BUREAU OF INDIAN AFFAIRS SOUTHERN PLAINS REGIONAL OFFICE



REGIONAL INDIAN SELF-DETERMINATION SERVICES IMPLEMENTATION PLAN

Procedures for the Implementation of Delegation of Authority, Public Law 93-638, the Indian Self-Determination and Education Assistance Act, as amended

January 2015

1. GENERAL

- 1.1 Purpose. The purpose of this manual is to establish procedural requirements to implement the delegation of authority to the Southern Plains Regional Office to approve, decline, award, modify, and perform all other functions on the administration of the Public Law 93-638 contracts and grants as non-procurement contracts and construction contracts as 25 CFR Part 900. Sub-Part J Construction Contracts and 25 CFR Part 170, Indian Reservation Roads Program, and to make determinations and findings in respect thereto, under Public Law 93-638, the Indian Self-Determination and Education Assistance Act, as amended. This manual does not pertain to Title IV-Tribal Self-Governance Program of the Act. The delegation of Approving Official for P.L. 93-638 Contracts for Law Enforcement and Detention Services shall remain with the respective division and Deputy Bureau Director for Office of Justice Services (OJS), according to the Memorandum dated July 30, 2014. The Approving Official for all Education Programs will remain with the Line Officer at the Oklahoma Area Education Office.
- 1.2 It is the Policy of the Southern Plains Regional Office, Bureau of Policy. Indian Affairs to provide for the maximum service delivery in the processing of Public Law 93-638 contracts/grants submitted to the Southern Plains Regional Office by the (3) Regional Office Tribes, (5) Tribes for the Anadarko Agency located in Anadarko, Oklahoma; (4) Tribes for the Horton Agency located in Horton, Kansas; (3) Tribes for the Pawnee Agency located in Pawnee, Oklahoma and (1) Tribe for the Concho Agency located in El Reno, Oklahoma. These four agencies do not have delegated authority to approved, decline, award, modify, and perform all other functions on the administration of non-procurement, non-construction and construction contracts. The four agencies Delegation of Authority to administer or award P.L. 93-638 contracts/grants are under the jurisdiction of the Southern Plains Regional Office. The Self-Determination Officer is the only Level II Awarding Official at the Regional Office that has the authority to approve, decline, award, modify and perform all other functions on the administration of nonprocurement, non-construction contracts for the BIA, Concho Agency Tribes and all of Regional Office Tribes and the (4) agencies Tribes construction contracts. There are three (3) Self-Determination Specialists and all three are Level I Awarding Officials at the Region assigned to the (3) agencies Tribes and (3) Regional Office Tribes to approve, decline, award, modify, and perform all other functions on the administration of nonprocurement, non-construction contracts. The Southern Plains Regional Office will ensuring full compliance with all applicable laws, regulations, and policies to ensure sound management control and business decisions.

Regional Office - Tribes:

Iowa Tribe of Oklahoma	AABB08822T
Kickapoo Traditional Tribe of TX	AABB08826T
Alabama-Coushatta Tribe of TX	AABB00830T

Anadarko Agency - Tribes:

Apache Tribe of OK	AABB06809T
Caddo Nation of OK	AABB06806T
Comanche Nation of OK	AABB06808T
Kiowa Tribe of OK	AABB06815T
Wichita & Affiliated Tribes	AABB06804T

Concho Agency - Tribes:

Cheyenne & Arapaho Tribes of OK AABB05801T

Horton Agency - Tribes:

Iowa Tribe of KS & NE	AABB04860T
Kickapoo Tribe in KS	AABB04861T
Prairie Band Potawatomi	AABB04862T
Sac & Fox Nation of MO	AABB04863T

Pawnee Agency - Tribes:

Otoe-Missouria Tribe	AABB07811T
Pawnee Nation of OK	AABB07812T
Tonkawa Tribe of OK	AABB07814T

- 1.3 Scope. The BIA SPRO will utilize the Southern Plains Region Implementation Plan in accordance with 13 IAM, Chapter 3 and Chapter 4 and the "Delegation of Authority Handbook" as follows:
 - A. <u>Delegation:</u> The SPRO will maintain and administer all P.L. 93-638 contracts and grants as residual regional office functions, this includes construction contracts. The BIA SPRO Branch of Self-Determination Services shall continue to provide timely and appropriate coordination of contracting activities to BIA SPRO and the Oklahoma Bureau of Indian Education (BIE), and District II, Office of Justice Services. No P.L. 93-638 function will be administered at the SPRO agencies; this includes the

P.L. 93-638 contract/grant for Oklahoma Area Education Office and District II, Office of Justice Services.

