

National Johnson-O'Malley Association

JOM Program Handbook

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 - Subfolder-93-638-part 900 Imp Regs
 - **25 CFR Part 900**-PPT
 - **Part 900 Initial contract checklist**- MSWord
 - **Title II, Indian Education Assistance Act**-MSWord
 - Subfolder-FHL trng
 - **93-638 History 100 slides**-PPT
 - **93-638 FHL**- MSWord
 - Subfolder-OMB A-87 Trbl gvts
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- [5] Subfolder-25 CFR Part 273 Regs
 - **25 CFR-273 JOM Regs Highlighted TEDs**-MSWord
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[1] **Legislative history and flow Chart**-MSWord

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Efolder 4. IEC Powers & Duties

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Efolder 5. JOM Contract Management

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Efolder 7. JOM Goals and Objectives

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- *Goals and Objectives Info*-MSWord
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Efolder 8. *JOM Educational Plan*

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PREFACE



Chief Earl Old Person (born 1929), also named Cold Wind or Charging Home, is an American Indian political leader and the hereditary chief of the Blackfeet tribe in Montana, United States. Chief Old Person became a member of the Blackfeet Tribal Business Council in 1954 and served as tribal chairman from 1964 to 2008. He has also served as president of the National Congress of American Indians.

In July 1978, Chief Old Person was appointed honorary lifetime Chief of the Blackfeet Nation. Chief Old Person holds an honorary doctorate from the University of Montana. In 1998, he was awarded the Jeanette Rankin Civil Liberties Award by the American Civil Liberties Union of Montana. In 2007, he was inducted into the Montana Indian Hall of Fame. Chief Old Person acts as the Traditional Advisor for the National JOM Association Board and has been the leading force behind the JOM funding movement in Congress.

More than 500 Federally-recognized tribes have survived 517 years of coexistence with a nation of descendants of immigrants who made this land their home. In constant transition Indians suffered forcible removal from aboriginal lands while vast herds of buffalo were systematically annihilated. Fully dependent on Federal government rations Indians somehow survived amid rampant graft and corruption among Indian agents. Early missionaries endeavored to provide education to Indian students and later the Federal Government began a history of failed attempts to institutionalize Indian education. Some politicians invoked remote boarding schools and Carlisle was one of the early boarding schools where Jim Thorpe attended and distinguished himself with superhuman athletic feats. In the 1850s Hampton Institute hosted an effort to forcibly remove students from remote Indian territories and to ‘train’ them to become menial workers as cobblers and servants.

The Bureau of Indian (BIA) Affairs originated in the War Department and later moved under the Department of Interior. BIA built large off reservation boarding schools and for many Indian students it became home for most of their adolescent years. Using severe corporal punishment BIA schools suppressed Indian culture and prohibited speaking of native languages. BIA failures have continued with substandard education services at deteriorating schools on reservations and large boarding schools locating in urban settings.

Today, a significant fact is, the majority of Indian students attend public schools and subsequently receive no educational services from the Bureau of Indian Education (BIE) to offset their costs of attendance. The *Snyder Act* has funded Johnson-O’Malley programs across this nation and is under attack by Bureau of Indian Affairs (BIA) top officials, and many attackers are of Indian blood. Congress has endeavored to cut programs including JOM and that threat has unified tribes in support of continued funding. Recently, Congress has focused on accountability of tribal programs that receive Federal funding, while simultaneously, BIE and BIA have cut technical assistance and training to Federally-recognized tribes contracting under *P.L. 93-638 Indian Self-Determination and Education Assistance Act of 1975, as amended*.

This comprehensive handbook provides essential information necessary to develop and operate a high quality JOM program in compliance with P.L. 93-638 and its Implementation Regulations found in 25 Code of Federal Regulations (CFR) 25 INDIANS Part 900; and JOM Implementation Regulations-25 CFR Part 273.

