



HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To: House Committee on Natural Resources Republican Members
From: Indian and Insular Affairs Subcommittee staff, Ken Degenfelder
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Date: Wednesday, March 6, 2024
Subject: Oversight Hearing: “*Advancing Tribal Self-Determination: Examining Bureau of Indian Affairs’ 638 Contracting*”

The Subcommittee on Indian and Insular Affairs will hold an oversight hearing titled “*Advancing Tribal Self-Determination: Examining Bureau of Indian Affairs’ 638 Contracting*” on **Wednesday, March 6, 2024, at 2:15 p.m. in 1334 Longworth House Office Building.**

Member offices are requested to notify Ransom Fox (Ransom.Fox@mail.house.gov) by 4:30 p.m. on Tuesday, March 5, 2024, if their member intends to participate in the hearing.

I. KEY MESSAGES

- Since the 1970s, the U.S. has implemented a policy of self-determination for Indian tribes and enacted legislation to support self-determination contracts and self-governance compacts with the federal government to run certain federal programs that serve tribal members.
- Indian tribes that have chosen to enter into self-determination contracts or self-governance compacts have found that they can better tailor federal programs to serve tribal members, make more efficient use of funds, build tribal management capacity, and encourage tribal workforce development.
- Most recently, with the Practical Reforms and Other Goals to Reinforce the Effectiveness of Self-Governance and Self-Determination for Indian Tribes (PROGRESS) Act,¹ Congress modified the processes for tribes to enter into self-determination contracts or self-governance compacts to streamline and standardize bureaucratic requirements and to promote tribal autonomy.
- While self-determination contracts and self-governance compacts have benefited tribes, there is still room for improvement, particularly regarding closing out contracts and compacts, additional audit initiatives, and other creative fixes to ensure the 638 program continues to grow.

¹ P.L. 116-34.

- Congress should continue oversight of the program, especially as new regulations are being implemented, and consider what statutory changes can improve the process of self-determination contracts or self-governance compacts and tribal access to these programs.

II. WITNESSES

- **The Hon. Bryan Newland**, Assistant Secretary for Indian Affairs, U.S. Department of the Interior, Washington, D.C.
- **The Hon. Deborah Dotson**, President, Delaware Nation, Anadarko, OK
- **The Hon. Martin Harvier**, President, Salt River Pima Maricopa Indian Community, Scottsdale, AZ
- **Mr. Jay Spaan**, Executive Director, Self-Governance Communication & Education Tribal Consortium, Tulsa, OK
- **The Hon. Cheryl Andrews-Maltais**, Chairwoman, Wampanoag Tribe of Gay Head Aquinnah, Aquinnah, MA [*Minority witness*]

III. BACKGROUND

This hearing will focus on how some Indian tribes have assumed the responsibility of various Bureau of Indian Affairs (BIA) programs, functions, services, and activities (PFSAs) from the U.S. government through self-determination contracting and self-governance compacting, the impact of both on tribes and tribal members, and areas that can be improved or need continued oversight. Examples of PFSAs include law enforcement activities, executing fiduciary trust services, land leasing, and the energy and minerals program. Ultimately, a tribe may select which specific program, or part of a program, it wishes to assume.²

Tribal Self-Determination Contracting and Self-Governance Compacting

In the 1970s, Congress transitioned to a policy of self-determination for tribes. In his July 8, 1970, message to Congress, President Nixon laid out the beginning of the self-determination policy, particularly stating, “We must make it clear that Indians can become independent of Federal control without being cut off from Federal concern and Federal support.”³ In response, Congress enacted the Indian Self-Determination and Education Assistance Act (ISDEAA) in 1975,⁴ which formed the statutory basis for tribes to contract and/or compact selected PFSAs. This law provided a statutory framework by which tribes could assume responsibility for operating programs traditionally provided for Indians by the federal government because of their status as Indians.

There are two avenues by which tribes may take control of PFSAs, either through a self-determination contract (also referred to as a 638 contract) or a self-governance compact (also

² Budget Justifications and Performance Information FY 2024: Bureau of Indian Affairs at IA-ST-1. https://www.bia.gov/sites/default/files/dup/inline-files/bia_2024_greenbook.pdf.

³ President Richard Nixon, Special Message on Indian Affairs. 1970. <https://www.epa.gov/sites/default/files/2013-08/documents/president-nixon70.pdf>.