The BIA SPRO through the Regional Director will not transfer delegation of authority to approve and decline contract administration to its Agencies (i.e., Anadarko Agency, Concho Agency, Pawnee Agency and Horton Agency). In addition, all (4) Awarding Official's duty station are at the BIA SPRO.

- 1.4 Authority. Public Law 93-638, the Indian Self-Determination and Education Assistance Act, as amended, and promulgated regulations cited in 25 CFR Part 900. Funds are appropriated pursuant to the Snyder Act of November 2, 1921, (25 U.S.C. 13), and Acts subsequent thereto.
- 1.5 Effective Date. This procedures manual shall be effective on the date signed by the Regional Director and the Bureau of Indian Affairs Director. Its provisions shall remain in effect until it is amended, superseded, or revoked by the Regional Director and the Bureau of Indian Affairs Director.

APPROVED:

Acting BIA Director

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Régional Director - Southern Plains Region

Date: 2/6/2015

Date: 2-4-15

2. PROCESSES AND PROCEDURES

- 2.1 Designation of Key Officials Separation of Duties. The following officials are designated to provide for distinct separation of key duties and responsibilities in authorizing, processing, recording, and reviewing transactions involved in the contract approval and award process.
- A. Approving Official. The Approving Official shall be the Regional Director. The responsibilities and duties of the Approving Official include, but are not limited to:
- (1) Ensure that within two days of the receipt of a proposal, the applicant is notified in writing that the proposal has been received.
- (2) Ensure the contract application is reviewed to determine that all items required by 25 CFR Part 900, Subpart C, 900.8 and/or 900.12 have been submitted.

- (3) Ensure that within 15 days the applicant is notified in writing of any missing items required by 25 CFR Part 900, Subpart C 900.8 or 900.12 and request that the items be submitted within 15 days of receipt of the notification.
- (4) Ensure the proposal is reviewed to determine whether there are declination issues under Section 102(a)(2) of the Act and 25 CFR Part 900, Subpart E. If declination issues exist, ensure technical assistance is provided to overcome the stated objections in accordance with Section 102(b) of the Act, and 25 CFR Part 900, Subpart E.
- (5) Determine the applicable funding level for the contract in accordance with Section 106(a) of the Act.
- (6) Ensure that within 90 days after receipt, the proposal is reviewed, approved, and awarded or is declined in compliance with Section 102 of the Act and 25 CFR Part 900, Subpart E.
- (7) Ensure compliance with appropriation law and use of appropriated funds.
- (8) Ensure the timely and effective transfer of Federal Government contracted responsibilities and funding to the tribal government.
- (9) Ensure the timely and effective return of Federal Government responsibilities in accordance with 25 CFR Part 900, Subpart P in the event of retrocession and reassumption.
- B. Awarding Official. Within the BIA the authority to appoint Awarding Official rests with the Assistant Secretary-Indian Affairs. However, the authority has been delegated to the Director, Bureau of Indian Affairs. In accordance with IAM Part 13, Chapter 3 and 13 IAM 3-H, the authority for Indian Self-Determination contractual matters rests exclusively with the Bureau employee who is in the self-determination career field and who has been certified under the Awarding Official Certification System (AOCS) as an Awarding Official Level I or Level II. The Awarding Official shall have the authority to award, modify, and administer all self-determination contracts as defined in the 25 U.S.C. Section 450b(j), including where applicable construction contracts as defined in 25 Section 450b(m), as amended and all self-determination grants as defined in 25 U.S.C. Section 9. The Awarding official designation shall be specific to an individual, and not by position. The responsibilities and duties of the Awarding Official include, but are not limited to:

- (1) Negotiates, awards contracts, and contract modifications or amendments within 90 days of receipt of the approval letter signed by the Regional Director (Approving Official).
- (2) Executes the obligation of the contract or grant or modification/amendment by:
 - (a) Ensure the FBMS Entry Document (FED) indicates that funds are available and signed by Budget Official certifying that funds are available. The FED must be attached to the Purchase Requisition (PR).
 - (b) Ensuring the ACQ Requisitioners (ACQ_REQ) generates an entry of the PR into the Financial Business Management System (FBMS) and the Awarding Official receives the original copy to review before ACQ PR Approving Official)ACQ_AO) approves the PR and Awarding Official receive the approved PR from the ACQ Requisitioners for the contract file.
 - (c) PR is approved and certified by the ACQ Certifying Funds Approver (ACQ_CFA) and ACQ PR Approving Official (ACQ_AO) (can be same individual and generally the Program Manager).
 - (d) Approved PR is assigned to the Financial Assistance Agreements Officer (FA_AGO) (generally the Awarding Official) or Financial Assistance Grants Specialist by the ACQ Expediter (ACQ_EXP) in PRSIM (generally the Awarding Official).
 - (e) The FA_AGO releases award or modification in PRISM and payments to the Pub. L. 93-638 contractor are released in accordance with the contract/grant or modification terms and conditions. Those Public Law 93-638 contracts/grants designated as high risk, payments are distributed according to an agreed payment method.
- (3) Ensures the transactions are properly documented by maintaining the official contract file or grant file.
- (4) Ensures compliance for respective contract/grant with all appropriate laws, rules, regulations, policies, manuals, and procedures.
- (5) Issues correspondence involving business management aspect of contracts and grants.
- (6) Exercises contracting authority as otherwise established in law, regulations, manuals, handbooks and this Implementation Plan.

- (7) Implements applicable policies and procedures with efficiency and necessary training.
- (8) Provides assistance, consultation, and training to program officials and Tribe/Tribal organizations.
- (9) Represents the Federal Government on contract and grant management matters before the public, in litigation, and in administrative appeals.
- (10) Reviews and evaluates business management aspects of applications to assure compliance with applicable regulations and policies.
- (11) Negotiates cost-schedule, Federal Government oversight and review, and administration of fiscal terms and awards.
- (12) Prepares, issues, and tracks awards; certifies that all legal, regulatory and policy requirements are met, and certifies that award amounts are accurate and appropriate.
- (13) Tracks, reviews and analyzes post award actions; identifies and resolves management and administrative problems that arise during performance.
- (14) Advises the Tribe/Tribal Organization of any violation of the contract terms and provisions and promptly brings the matter to the attention of the Approving Official if the Tribe/tribal Organization fails or is unable to correct or stop the violation.
- (15) Reviews any proposed modifications initiated by the Tribe/Tribal Organization and furnishes recommendations regarding their costs, need, etc.
- (16) Ensures contract funds are used for the purpose intended, ensures cash on hand is not excessive and ensures that accounting and appropriation data are correct. Ensures Tribe/Tribal Organizations are registered in the System for Awards Management (SAM) and the Automated Standard Application for Payments (ASAP).
- (17) Prepares, in collaboration with the designated Awarding Official's Technical Representative (AOTR), annual on-site monitoring and file in the appropriate contract/grant file.
- (18) Assists the Awarding Official's Technical Representatives in reviewing contract progress reports for approval or disapproval. Ensures financial and narrative

- reports are submitted by the Tribe/Tribal Organization in compliance with the contract/grant provisions.
- (19) Serves as accountable property officer by ensuring all accountable personal property purchased with contract funds or provided as Federal Government furnished property are accounted for, tagged, and inventoried annually, as well as ensure that laws, regulations, departmental and BIA directives are followed in the excess and disposal processes. The real property donation has not been redelegated to the Awarding Official [DOI/HHS Internal Agency Handbook Chapter 9, II. A. 3.1] However, the Awarding Official shall work with the SPRO Property Management Officer on personal property.
- (20) Initiates independent audits, as warranted.
- (21) Ensures timely resolution of audits and the Single Audit Act, and ensures followup actions are taken such as implementing corrective action plan and close-out.
- (22) Conducts final reviews of completed contract/grants, makes adjustments or appropriate disallowances, ensures proper disposition of property, and formal closeout of contracts/grants, including Release of Claims on file.
- (23) Prepares and executes determination and findings.
- (24) Issues reassumption and or retrocession letter and is responsible for accomplishment of all actions necessary to effect reassumption and or retrocession of a contracted program, services, functions or activity.
- (25) Consults with Approving Officials and Solicitor as necessary and appropriate in accordance with SPRO policy.
- (26) Ensures the Awarding Official certification number is affixed on an official legal contract instrument whenever the name/signature appears.
- (27) Designates a representative(s) to serve as the Awarding Official's Technical Representative (AOTR) or the Subordinate Awarding Official's Technical Representative (SAOTR).
- C. Awarding Official's Technical Representative (AOTR). Designation(s) of AOTR shall be specific to an individual, and not by position, and shall be appointed by the Awarding Official. The BIA SPRO Program Managers, including BIE and OJS, in most instances, may be appointed as the AOTR. These appointed positions are an extremely important aspect of the contract management team that will be responsible for the successful administration and completion of