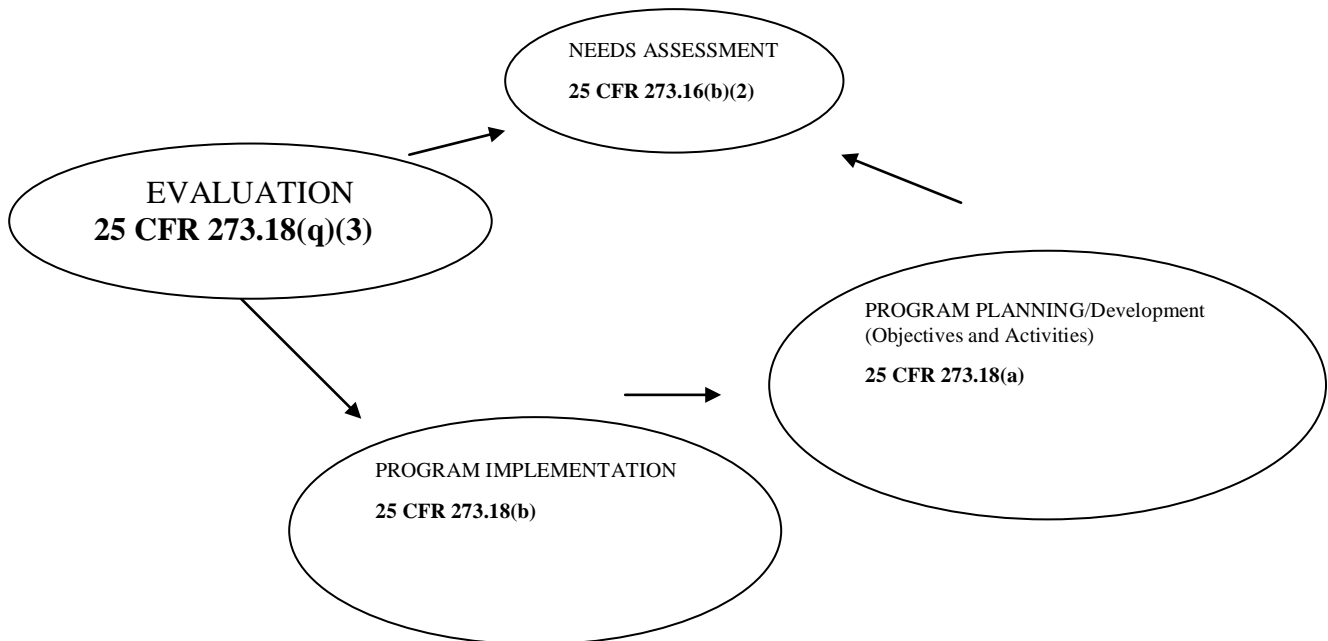
The JOM Program by regulations allows for full participation of parents in the design and implementation of their JOM Program to best meet the needs of their children. I encourage all of you to utilize this handbook to become better informed of the JOM Program, your vested authority as parents, the rights of your children and regulations that set forth guidelines in becoming a successful JOM program. Never give up the fight for the future of our children.

Chief Earl Old Person

PURPOSE

Since 2006, the Bureau of Indian Education has failed to provide technical assistance and training to Federally-recognized tribes operating federal contracts such as the Johnson-O'Malley program. In response to the BIE failure to uphold Federal responsibility and lack of education contract training, the National Johnson-O'Malley Association (NJOMA) initiated development of this practitioner's Handbook of comprehensive educational contracting information. The purpose of this NJOMA Johnson-O'Malley handbook is to serve as a compendium of information for tribal governments, tribal officials, and tribal organizations to provide education training for parents of eligible Indian students, and Local Indian Education Committees (LIEC) to promote understanding, leading to development of specialized and unique educational programs that focus on learning Indian students in public schools that will produce positive academic results.

JOM ANNUAL CONTRACT PROCEDURES



NJOMA VISION STATEMENT

The leadership of the National Johnson-O'Malley Association (NJOMA) share a vision to serve national and Federally-recognized tribes, communities and parents, as national advocate for your eligible Indian students attending public schools.

The annual Federal Budget for JOM funding specialized and unique education programs for eligible Indian students, has been targeted for elimination by successive administrations. The NJOMA has provided consistent communication to Congress and has served as your national voice advocating for continued Congressional funding of JOM.