⁴ P.L. 93-638. The “638” part is used as another name for self-determination contracting (638 contracting) and self-governance compacting (638 compacting).

referred to as a 638 compact).⁵ Both self-determination contracts and self-governance compacts authorize tribes to have more control over the services provided to their tribal members. Indian tribes can choose which services and programs they want to contract or compact and can also choose to contract or compact part of a service or program.

Self-governance compacts differ from self-determination contracts in several ways. Unlike a self-determination contract, self-governance compacts have a higher threshold for approval and are more expansive. A tribe must demonstrate financial stability for the past three fiscal years and enter into negotiations for the compact and an annual funding agreement (AFA). Self-governance compacts do not follow a set model as seen in self-determination contracts and can differ compact to compact.⁶

Title I of ISDEAA governs how self-determination contracts shall be carried out. Tribes can enter into contracts to provide specific services traditionally provided by the BIA.⁷ Tribes can enter into contracts for up to three years unless the Secretary of the Interior (Secretary) and the tribe agree to a longer-term agreement. These contracts can be renegotiated annually to account for changes in circumstances and cost increases. Additionally, if tribes have multiple 638 contracts, they can consolidate them into one.⁸ Self-determination contracts are overseen by BIA regional offices within the Department of the Interior (DOI).⁹

All federally recognized tribes can submit a self-determination contract proposal for review.¹⁰ The tribe (or tribally authorized tribal organization) submits a proposal to the Secretary containing the required information, including information about the tribe, the point of contact for the contract, a statement of the PFSA the tribe proposes to assume, as well as associated needs, funds requested, and detail of any intention to retain federal employee assistance or federal resources.¹¹ The Secretary then has two days to notify the tribe that the proposal has been received, and fifteen days to notify the tribe of any missing materials, and if the proposal presents any reasons why the Secretary would decline the contract, either the service provided would be unsatisfactory or the PFSA in question is not contractible.¹² Overall, the Secretary has 90 days from receipt to review and either approve or decline the proposal. A proposal is deemed approved if it is neither approved nor denied officially. Once approved, the Secretary must award the contract and determine available funds.¹³ Because there are very few ways for the Secretary to deny a proposed self-determination contract, if a tribe wants a self-determination contract for PFSA provided to their tribal members, they can have one.¹⁴

⁵ Murray, Mariel. *Indian Self-Determination and Education Assistance Act (ISDEAA) and the Bureau of Indian Affairs*. CRS. 2021. <https://crsreports.congress.gov/product/pdf/IF/IF11877>.

⁶ 25 CFR Part 1001.

⁷ P. L. 93-638.

⁸ Murray, Mariel. *Indian Self-Determination and Education Assistance Act (ISDEAA) and the Bureau of Indian Affairs*. CRS. 2021. <https://crsreports.congress.gov/product/pdf/IF/IF11877>

⁹ Id.

¹⁰ 25 USC Sec. 5321 and Hobbs, Straus, Dean & Walker. Memorandum on PROGRESS Act Amendments to Titles I and IV of the ISDEAA <https://www.tribalseg.gov/wp-content/uploads/2020/10/02-10-22-20-PROGRESS-Act-Title-I-and-Title-IV-Amendment-Final.pdf>.

¹¹ 25 CFR Part 900.

¹² 25 CFR 900.145

¹³ Id.

¹⁴ 25 CFR 900.22, detailing the five narrow reasons why a Secretary can decline a self-determination contract proposal.

Title IV of ISDEAA, added in 1994 through the Tribal Self-Governance Act (TSGA),¹⁵ authorizes the BIA to enter into self-governance compacts with tribes. As mentioned above, self-governance compacts differ from self-determination contracts in multiple ways: they have a higher threshold for approval, do not follow a set model and can differ from compact to compact.¹⁶ Self-governance compacts are also more expansive, allowing tribes to negotiate more broadly with the DOI to cover an increased range of services and discretion for allocating the incoming federal funds, leading to greater flexibility and liberty over prioritizing PFSAs.¹⁷