all Public Law 93-638 contract/grants. Duties and responsibilities of the AOTR shall include, but are not limited to the following:

- (1) Thoroughly familiarize yourself with the terms and provisions of the grant.
- (2) Keep abreast of the contractor's progress in relation to the contract terms and conditions.
- (3) Decide, when determining compliance, only questions of fact arising in regard to quality and acceptability of work performed, acceptability of equipment to be used, manner of performance and rate of work progress, and acceptable fulfillment of the technical phases of the contract by the Contractor.
- (4) Review any proposed changes initiated by the Contractor and furnish recommendations regarding their costs, need, etc., when forwarding proposals to the Awarding Official (AO).
- (5) Advise the Contractor and the AO, preferably in writing, of any violation of the contract terms and conditions and promptly bring the matter to the Awarding Official's attention if the contractor refuses to correct or stop the violations.
- (6) Maintain a file of all matters pertaining to the contract, whether initiated by you or received from the Contractor, or the AO, in an orderly manner for review by properly authorized Bureau official at any time.
- (7) Upon written request from the Contractor, approve in writing budget line item shifts within policy limitations, but only when the following conditions do not exist:
 - A. Change in the scope or the objectives of the contract.
 - B. An increase or decrease in the contract amount.
 - C. Budget revisions that affect the indirect cost entitlement.
 - D. The purchase of materials or equipment which requires prior Bureau approval.
 - E. Requests to change the contract period.
 - F. Changes in accounting data
- (8) Organize the work of technicians and others who may be assigned to assist you in the work at the project site.
- (9) Maintain a good business relationship with the Contractor, and any subcontractors in order to insure orderly execution of the work.

- (10) Perform any special assignments that may be given by the AO regarding the contract.
- (11) The AOTR shall not take action to: (This includes Subordinate Awarding Official's Technical Representative (SAOTR)
 - a. Enter into a supplemental agreement.
 - b. Make a final decision that is subject to appeal under the Disputes Clause under the contract.
 - c. Terminate in whole or in part the Contractor's right to proceed with any part of the work covered by the contract.
 - d. Issue change orders or modifications to the contract.
 - e. Issue suspension of work orders.
 - f. Grant extensions of time for any reason.
 - g. Modify the terms and provisions of the contract.
 - h. Commit the Government in any manner, except as indicated in (1-10) above.
- D. Budget Official. The Budget Official shall be responsible for ensuring the validity of funding authority and the availability of funding to prevent deficiency as defined by the Anti-Deficiency Act, 31 U.S.C. Section 1341.
- 2.2 Regional Review and Approval of Contract Proposals. The Regional Director has 90 days after receipt of proposal to review and approve the proposal and award the contract or decline the proposal in compliance with Section 102 of the Act and 25 CFR Part 900, Subpart E. At any time during the review period, the Regional Director may approve the proposal and notify the Awarding Official to award the requested contract. Upon the approval by the Regional Director, the Awarding Official shall award the contract and add to the contract the full amount of funds to which the contractor is entitled under Section 106(a) of the Act. A

proposal that is not declined within 90 days (or within any agreed extension under 25 CFR 900.17) is deemed approved and the Awarding Official shall award the contract or any amendment or renewal and add to the contract the full amount of funds pursuant to Section 106(a) of the Act. To ensure that action on the proposal is taken within the 90 day period, the contract proposals submitted by the tribe are forwarded to the SPRO Program staff or the SPRO agency staff for review and recommendations for approval to the Awarding Official. The BIA SPRO Program staff (AOTR) or the SPRO agency staff (AOTR) and their responsibilities shall be as follows:

- A. BIA SPRO Program/Agency Staff (AOTR). The BIA SPRO Program/Agency staff (AOTR) shall be responsible for conducting technical review of the contract proposal and shall make appropriate recommendations to the Awarding Official to ensure sound decisions are made. The BIA Program Staff may consist of the BIA Southern Plains Regional Program staff and the Agency staff which are identified as the (AOTR). The responsibilities and duties of the BIA Program/Agency staff (AOTR) includes, but are not limited to:
 - (1) The Awarding Official shall serve as the official recipient of assigned initial, or renewal contract/grant proposals.
 - (2) The Awarding Official conducts the initial review to determine if the proposal is supported by an authorizing resolution. Within two days after receipt of an initial, or renewal contract /grant proposal the Awarding Official shall prepare a letter for the Approving Official's signature notifying the Tribe/Tribal Organization when the proposal was received.
 - (3) The Awarding Official shall forward the proposal to the BIA SPRO program staff or agency staff to review the proposal and:
 - (a) Determine and review if the proposal is consistent with the Bureau of Indian Affairs operated programs and are consistent with the applicable part(s) of 25 CFR. If the Tribe/Tribal Organization proposal contains a request for a waiver of any provisions of the regulations, ensure that the requirements contained in 25 C.F.R. Part 900, Subpart K are met. However, the waiver can be submitted separately from the contract proposal. Technical assistance is available as provided in 25 C.F.R. 900.7.
 - (b) If the proposal being reviewed is an initial contract proposal, determine that all items required by 25 C.F.R. Part 900, Subpart C, 900.8 have been submitted. If it is determined that items required

- are missing, state the specific items and cite the specific regulatory requirement for the missing items.
- (c) If the proposal being reviewed is a renewal contract proposal, determine that all items required by 25 C.F.R. Part 900, Subpart C, 900.12 have been submitted. If it is determined that items required are missing, state the specific items and cite the specific regulatory requirement for the missing items.
- (d) Determine whether there are declination issues under 25 C.F.R. Part 900, Subpart E. If it is determined that declination issues exist, state specific objections, and provide with specificity what shall be required of the tribal organization to overcome the stated objectives.
- (4) If the review of the BIA SPRO Program/Agency staff (AOTR) determines that the proposal meets all the requirements contained in (A)(3)(a) through (d) above, determines that no declination issues exist, the Awarding Official shall within 15 days of the receipt of the proposal prepare a letter for the Approving Official's signature, notifying the Tribe/Tribal Organization that the proposal is approved and to negotiate, if necessary. The respective Awarding Official shall immediately mail a copy of the signed approval letter to the Tribe/Tribal Organization.
- (5) If the review of the BIA SPRO Program/Agency staff (AOTR) determines that the proposal is incomplete and does not meet all the requirements contained in (A)(3)(a) through (A)(3)(d) above, determines that declination issues exist, the respective Awarding Official shall within 15 days of the receipt of the proposal, prepare a letter for the Approving Official's signature notifying the applicant of the deficiencies and request that the required items be submitted within 15 days of the receipt of the notification. The notification to the Tribe/Tribal Organization shall provide the following specific information and offer technical assistance to overcome the deficiencies.
 - (a) A listing of all missing items required by 25 C.F.R. Part 900.8 or 900.22 with a citation of the specific regulatory requirement for each missing item.
 - (b) A listing of all declination issues found pursuant to 25 C.F.R. Part 900.22 with specific citations for each stated objection and shall provide with specificity what is required of the tribe or tribal organization to overcome each of the stated objections.