The NJOMA Board serves as representative to all Indian Nations and communicates the Indian parent and tribal voice that is heard on Capitol Hill.

The NJOMA Board vision supports continued National Annual JOM Conferences where exchange of ideas, trends, exciting educational programs, and critical issues are addressed and discussed. The NJOMA has the vision to foster and promote cyber-communication between Federally-recognized tribes and our Congressional leaders.

The NJOMA envisions development of a NJOMA website to encourage networking among innovative tribal educational leaders.

2008-2009 NATIONAL JOHNSON-O'MALLEY (NJOMA) BOARD

Region 1 Eleanor Thomas Navajo	Region 2 Lloyd Tortalita, Acoma	Region 3 Rebecca Clapp Choctaw	Region 3 Gwen Parrish-Bart Choctaw	Region 4 Garry Martin Cherokee	Region 5 vacant
Region 6 Carla Mann Secretary	Region 7 Clayton Long Navajo	Region 8 Phyllis Carlson Aleut	At-Large Region (3&4) Jeri Brandon Muscogee Creek	At-Large Region (5,6,&7) Harold Dustybull Blackfeet	At-Large member (1,2 &8) Eileen Hill White Mountain Apache
Ex-official Rona Rodenhurst Hawaii	National At-Large Virginia Thomas Muscogee Creek				

NJOMA OPINION: NATIONAL CHALLENGE OF ANNUAL JOM FUNDING

Johnson-O'Malley funding has been in a state of "suspended animation" for the last fourteen years. Method M Fixed Base funding formula and the movement of JOM into TPA has caused many tribes and other grantee/contractors under JOM to be frozen at the 1995 student count and funding figures, indefinitely. The Johnson-O'Malley programs serve over 250,000 students. This number is based on the 1994 BIA student count prior to the freeze on the student cap initiated by the BIA. This student count is not an accurate representation of the number of Indian students served in 2005. Since the freeze in 1994, there has been no correlation of educational services with lack of an accurate Indian student count. Using a basic formula of a 28% increase over the past fourteen years, we project an estimation of the growth of eligible students from 1994 to 2009. The approximate number of JOM students projected to be served in 2009 will have an increase of 72,250 students from the 1994 student count. In 1994 the eligible Indian student count was 272,902 and now we have an unmet financial need for the additional JOM students currently being served by public schools throughout the nation. The JOM student count has been frozen since 1994 while BIA/BIE schools have suffered no freeze on their annual student count. Without financial limits imposed by a student count freeze, annually BIE shows growth in student numbers with a corresponding need for an increased education

costs, a growing budget for school repairs, annual increases for student services, construction, and associated costs for Bureau-operated schools.

The JOM programs are not able to show due to the freeze and those Indian students attending public schools are being overlooked for services. Statistics show that the combined student count of the Bureau schools and the JOM program students in 1995 was 296,500. Of those 46,500 were served in Bureau of Indian Education (BIE) schools and 250,000 served through the JOM programs. A total of 84.3% of the total number of Indian students served in 1995 were through the JOM programs nationwide. Without a current JOM student count, there is no way to estimate the current percentage of JOM students being served in comparison to the BIE but using the past percentage formula, it appears that the JOM program would be serving close to the same percentage amount.

Indian communities have suffered too long from inattention and half-hearted efforts. The Bureau of Indian Affairs should be required to regularly assess unmet needs for both BIE schools, grant schools, JOM programs, Higher Education and Adult Education. Such an assessment would compare community needs with available resources and identify gaps in service delivery.

In addition, the BIA/BIE should specifically and accurately document Indian community participation in its programs to assure equitable distribution of education funds for all Indian students. This documentation will provide Congress with current data on educational services, programs and progress in each area. Congress must honor Trust responsibility and the urgent need to meet the educational needs of all Indian students. Ignoring unmet needs and legal obligations to tribes undercuts the ability of funds to solve problems. The NJOMA must hold Congress accountable for what BIE has failed to provide.

