

1.1 Purpose. This chapter outlines the authorities that govern implementation of the Indian Self-Determination and Education Assistance Act of 1975, as amended, and the procedural requirements for granting requests for waivers.

1.2 Scope. The regulations in 25 CFR Chapter I, Subchapter **M**, and Chapter V, Part 900, contain significant procedural instructions. All Indian Affairs (IA) personnel should first refer to the regulations for primary instruction on procedures to use in the implementation of the provisions of the Act. This Part of the Indian Affairs Manual (IAM) supplements, but does not restate the regulations. If there are any conflicts between the provisions contained in this IAM Part and the regulations contained in 25 CFR Chapter I, Subchapter M, and Chapter V, Part 900, then the regulations govern.

1.3 Policy. IA supports and assists efforts of Indian tribes to plan, conduct, and administer programs and services provided for the benefit of the Indian tribe or members of the Indian tribe.

1.4 Authority.

A. Statutes and Regulations.

- 1) 25 U.S.C. §§450 et seq., Indian Self-Determination and Education Assistance Act of 1975, as amended (ISDEAA)
- 2) P.L. 104-156, Single Audit Act Amendments of 1996
- 3) 41 U.S.C. §§601-613, Contract Disputes Act of 1978, as amended
- 4) 25 CFR, Chapter I, Subchapter M. Indian Self-Determination and Education Assistance Act Program
- 5) 25 CFR, Chapter V, Part 900, Contracts Under the Indian Self-Determination and Education Assistance Act
- 6) 43 CFR Part 4, Subpart D, Rules Applicable in Indian Affairs Hearings and Appeals,
- 7) 43 CFR Part 12. Administrative and Audit Requirements and Cost Principals for Assistance Programs

B. Guidance.

1) Cost Principles

25 CFR 900.45(e) requires each tribal organization to have a financial management system from which the Secretary can determine the reasonableness, allowability and allocability of SD contract costs based upon the terms of the contract and the tribal organization's applicable Office of Management and Budget (OMB) cost principles. Awarding Officials (AO) are encouraged to negotiate the cost principles of 2 CFR 1402 into new ISDEAA awards. 2 CFR part 1402 contains the cost principles adopted by the Department for non-ISDEAA awards.

2) Audit Requirements

25 U.S.C. section 450c(f)(1) requires a tribal organization to submit the audit report required by the Single Audit Act. 31 U.S.C. section 7501 et seq., for each fiscal year during which the tribal organization received or expended funds pursuant to a SD contract.

OMB has implemented the Single Audit Act through 2 CFR part 200 subpart F. Therefore, 2 CFR part 200 subpart F applies to all ISDEAA awards and annual funding agreements, as a matter of law. 2 CFR section 200.512(b)(2) applies to tribal organizations that enter into ISDEAA agreements, OMB has interpreted 2 CFR section 200.512(b)(2) to apply only to Indian tribes, as defined at 2 CFR 200.54.

C. Handbooks.

1) **Internal Agency Procedures Handbook for Non-Construction Contracting Under Title I of the ISDEAA.** This Handbook provides procedures to facilitate and enhance contracting with Indian tribes and tribal organizations.

CI. Awarding Official (AO) Certification System Handbook. The Handbook provides procedures to implement a certification system for those BIA officials designated and delegated authority to function as AOs for contracts, including construction contracts, awarded under the authority of the Act and all grants, except for those grants awarded under the authority of the Tribally Controlled Schools Act of 1988, as amended (P .L. 100-297).

CII. Delegation of Authority Handbook. The Handbook provides procedures to implement the delegation of authority to IA line officers to approve, decline, award, modify, and perform all other functions in the administration of contracts.

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1.5 Responsibilities.

- A. **Director, BIA** discharges the duties delegated from the Principal Deputy Assistant Secretary to provide oversight to the Office of Indian Services (IS).
- B. **Deputy Bureau Director, Indian Services (IS)** provides direction and support for the execution and coordination of IA responsibilities in the implementation of the Indian Self-Determination and Education Assistance Act.
- C. **Chief, Division of Self Determination Services** provides for the monitoring, guidance, technical support and advisory services, including the development of IA processes and procedures for SD pursuant to governing statutes and policies. Provides technical assistance and training on program specific components; monitoring of compliance with applicable program requirements, such as A-133 Single Act Audits and field/office performance reviews; approval of Regional Implementation Plans for the exercise of contract and grant authority at the field level; certification recommendations; and a training program for Federal and tribal officials in support of the execution of SD program(s) and services.
- D. **Regional Directors, BIA** provide for the application of overall policies, procedures and implementation of SD services awards within their administrative jurisdictional area(s) pursuant to governing statutes and established policies and procedures.
- E. **Superintendents/Field Representatives, BIA** provide for the daily operations of the field site SD responsibilities as designated by the Regional Director (with administrative jurisdiction) pursuant to governing statutes and established policies and procedures.
- F. **Approving Officials.** All Line Officers are considered Approving Officials for proposals to contract programs, services, functions, activities, or portion thereof within their area of administrative jurisdiction. The responsibilities of Approving Officials range from determination of the contractibility of a program, service, function, and/or activity (PSFA) pursuant to statute and requirements outlined in 25 CFR §900.
- G. **Awarding Officials (AOs)** provide for the operation and application of P.L. 93-638, as designated, for the oversight, monitoring and award of contracts and grants.
- H. **Awarding Officials Technical Representatives (AOTRs)** provide programmatic and administrative support as trained/designated by the AO(s) for a specific contract/grant.

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1.6 Waivers.

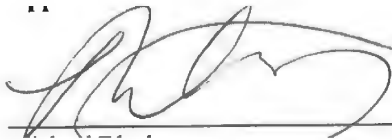
A. Indian tribes and tribal organizations may submit written requests for waivers of any of the provisions of the regulations at 25 CFR Part 900 including any cost principals adopted by the regulations (25 CFR § 900.140. Subpart K --Waiver Procedures).

8. All waivers requested, whether included in a contract proposal or submitted separately, may only be approved or disapproved by the Assistant Secretary-Indian Affairs (AS-IA). The authority to approve or disapprove requests for waivers cannot be redelegated to any other IA official.

C. Within 35 days of receipt within a Region. Regional Directors will forward waiver requests with their written recommendations to the AS-IA.

D. The AS-IA will approve or deny requests for waivers within 90 days of receipt. The decision will be in writing and, when appropriate, the Indian tribe or tribal organization will be advised of their appeal rights and will be offered technical assistance. If a decision is not made on the requests for a waiver within the 90 days, the request will be deemed approved (25 CFR § 900.144).

Approval ..



1/27/16
Date

Michael Black
Director, Bureau of Indian Affairs