

Proposed Changes for NBRC AFA  
(reflecting discussion at 11/5/04 meeting)

1. Change Section 12.G from "lobby Congress in any manner" to "lobby Congress or any other government entity" [confirm wording with Barry]. Revised section would read as follows:

*G. Lobbying.* The CSKT will not use any of the funds the FWS pays the CSKT under this AFA to lobby Congress or any other government entity in any manner prohibited by Federal law.

2. Change Section 8.C to provide that CSKT will consult with the Refuge Manager prior to making any request for a waiver of regulations. Revised section would read as follows:

*C. Waivers.* The CSKT may request, after consulting with the Refuge Manager, that the Secretary waive a regulation in accordance with the procedures in § 403(i)(2) of the Act, 25 U.S.C. § 458cc(1)(2), and the Tribal Self-Governance Regulations at C.F.R. Part 1000, Subpart J.

3. Add new Section 7.B to make clear that either the Refuge Manager or the Coordinator can address immediate safety concerns. Revised section would read as follows:

*B. Safety.* Nothing in this Agreement shall be interpreted as restricting the authority of either the Refuge Manager or the Coordinator to take immediate steps to address any safety concerns.

4. Add "professional requirements" to Section 11.C, so the revised section would read as follows:

*C. Training and Skill.* The CSKT will ensure that each CSKT Employee, CSKT Contractor, and CSKT Volunteer has sufficient professional requirements, skill and/or experience to properly and safely perform each Activity the CSKT assigns her or him to perform.

[note: I changed the "and" after "skill" to read "and/or" to clarify that the AFA is not, for example, requiring professional requirements of all volunteers, etc. The provision's intention is to ensure that CSKT employees, contractors or volunteers have sufficient qualifications but, depending on the position, those qualifications will consist of various combinations of professional requirements, skill and experience.]

5. Add language clarifying that seasonal IPA employees can extend their assignments beyond their 6 month standard period of employment (contingent upon funding from FWS). Upon review of the AFA, I think this is sufficiently addressed in Section 11.E.5.b ("Continuation of Employment") (p.17). However, if there is a desire to make its application more explicit for seasonal employees, a new Section 11.E.5.d could be added to read as follows:

*d. Seasonal IPA Employees.* Contingent upon funding provided by FWS, the IPA Agreement of any seasonal Affected Federal Employee may be extended beyond the original timeframe provided in the IPA Agreement, provided that such extension does not result in such employee working more than \_\_\_ weeks of the year, in which case the employee would no longer have seasonal status.

[note: need to have FWS provide the ceiling for number of weeks an employee can work while still being classified as 'seasonal']

6. Change Section 10.A.3.b(2) from "establish that no performance deficiency exists" to "demonstrate to the Refuge Manager that no performance deficiency exists". The revised section would read as follows:

(2) *Written Notice.* The Refuge Manager will notify the Tribal Council in writing of any other performance deficiency, including any performance deficiency that constitutes grounds for reassumption under section 16.C of this AFA. The written notice will identify the Activity and describe the performance deficiency at issue, the applicable Operational Standard or term or condition of this AFA, and why the performance of the CSKT does not meet the Operational Standard or term or condition. The notice will give the CSKT a reasonable amount of time to either remedy the performance deficiency or demonstrate to the Refuge Manager that no performance deficiency exists, the amount of time to be set by the Refuge Manager depending on the nature of the deficiency.

