements?
- Who is the Agency Lead Negotiator (ALN) and what authority does this person have?
- Is the ALN the only person representing IHS during the negotiation process?
- Does Tribal Self-Governance terminate the Federal trust responsibility?
- Where can I find the law and regulations related to the IHS TSGP?
- Where can I find information about the IHS Tribal Self-Governance Program budget?

### **Q. What is the Indian Health Service (IHS) Tribal Self-Governance Program (TSGP)?**

A: The TSGP is a tribally driven, congressional legislative option that authorizes federally recognized Tribes and Tribal Organizations to negotiate with the IHS and assume full funding and control over programs, services, functions or activities (PSFAs), or portions thereof, that the IHS would otherwise provide. The TSGP provides Tribes with the flexibility to manage program funds to best fit the needs of their citizens and Tribal communities.

### **Q. How do you get started?**

A: The IHS Area Offices and the Office of Tribal Self-Governance (OTSG) can both provide information to Tribes interested in the TSGP. You can find this brochure and other resources posted on the OTSG website, as well as links to the relevant statute and regulations.

**Q. Who is eligible to participate in the TSGP?**

A: To be eligible for the TSGP, a Tribe must (1) successfully complete a planning phase, (2) request participation in the TSGP by Tribal resolution or other official action by the governing body of the Tribe, and (3) demonstrate financial stability and financial management capability by providing evidence that, for the three years prior to participation in the TSGP, the Tribe has had no uncorrected significant and material audit exceptions in the required annual audit of the Tribe's Self-Determination Contracts or Self-Governance Funding Agreements with any Federal agency.

**Q. What are the steps to participating in the TSGP?**

A: Each IHS Area has an Agency Lead Negotiator (ALN) who negotiates the self-governance instruments (Compacts and Funding Agreements) on behalf of the IHS Director. To begin the process, a Tribe should contact the ALN. The ALN will explain the eligibility criteria and the negotiation process. After determining that the Tribe is qualified to participate in the TSGP (see Question 3), the ALN will provide technical assistance as the Tribe prepares to participate in the program, including coordination of meetings with IHS program offices. Once the Tribe has completed all necessary preparation, the Tribe produces a draft Compact and Funding Agreement. Assisted by a Federal negotiation team, the ALN reviews the draft and works together with the Tribe to reach agreement on the final documents.

**Q. What is the difference between Title V Compacting and Title I Contracting under the Indian Self-Determination and Education Assistance Act (ISDEAA)?**


A: Both Title V and Title I provide for Tribal administration of programs formerly administered by the IHS. The major difference is a matter of oversight. Under Title V, a Tribe may redesign or consolidate PSFAs and reallocate or redirect funding without IHS approval in accordance with the ISDEAA. In contrast, IHS must approve any substantial changes to a Title I Contract. The programs are not exclusive. Because Tribes can choose which PSFAs (or portions thereof) to assume, a Tribe may combine Title V, Title I, and direct services to best meet the needs of its community.



**Q. Is there funding available to help with planning for Title V participation?**

A: Yes. The OTSG offers a limited number of competitive Planning Cooperative Agreements to help with the costs associated with the mandatory planning phase. The Planning Cooperative Agreements are not required for Self-Governance planning. A Tribe may use its own resources to perform planning activities as long as those activities are conducted to the satisfaction of the Tribe. Tribes that receive Planning Cooperative Agreements are not obligated to participate in Title V and may choose to delay or decline participation in the TSGP based on its planning activities.


**Q. How does a Tribe apply for a TSGP Planning Cooperative Agreement?**

A: The OTSG administers the Planning Cooperative Agreement. Announcements are made three ways: (1) through a Federal Register Notice, (2) via [Grants.gov](https://www.grants.gov) , and (3) posted to the OTSG website. The announcements contain information on the number of agreements available, how to apply, deadlines, eligibility requirements, and scoring criteria.

**Q. Is there funding to help with the negotiation of a Self-Governance Compact and Funding Agreement?**

A: Yes. The OTSG offers a limited number of competitive Negotiation Cooperative Agreements to assist with the costs of the negotiation process. Negotiation Cooperative Agreements are not required for Tribal Self-Governance negotiations. A Tribe may use its own resources to develop and negotiate its Compact and Funding Agreement. Tribes that receive Negotiation Cooperative Agreements are not obligated to participate in Title V.

**Q. How does a Tribe apply for a TSGP Negotiation Cooperative Agreement?**

A: The OTSG administers the Negotiation Cooperative Agreement. Announcements are made three ways: (1) through a Federal Register Notice, (2) via [Grants.gov](https://www.grants.gov) , and (3) posted to the OTSG website. The announcements contain information on the number of agreements available, how to apply, deadlines, eligibility requirements, and scoring criteria.

**Q. What is the award period for the IHS TSGP Planning and Negotiation Cooperative Agreements?**

A: Generally, the award period for each is 12 months.

**Q. If a Tribe has already received a Planning or Negotiation Cooperative Agreement, can the Tribe apply for an additional award?**

A: Yes, if a Tribe is planning to add a new program or expand an existing program.

**Q. What is a Tribal Self-Governance Compact?**

A: The Compact sets forth the general terms of the nation-to-nation relationship between the Tribe or Tribal Organization and the Secretary of the US Department of Health and Human Services (HHS). Unlike the Title I Model Contract, there is no model Self-Governance Compact; however, the ISDEAA does require some mandatory terms.

**Q. What is a Funding Agreement?**

A: The Funding Agreement is an annual or multi-year agreement that generally identifies the PSFAs to be assumed by the Tribe, describes the financial terms of the agreement, and sets out the responsibilities of the HHS Secretary.

**Q. Can a Tribe obtain copies of existing Compacts and Funding Agreements?**

A: Yes. Current Title V Tribes are often willing to share their documents with other Tribes. The OTSG can help to make an appropriate referral. A Tribe can also file a Freedom of Information Act (FOIA) request with the IHS to obtain copies. The FOIA request can be made through the Division of Regulatory Affairs by contacting (301) 443-1116 or by visiting the [FOIA](#) website for more information.

**Q. Who is the Agency Lead Negotiator (ALN) and what authority does this person have?**

A: The ALN has the delegated authority to negotiate Tribal Self-Governance Compacts and Funding Agreements with Tribes and Tribal Organizations on behalf of the IHS Director.

**Q. Is the ALN the only person representing IHS during the negotiation process?**

A: No. While only the ALN has the authority to negotiate, each ALN is assisted by a Federal team, which may include representatives from health programs, administration, finance, the Office of the General Counsel, and the OTSG.



**Q. Does Tribal Self-Governance terminate the Federal trust responsibility?**

A: No. It has never been the intent of the Tribal Self-Governance initiative to terminate or reduce the Federal trust responsibility to Indian Tribes and Indian people. The ISDEAA clearly states: "The Secretary is prohibited from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, other laws, or court decisions." 25 U.S.C. § 458aaa-6(g)

**Q. Where can I find the law and regulations related to the IHS TSGP?**

A: The statute can be found in Title 25 of the United States Code at 25 U.S.C. § 458aaa. The regulations can be found in the Code of Federal Regulations at 42 C.F.R. Part 137.

**Q. Where can I find information about the IHS Tribal Self-Governance Program budget?**

A: You can find copies of Congressional Justifications submitted as part of the President's Budget Request to Congress each year on the [IHS Budget Formulation](#).

IHS Headquarters, Indian Health Service, 5600 Fishers Lane, Rockville, MD 20857 -