Self-governance compacts require formal negotiations with the Secretary and are overseen by the Office of Self-Governance within the Office of the Assistant Secretary for Indian Affairs.¹⁸ To negotiate a compact, a tribe must demonstrate financial stability and management capabilities through an organization-wide audit under the Single Audit Act of 1984 for the previous three years and have completed the planning phase for self-governance.¹⁹ The tribe must initiate and request negotiations for a self-governance compact and an AFA with the Secretary.²⁰ Tribes with a complete application will be entered into the applicant pool, and then the applicant tribe can be selected to begin negotiations.²¹ Only 50 additional tribes are authorized to participate in a self-governance contract per year from the applicant pool before the Secretary.²² Self-governance compacts do not have a set mandatory model like self-determination contracts, and all parties involved must negotiate the terms of the self-governance compacts and any associated AFAs.²³

The most significant difference between compacting and contracting lies in the flexibility of the self-governance compact. For self-determination contracts, the DOI must approve any substantial changes to the contract, and the BIA regional offices have more oversight of the contracted programs. Conversely, for self-governance compacts, a tribe can change or consolidate PSFAs and reallocate funding without DOI approval. It is the tribal leadership that directs the funds and the format of the compacted PFSAs.²⁴

Many tribes experienced service improvements by engaging in a 638 contract or compact. 638 contracts and compacts have been credited with inducing a renaissance for tribal governments, leading tribal members to be active initiators of self-agency and obtaining improved quality of services.²⁵ According to the United South and Eastern Tribes Incorporated Sovereignty Protection Fund (USET), a majority of their tribes choose to engage in contracting or compacting because it provides vital governmental services more efficiently than if they choose not to

¹⁵ P.L. 103-413.

¹⁶ 25 CFR Part 1001.

¹⁷ Washburn, Kevin. *Tribal Self-Determination at the Crossroads*. Connecticut Law Review 38-777. 2006.

https://digitalrepository.unm.edu/law_facultyscholarship/511.

¹⁸ Murray, Mariel. *Indian Self-Determination and Education Assistance Act (ISDEAA) and the Bureau of Indian Affairs*. CRS. 2021. <https://crsreports.congress.gov/product/pdf/IF/IF11877>.

¹⁹ 25 CFR Part 1001.

²⁰ Id.

²¹ Id.

²² Id.

²³ Strommer, Geoffrey. *The History, Status, and Future of Tribal Self-Governance Under the Indian Self-Determination and Education Act*. American Indian Law Review. 2015.

<https://digitalcommons.law.ou.edu/cgi/viewcontent.cgi?article=1001&context=ailr>.

²⁴ Murray, Mariel. *Indian Self-Determination and Education Assistance Act (ISDEAA) and the Bureau of Indian Affairs*. CRS. 2021. <https://crsreports.congress.gov/product/pdf/IF/IF11877>.

²⁵ Washburn, Kevin. *Facilitating Tribal Co-Management of Federal Public Lands*. Wisconsin Law Review 262-328. 2022 <https://ssrn.com/abstract=3951290>.

contract or compact education, housing, health care, public safety, and other services.²⁶ In 2019, Chairman Allen of the Title IV Tribal Task Force, which represents over 300 tribes that have self-governance compacts, stated that tribal self-governance through contracting and compacting promotes efficiency for tribes, strengthens tribal planning and management capacities, creates flexibility for tribes, and affirms their sovereignty.²⁷ Darryl LaCounte, Director of the BIA, stated that self-governance agreements among tribes have increased the relationships between the federal government and tribal governments and that these agreements offer tribes greater success in meeting the needs of their citizens.²⁸

Tribes also frequently add their own resources to support programs and services through 638 contracts and compacts, which helps increase the impact of PFSA for tribal members.²⁹ Contracting and compacting have also successfully assisted tribes in developing their local economies and building their tribal governmental capacities.³⁰

In FY 2022, an estimated 275 tribes participated in contracts, and 292 tribes participated in compacts.³¹ Current estimations provided by DOI show that as of 2024, there are 526 tribes taking advantage of self-determination contracts and 295 tribes participating in self-governance compacts.³² There are nearly 3,200 contracts and/or compacts in effect.³³ The number of tribes participating in self-determination contracts and compacts continues to rise. Additionally, tribes have continued to advocate for expanding 638 contracts and compacts to other federal departments and agencies, such as the Department of Health and Human Services (HHS)³⁴ and the U.S. Department of Agriculture (USDA).³⁵

The PROGRESS Act

The Practical Reforms and Other Goals to Reinforce the Effectiveness of Self-Governance and Self-Determination for Indian Tribes Act³⁶ (PROGRESS Act) was signed into law in 2020 to streamline and standardize the DOI's self-governance process with the Indian Health Service (IHS), as well as provide tribes with greater flexibility to efficiently tailor, consolidate, and administer federal programs under self-determination contracts and self-governance compacts.³⁷

²⁶ Testimony of USET before the United States House Subcommittee on Indigenous Peoples of the United States. July 2019. <https://docs.house.gov/meetings/II/II24/20190716/109791/HHRG-116-II24-20190716-SD007.pdf>.

