

- 1.1 Purpose.** This chapter outlines the procedures for the implementation of the authority to administer contracts and grants, including construction contracts, at Regions/ Agencies.
- 1.2 Scope.** This policy applies to all Bureau of Indian Affairs (BIA) personnel involved in the Indian Self-Determination (SD) program.
- 1.3 Policy.** BIA 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. It is BIA 's policy to fully implement and/or comply with all laws and regulations governing the SD program, including all contracting and grant requirements.

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) Public Law (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, ISDEAA Program
- 5) 25 CFR. Chapter V, Part 900, Contracts Under the ISDEAA
- 6) 43 CFR Part 12. Administrative and Audit Requirements and Cost Principals for Assistance Programs

B. Guidance.

I. 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.** The Handbook provides procedures to facilitate and enhance contracting with Indian tribes and tribal organizations.
- 2) **Awarding Official (AO) Certification System Handbook.** The Handbook provides procedures to implement a certification system for those persons 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).
- 3) **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, including construction contracts under the Act and all grants, except for those grants awarded under the authority of P.L. 100-297.

1.5 Responsibilities.

A. Director, BIA discharges the duties delegated from the Principal Deputy Assistant Secretary- Indian Affairs (PDAS) to provide oversight to the Deputy Bureau Director, Indian Services (IS). Provides direction and coordination of Indian Affairs responsibilities in the implementation of the Indian Self-Determination and Education Assistance Act, as amended. Approves Implementation Plans for the exercise of contract and grant authority at the Regional level.

B. Deputy Bureau Director, Indian Services (IS) provides direction and support for the

execution and coordination of BIA responsibilities in the implementation of the ISDEAA. Conducts periodic reviews of Regional/Agency performance of SD responsibilities. Implements a training curriculum to support effective administration of SD contracting.

C. Chief, Division of SD Services provides for the monitoring, guidance technical support and advisory services, including the development of BIA 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; recommendation for approval of Regional Implementation Plans for the exercise of contract and grant authority at the field level; certification recommendations; and a training program for redclral and tribal officials in support of the execution or SD program(s) and services.

D. Regional Directors, BIA provides 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. Provides technical assistance to Indian tribes and conducts periodic reviews of tribal implementation of SD awards. Submits Regional Implementation Plans to the Deputy Bureau Director, IS. Oversees execution of approved Implementation Plans. Provides for periodic reviews of Agency Implementation Plans and performance. Ensures corrective actions are taken to address any deficiencies identified during reviews and contractor performance.

E. Superintendents/Field Representatives, BIA provides 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. Assesses the readiness of the Agency to assume SD contracts administrative functions. Prepares Agency Implementation Plans and provides revisions to the Regional Director.

F. Approving Officials All BIA Line Officers are considered Approving Officials for proposals to contract programs, services, functions, activities, (PSFA) or portions thereof within their area of administrative jurisdiction. The responsibilities of Approving Officials include but are not limited to: determining the contractibility of a PSFA or portion thereof; identifying potential declination and/or trust protection issues; approving or declining the contract/ grant proposal pursuant to statute and requirements outlined in 25 CFR §900; ensuring program objectives are consistent within authorizing legislation and appropriation language; providing technical assistance to Indian tribes and tribal organizations in support of SD contracting; ensuring timely and effective return of program operations to the Federal government in the event of recession or

reassumption of a contracted PSF A or portion thereof, in whole or in part; maintaining a 90-day proposal log to ensure compliance with Section 102 of the Act and subpart E; and providing reassumption decisions regarding contracts and grants.

G. Awarding Officials (AOs) provides for the operation and application of P.L. 93-638, as designated, for the oversight, monitoring and award of contracts and grants. Assists the Approving Official in the approval/declination process. Represents the Federal government on contract management matters before the public, in litigation, and in administrative appeals. Conducts final reviews of completed contracts, making adjustments or determination on the allowability of costs. Prepares and executes findings and determinations. Ensures tribal contractor compliance with the Single Audit. Evaluates and monitors the required contractor management systems of contracts/grant activities. Monitors contractor performance of contracted activities. Designates representative(s) to serve as the Awarding Official Technical Representative (AOTR) and Subordinate AOTR after consulting with the Approving Official in that jurisdiction. Advises, notifies and recommends, in writing, to the Approving Official of existing reassumption criteria for contracts and grants.

H. Awarding Official's Technical Representatives (AOTRs) provide programmatic and administrative support as trained and designated, in writing, by the AO(s) with concurrence from the appropriate Approving Official, for a specific contract/grant.

1.6 Preparation of Implementation Plans. Prior to transferring responsibility to Agencies for the administration of SD contracts and grants as authorized by P.L. 93-638, as amended, Regional Directors are to submit an Implementation Plan to the Deputy Bureau Director, IS. Based on the Plan, the Deputy Bureau Director, IS, will make a determination whether it is in conformance with existing policies and procedures. If in conformance, the Deputy Bureau Director, IS, will provide written approval of the Plan with designation of appropriate authority to administer contracts and grants under the statute that provides for the awarding authority.

1.7 Content of Plan. The Plan must include, at a minimum, the following components prior to issuance of awarding authority that addresses Region wide implementation of the SD program.

A. Management Controls. A description of the internal controls in place to meet the standards contained in the Single Audit Act standards and all conditions contained in 5 IAM 1.

B. Compliance with the Ethics in Government Act. Identification of the practices and procedures in place to avoid a conflict of interest or the appearance of a conflict of interest.

C. Impact of Additional Workload on Regional Office/Field site Operations.

Factors to be considered include:

- 1) Experience and knowledge of staff;
- 2) Training required;
- 3) Contract Implementation and Close Out requirements;
- 4) Restructuring or reorganization requirements; and
- 5) Anticipated Regional Office technical assistance and support.

D. Reallocation of Regional Office/Agency/Field site Financial Resources.

Identify how the location will absorb increased costs which may be incurred in the following areas:

- 1) Provision of training and technical assistance to designated employees administering/supporting contracts/grants, tribe(s) and tribal organization(s);
- 2) Monitoring of contractor management systems;
- 3) Monitoring of contractor performance of contracted activities;
- 4) Single Audit issues resolution;
- 5) Supplies and equipment;
- 6) Personnel; and
- 7) Travel.

E. Periodic Reviews for Monitoring Oversight/Audits. Provide plan to adhere to requirements for contractor compliance with components of contracts/grants, including, but not limited to:

- 1) Pursuant to contract/grant Scope of Work, time line (i.e., monthly, quarterly) for onsite reviews of contractor compliance with contract/grant requirements.
- 2) Written reports on compliance, including remediation plans for non-compliance.

INDIAN AFFAIRS MANUAL

Part 13
Chapter 2

Indian Self-Determination
Implementation Plans

Page 6

- F. Execution.** Describe the actions to be taken to ensure the orderly transfer of administrative responsibilities and the short and long-term oversight and assistance that will be provided by the Regional Office.
- G. Field Site Designation.** If authority is to be designated at field sites other than the Regional Office, the Plan must include Agency (or Field Station) Implementation Plans that meets the requirements of 1.7 contents (A-F as denoted above) in addition to the Regional Office assessment of the field site Plan.

Approval



Michael Black
Director, Bureau of Indian Affairs



Date