

# **Exhibit A**



## United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Washington, DC 20240

**MAR 30 2022**

Honorable Kevin Killer  
President, Oglala Sioux Tribe  
P.O. Box 2070  
Pine Ridge, SD 57770

Dear President Killer:

This letter is in response to the Oglala Sioux Tribe's (Tribe) proposal under the Indian Self-Determination and Education Assistance Act, 25 U.S.C. § 5301 et seq. (ISDEAA), regarding the Criminal Investigations (CI) Program for FY2022. The Bureau of Indian Affairs (BIA) Office of Justice Services (OJS) received the proposal on December 30, 2021. The proposal contained (1) a renewal proposal for continued operation of the CI Program under a separate contract and (2) an initial request to assume new programs, functions, services and activities (PFSAs), which include the Division of Drug Enforcement (DDE), Missing and Murdered Unit (MMU), and Internal Affairs (IA) Programs ("Proposal"). The BIA OJS has processed the Proposal in accordance with ISDEAA regulations found at 25 C.F.R. Part 900. Under 25 U.S.C. § 5321(a)(2), the BIA OJS had ninety (90) days, or until March 30, 2022, to review the Proposal and approve or decline it.

In a letter to the Tribe dated January 28, 2022, the BIA OJS outlined potential declination issues in the Proposal and identified changes that the Tribe would need to make for the BIA OJS to approve the Proposal. The BIA OJS requested a response from the Tribe no later than February 18, 2022. To date, the BIA OJS has not received a response from the Tribe, nor did it receive a request for technical assistance. We have completed our review of the Proposal and for the reasons stated herein, the BIA OJS **partially declines** the Proposal in accordance with 25 U.S.C. § 5321(a)(2)(D) and (E).

### **Partial Declination of Proposal**

*Pursuant to 25 U.S.C. § 5321(a)(2)(D), the BIA OJS declines the amount of funds for the CI Program that are in excess of the Secretarial Amount.*

Section 5321(a)(2)(D) provides the following declination grounds: "*The amount of funds proposed under the contract is in excess of the applicable funding level for the contract, as determined under section 106(a) of the Act.*" The Tribe's proposed budget request of **\$2,211,159** (rounded) exceeds the FY2022 Secretarial Amount under 25 U.S.C. § 5325(a)(1) available for the Tribe's CI program, which is **\$1,327,781**. As stated in our January 28, 2022 letter to the Tribe, the amount the Tribe is seeking is in excess of the Secretarial Amount — i.e., the amount the Secretary would have otherwise provided for the operation of the program for the period covered by the contract — for the Tribe's CI program for FY2022. Therefore, the BIA OJS **partially declines** the amount of funds proposed under the Tribe's renewal proposal for the CI Program in excess of the Secretarial Amount, which is **\$1,327,781**.

Pursuant to 25 C.F.R. § 900.26 and the terms and declination described above, the BIA OJS **approves** the Tribe's FY2022 renewal proposal for the CI Program for the Secretarial Amount of \$1,327,781.

Pursuant to 25 U.S.C. § 5321(a)(2)(E), the BIA OJS declines the portions of the Proposal to assume the DDE, MMU, and IA Programs.

Section 5321(a)(2)(E) provides the following declination grounds: “*The program, function, service, or activity (or a portion thereof) that is the subject of the proposal is beyond the scope of programs, functions, services, or activities covered under section 102(a)(1) of the Act because the proposal includes activities that cannot lawfully be carried out by the contractor.*” The Tribe has proposed to contract the DDE, MMU, and IA PFSA's and has proposed funding for these PFSA's in its Annual Funding Agreement (AFA). The DDE, MMU and IA are central office functions carried out by the BIA OJS to provide nationwide activities for Tribes and are ineligible for contracting under the ISDEAA. Therefore, the BIA OJS **declines** the portion of the Tribe's proposal to contract the DDE, MMU, and IA functions, and declines the portions of the proposed AFA that include a request to contract the DDE, MMU, and IA PFSA's, under 25 U.S.C. § 5321(a)(2)(E).

#### **Request for Startup Costs**

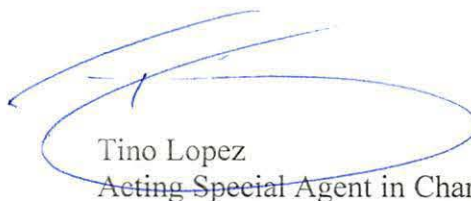
Pursuant to the ISDEAA, startup costs are available to Tribes contracting a new PFSA only “in the initial year a self-determination contract is in effect.” 25 U.S.C. § 5325(a)(5). One-time startup costs are not available for contract renewals under the ISDEAA. *Id.*; 25 C.F.R. § 900.8(h)(2). Because the BIA OJS declines the portion of the Tribe's proposal to contract the DDE, MMU, and IA PFSA's, the BIA OJS declines the Tribe's request for the entire amount of startup funding accordingly.

#### **APPEAL NOTICE**

You are hereby advised of your appeal rights as described below:

**Within 30 days of the receipt of this decision, you may request an informal conference under 25 C.F.R. § 900.154, or appeal this decision under 25 C.F.R. § 900.158 to the Interior Board of Indian Appeals (IBIA). Should you decide to appeal this decision, you may request a hearing on the record. An appeal to the IBIA under 25 C.F.R. § 900.158 shall be filed with the IBIA by certified mail or by hand delivery at the following address: Board of Indian Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, VA 22203. You shall serve copies of your Notice of Appeal on the Secretary and on the official whose decision is being appealed. You shall certify to the IBIA that you have served these copies.**

Sincerely,



Tino Lopez  
Acting Special Agent in Charge/Approving Official

cc: Algin Young, Chief of Police, Oglala Sioux Tribe  
Gina Douville, Superintendent, Pine Ridge Agency BIA  
Krissanne Stevens/Kenneth Locke, Branch of Self-Determination, Great Plains