- (6) Once the information is provided as requested under (A)(5) above is submitted by the Tribe/Tribal Organization within the requested 15 days of the notification, the Awarding Official shall further review the additional documents/ information submitted by the Tribe/Tribal organization, and immediately proceed with approval or declination of the proposal to the Approving Official.
 - (a) If the review of the BIA SPRO Program/Agency staff (AOTR) has been completed and it has been determined by the Awarding Official that the proposal meets all of the requirements contained in (A)(3)(a) through (d) above, and the Tribe/Tribal Organization has overcome all stated declination issues, the respective Awarding Official shall prepare a letter for the Approving Official's signature, notifying the Tribe/Tribal Organization that the proposal is now approved and award the contract within 90 days of receipt of the notification. The respective Awarding Official shall immediately mail a copy of the signed approval letter to the Tribe/Tribal Organization.
 - (b) If the information requested under (A)(5) above was requested to overcome stated declination findings, and the review of the BIA SPRO Program staff and agency staff, the Awarding Official recommends that all or a portion of the proposal be declined, the respective Awarding Official shall prepare a letter for the Approving Official's signature, advising the Tribe/Tribal Organization:
 - (1) Of the objections, including a specific finding that clearly demonstrates that (or that is supported by a controlling legal authority) one of the conditions set forth in 25 C.F.R. 900.22 exists, together with a detailed explanation of the reason for the decision to decline the proposal and provide any documents relied upon in making the decision.
 - (2) Immediately consult with the Solicitor according to the BIA SPRO policy and include all pertinent documentation.
 - (3) Of the Tribe/Tribal Organization's rights, advise the Tribe/Tribal Organization in writing of the rights as described in 900.31.

- (4) That technical assistance is available to overcome the stated objections as described in 25 CFR, 900.30.
- 2.3 Internal Controls. The Regional Director, the key officials designated pursuant to Section 2.1 and the Review staff designate pursuant to Section 2.2 shall ensure that:
- A. **Documentation.** All transactions and other significant events are clearly documented and the documentation is readily available for examination.
- B. Recording of Transactions and Events. All transactions and other significant events are promptly recorded and properly classified.
- C. Execution of Transactions and Events. All transactions and other significant events are authorized and executed only by persons acting within the scope of their authority.
- D. Access to and Accountability for Resources. Access to resources and records is limited to authorized individuals.
- 2.4 Evaluation of Regional Performance.
- A. Responsibility. The BIA Director and Regional Director are responsible for reviewing the Region's performance and implementing any corrective action to ensure compliancy with the delegate authority.
- (1) BIA Director. The BIA Director shall be responsible for conducting management reviews of Regional performance under the delegated authority and shall prepare a report outlining his findings and recommendations to the Regional Director. This review shall be conducted in accordance with the Southern Plains Regional Office specific implementation plan. Upon completion of the management review, the BIA Director shall prepare a summary report to the Director of Indian Services containing, at a minimum, a status of the delegation of authority.
 - (a) Such report shall include evaluation methodology, tribal input, successes and problems, as well as Regional Office recommendation for permanency of programs for further Bureau of Indian Affairs implementation.
 - (b) The BIA Director or the designee of the BIA Director shall conduct an independent evaluation of the delegate Region.

- (2) Regional Director. The Regional Director shall be responsible for preparing and implementing a corrective action plan to ensure correction of deficiencies identified in the administrative management review, if warranted.
- **B.** Factors. The scope of the management review shall include, but not be limited to an evaluation of the following factors:
- (1) The application review and award process in compliance with 25 CFR Part 900.
- (2) A random sample of contracts and actions for proper budget certification and fund authority.
- (3) A random sample of personal property inventory for accountability.
- (4) Proper separation of duties, internal controls, and independence of decision making.
- (5) Compliance with the designated duties and responsibilities by key officials, including budget finance officials.
- (6) Compliance by the tribal organization with the terms and conditions of the contracts awarded.
- (7) Maintenance of contract files in accordance with 19 BIAM, Supplement 14 as well as 16 BIAM.
- (8) A review of the determination and findings of the Awarding Officials.
- (9) Any matter which may pertain to waste, fraud, or abuse; and/or conflicts of interest.
- (10) Existence of any inappropriate influence on the Approving Official and/or Awarding Official.
- (11) Compliance with other applicable special approval and clearance requirements.
- (12) Adequacy of training and staffing.
- (13) Response and follow-up to audit findings.
- (14) Workload of the Awarding Official.

- (15) Tribal assessment of the Region's performance of the delegated authority.
- **2.5** Technical Assistance. The BIA Director shall be responsible for providing requested or recommended technical assistance to the Region.
- 2.6 Service Benefits. The Regional Director shall conduct an annual survey of services performed and benefits associated with the implementation of the delegated authority and report findings to the BIA Director in accordance with the Regional Office specific implementation plan.
- 2.7 Effective Date. This procedures manual shall be effective on the date signed by the Regional Director and the BIA Director. Its provisions shall remain in effect until it is amended, superseded, or revoked by the Regional Director and the BIA Director.