²⁷ Testimony of W. Ron Allen before the United States House Subcommittee on Indigenous Peoples of the United States. <https://docs.house.gov/meetings/II/II24/20190716/109791/HHRG-116-II24-Wstate-AllenW-20190716.pdf>.

²⁸ Id.

²⁹ Id.

³⁰ Strommer, Geoffrey. *The History, Status, and Future of Tribal Self-Governance Under the Indian Self Determination and Education Act*. American Indian Law Review. 2015.

<https://digitalcommons.lawc.ou.edu/cgi/viewcontent.cgi?article=1001&context=air>

³¹ Murray, Mariel. *Indian Self-Determination and Education Assistance Act (ISDEAA) and the Bureau of Indian Affairs*. CRS. 2021. <https://crsreports.congress.gov/product/pdf/IF/IF11877>.

³² IIA staff briefing with BIA. 02.28.24

³³ Id.

³⁴ "Expansion of Tribal Self-Governance Authority to Select Department of Health and Human Services' Programs." *Tribal Self-Governance*, 28 Apr. 2022, www.tribalselfgov.org/selfgov-expansion-hhs/.

³⁵ Johnson, Renee. *Farm Bill Primer: Support for Native Agricultural Producers*. CRS. 2023.

<https://crsreports.congress.gov/product/pdf/IF/IF12160>.

³⁶ P.L. 116-180.

³⁷ Senate Report on "A Bill to Amend The Indian Self-Determination and Education Assistance Act to Extend the Deadline For The Secretary Of The Interior to Promulgate Regulations Implementing Title IV Of That Act, and For Other Purposes" S. Rpt 118-38, p. 1 <https://www.congress.gov/118/crpt/srpt38/CRPT-118srpt38.pdf>.

The PROGRESS Act amended Title I of ISDEAA to require a good faith requirement to negotiate self-governance contracts and maximize the policy of tribal self-determination, require the Secretary to construe provisions of contract or funding agreements liberally to benefit the tribe, and to clarify that the Secretary must provide good faith interpretations of federal laws when applicable to PFSAs. The amendment also provided technical assistance to tribes in developing and managing the contracts and provided an administrative expense rate for tribes.³⁸

The PROGRESS Act amended Title IV of ISDEAA to improve the bureaucratic processes involved in self-governance compacts. The Secretary is required to negotiate compacts and funding agreements in good faith to pursue maximum tribal self-governance.³⁹ At the time, DOI had shown institutional resistance to the self-governance policy, with tribes arguing BIA implemented an “[i]nappropriate application of federal procurement laws and federal acquisition regulations,” which led to “excessive paperwork and unduly burdensome reporting requirements.”⁴⁰ A clear “final offer” process was implemented when DOI and a tribe cannot agree on the terms or funding of a self-governance compact or if DOI unreasonably delays the process. Standardized timelines for approval and specified reasons for rejections, as well as a mechanism in which a tribe may enter a partial compact or funding agreement, were also defined.⁴¹

Additional changes made to Title IV of ISDEAA include protective measures for tribes if DOI attempts to impose unauthorized edits to a compact, an appeals process for tribes in which the burden of proof falls on the Secretary, and a mandatory requirement for the Secretary to enter into written funding agreements consistent with the trust responsibility of the federal government.⁴²

PROGRESS Act Negotiated Rulemaking Committee

The PROGRESS Act also authorized a Self-Governance PROGRESS Act Negotiated Rulemaking Committee (Committee) made up of tribal stakeholders to negotiate and assist with promulgating the law’s implementing regulations.⁴³ The act included a deadline for issuing the proposed rule of July 21, 2022, and the final rule of April 21, 2023, allowing the negotiated rulemaking committee to sunset and disband.⁴⁴

Negotiated rulemaking is a process a federal agency may be authorized to use to develop proposed and final rules that include stakeholders in the rulemaking process. In a negotiated rulemaking, an agency convenes a committee of stakeholders to reach a consensus on the text of

³⁸ Hobbs, Straus, Dean & Walker. Memorandum on PROGRESS Act Amendments to Titles I and IV of the ISDEAA. 2020. <https://www.tribalsef.gov/wp-content/uploads/2020/10/02-10-22-20-PROGRESS-Act-Title-I-and-Title-IV-Amendment-Final.pdf>.

³⁹ Id.

⁴⁰ Washburn, Kevin. *Facilitating Tribal Co-Management of Federal Public Lands*. Wisconsin Law Review 262-328. 2022 <https://ssrn.com/abstract=3951290>

⁴¹ Hobbs, Straus, Dean & Walker. Memorandum on PROGRESS Act Amendments to Titles I and IV of the ISDEAA. 2020. <https://www.tribalsef.gov/wp-content/uploads/2020/10/02-10-22-20-PROGRESS-Act-Title-I-and-Title-IV-Amendment-Final.pdf>.

⁴² Id.

⁴³ P.L. 116-180, Sec. 101.

⁴⁴ Id.

a proposed rule. If the committee can reach a consensus, which in theory means there is buy-in from stakeholders, the rule may be easier to implement and less likely to be subject to litigation.⁴⁵

The PROGRESS Act's negotiated rulemaking committee did not meet until August 29, 2022,⁴⁶ almost two years after the passage of the PROGRESS Act. The Senate report on S. 1308, which provided an extension for the PROGRESS Act, indicated that the onset of the COVID-19 pandemic and the transition between administrations were the main reasons for the delayed promulgation of regulations.⁴⁷ The Committee was in the process of negotiated rulemaking when its original statutory authority expired.⁴⁸ An extension for the Committee and the negotiated rulemaking process was included in the *Continuing Appropriations Act, 2024 and Other Extensions Act*⁴⁹ and extended the submission deadlines for Interior's proposed regulations from July 21, 2022, to December 21, 2023, and the deadline for final proposed regulations to be put forward from April 21, 2023, to December 21, 2024.⁵⁰ Currently, Committee meetings are ongoing.

Challenges with 638 Contracts and 638 Compacts and Opportunities for Improvement

Although self-determination contracts and self-governance compacts have increased tribal autonomy and improved providing services for tribal members, there are still areas of improvement that should be addressed at a statutory and/or regulatory level.

One process concern is that these contracts and compacts do not have a statutorily mandated timeframe for closure. All parties involved must determine that requirements and goals have been completed before closing out a 638 agreement.⁵¹ A 2023 DOI Office of the Inspector General (OIG) report found that the BIA has not actively managed the closeout process for 638 contracts and 638 compacts.⁵² The closeout process is necessary to enable tribes and tribal organizations to use unspent funds from the 638 agreements on agreed-upon tribal programs and services while ensuring that the BIA fulfills its trust responsibilities.⁵³

The OIG report found that, of the open 638 contracts and 638 compacts that BIA administers, there were over \$5 million in unused funds. Additionally, the BIA could not pinpoint unspent funds, leading to duplicative agreement concerns.⁵⁴ BIA officials reported that competing priorities, such as the statutory requirement to open and provide funding for new 638 agreements

⁴⁵ Carey, Maeve. *Negotiated Rulemaking: In Brief*. CRS. 2021. <https://crsreports.congress.gov/product/pdf/R/R46756>

⁴⁶ Notice of Meeting. *Self-Governance PROGRESS Act Negotiated Rulemaking Committee*. BIA. 2022. <https://www.federalregister.gov/d/2022-17284>.

⁴⁷ Senate Report on "A Bill to Amend The Indian Self-Determination and Education Assistance Act to Extend the Deadline For The Secretary Of The Interior to Promulgate Regulations Implementing Title IV Of That Act, and For Other Purposes" S. Rpt 118-38, p. 2 <https://www.congress.gov/118/crpt/srpt38/CRPT-118srpt38.pdf>.

⁴⁸ Id.

⁴⁹ P.L. 118-15, Sec. 2102.

⁵⁰ Id.

⁵¹ OIG. *The Bureau of Indian Affairs Can Improve the Closeout Process for Public Law 93-638 Agreements*. June 2023. p. 4. https://www.doioig.gov/sites/default/files/2021-migration/Final%20Inspection%20Report_BIA638Closeout.pdf.

⁵² Id.

⁵³ Id.

⁵⁴ Id.

and the lack of a required end date for agreements, affected work on the 638 closeout process.⁵⁵ The OIG recommended, and BIA concurred, that the agency should develop a method to monitor the 638 closeout process.⁵⁶ As BIA's budget requests continue to grow, it is important that federal funds are not sitting in limbo.

Another concern is how quickly tribes and tribal organizations receive a response to their proposals for self-determination contracts, and compacts.⁵⁷ If DOI does not respond promptly, particularly for a request to negotiate a self-governance compact, momentum and expertise could be lost.

Congress should continue monitoring the implementation of the PROGRESS Act to ensure that these processes benefit both tribes and DOI. Congress could also consider a yearly report from BIA detailing the 638 processes and outcomes as a means of gathering and sharing additional information with tribes and Congress to pursue improvements. These actions would provide ways in which the BIA adheres to a close out process and is responsive to tribes.

While self-determination contracts and self-governance compacts are excellent options for tribes pursuing more tribal autonomy, these agreements cannot contract or compact out inherent federal functions.⁵⁸ The issue throughout many tribal programs centered on tribal self-determination is the lack of an exact definition of an "inherent federal function." A 2019 GAO report recommended that the Assistant Secretary for Indian Affairs develop a process by which an "inherently federal function" was defined and determined to provide further clarity.⁵⁹

In 2019, the Secretary then issued a secretarial order⁶⁰ asking the Office of the Solicitor to develop a clear definition of "inherent federal functions." In 2020, a list was developed regarding oil and gas activities.⁶¹ However, as of February 2024, the recommendation from the 2019 GAO report still has not been fully addressed and tribes are still left without a definition of an inherently federal function.⁶²

Another consideration is the tribal shares of federal monies received when a tribe enters into a self-determination contract or compact. Once the BIA determines a tribe's share of the federal money for a program, that does not change unless by an Act of Congress. Therefore, a tribe's share year to year does not change, despite any growth on the part of the tribe, and there is no flexibility when other tribes achieve federal recognition.⁶³ Congress could also require BIA, in consultation with affected tribes, to reevaluate tribal shares of federal funds in cases of significant changes in the circumstances of a tribe or when a region has a newly federally recognized tribe.

⁵⁵ Id.

⁵⁶ Id.

⁵⁷ IIA briefing with the Self-Governance Communication and Education Tribal Consortium. 02.22.24.

⁵⁸ 42 CFR 137.140.

⁵⁹ GAO. Interior Should Address Factors Hindering Tribal Administration of Federal Programs. 2019. <https://www.gao.gov/products/gao-19-87>.

⁶⁰ S.O. 3377. December 16, 2019. https://www.doi.gov/sites/doi.gov/files/elips/documents/so-3377-508-compliant-1_0.pdf.

⁶¹ Memorandum of Agreement Between Bureau of Indian Affairs, Office of Self-Governance, Office of Natural Resources Revenue, And Bureau of Land Management. 02.24.2020. <https://www.usetinc.org/wp-content/uploads/2020/04/02.24.20-MOA-BIA.OSG.ONRR.BLM.with-Annex-A.contractable-functions.pdf>.

⁶² GAO. Interior Should Address Factors Hindering Tribal Administration of Federal Programs. 2019. <https://www.gao.gov/products/gao-19-87>.

⁶³ IIA briefing with the Self-Governance Communication and Education Tribal Consortium. 02.22.24.

Finally, considering the role audits play in a tribe's plan to enter into a self-governance contract or compact, Congress could consider pursuing a Cooperative Audit Resolution and Oversight Initiative (CAROI) system, such as the one first put in place by the Department of Education in 1999.⁶⁴ CAROI was expanded to all federal agencies as a way to engage all stakeholders in a cooperative audit process and produce better outcomes.⁶⁵ However, it does not explicitly apply to self-determination contracts or self-governance compacts, which has created uncertainty for some tribes. Congress could consider explicitly applying CAROI or other cooperative audit resolution processes to assist in building tribal capacity through the audit process.

⁶⁴ U.S. Department of Education. CAROI's Discovering New Solutions Through Cooperative Audit Resolution. <https://www2.ed.gov/policy/gen/guid/caroi/guide.html>.

⁶⁵ 2 CFR § 200.513(c)(3)(iii).