The proof of this mismanagement of Trust Responsibility by BIA occurred with the FY07 Budget submission. The reasons given in the budget documents for the reprogramming of twenty-five percent of JOM funds by the BIA Tribal Budget Advisory Council (TBAC), were as follows:

“The BIE budget included reductions in programs due to lack of performance accountability, duplication of other state and federal programs and implementation of management efficiencies.” How would the BIA know? Many of the JOM programs have not been monitored for over eight years. Furthermore, invalid statements about a lack of accountability are insulting to tribes and Indian communities. The Johnson-O’Malley program is the one remaining Federal program that puts the program under the strict control of a Local Indian Education Committee (LIEC). The LIEC is comprised of parents of eligible Indian students enrolled in the public school district. Choices are made at the local level, with scarce resources going to locally determined needs, not some menu of services dreamed up by a bureaucrat in Washington.

1. *“The elimination is proposed because similar funding is available from the U.S. Department of Education and because of a lack of accountability for how the funding is used.”* The U.S. Department of Education oversees the Title VII Indian Education Act programs and Title VIII Impact Aid funding which Congress considers duplicate funding sources for Indian Education. The Title VII program is run directly through the school districts and is not subject to tribal control. The tribes have no actual authority over the design or implementation of the Title VII programs. Under the JOM regulations, parents of eligible JOM Indian students are ‘vested with authority’ to design and implement local JOM programs. 25 Code of Federal Regulations (CFR) INDIANS, Part 273, 16-17, states JOM programs are based on community needs assessments, not the needs of the school district and therefore provide specialized educational services to Indian students. The JOM program is the only Federally-funded educational program that allows for student, parent and community involvement in meeting their educational needs which are both

academic and cultural based. The eligibility for Title VII students is not based on students being an enrolled member of Federally-recognized tribe; they simply need to identify themselves on a USDOE Form #506.

In 1982, the BIA proposed eliminating the Johnson-O'Malley program, arguing duplication of Indian Education Act. Congress soundly refuted this reasoning, stating the programmatic differences in local Indian control and scope, and difference in student eligibility. In 1983, the USDOE proposed eliminating the Indian Education Act, arguing duplication of JOM. Congress reacted so negatively to this proposal that any further debate on these two programs was shelved and put to rest. Now, in order to balance the budget, they have been resurrected. The House and Senate Appropriations Committees have both rejected this proposal and have restored JOM funding in the Budget of 07; 08 and 09.

NJOMA OPINION: FUNDING DISTRIBUTION BASED ON 1994 STUDENT COUNT

Since the 1970s, tribes have taken control of their own Johnson-O'Malley services, either providing the services directly or in concert with local public schools. Until 1995, distributions of funds under the Johnson-O'Malley program were made by the Bureau of Indian Affairs based upon an annual application by tribes and were based upon the annual count of eligible students served by each tribal authority. In 1995, the Bureau, without consultation, transferred these funds into the Tribal Block Grant line item, called the Tribal Priority Allocation. The amount of funds received by each tribe was frozen at the 1995 level, and no further counts of children were taken. Information on the number of eligible Indian children served or not served under this 'frozen' situation is not even collected by the BIA.

ACKNOWLEDGEMENT

The National Johnson-O'Malley Association would like to thank past and present NJOMA Board members for their input along with the expertise of James C. Whitman, who assisted in the research and reviewing of the material content in this handbook.

CHAPTER 1 LEGISLATIVE AUTHORITY OF JOM

Historical Background of JOM

Enacted in 1934, the Johnson-O'Malley (JOM) program was the first attempt by the Federal government to fund programs for the education of Indian students (and other social programs) on an institutional basis. Beginning at that time, and continuing through the 1960s, the JOM program authorized and funded both the basic costs associated with academic programs and additional, supplemental program for Indian students in public schools. Through this program, a range of academic/remedial services, cultural programs and services providing basic needs (eyeglasses, clothing, etc) were made available. Under changes made in the regulations in the 1970s, such programs became contractible by Indian tribes and nations, and today all of the funds are contracted through tribes or tribal organizations.

Tribal Priority Allocation (TPA)

For over 60 years, the JOM program constituted a separate appropriation under the Federal budget and appropriations bills. However, in 1995, the Bureau of Indian Affairs moved the JOM program into the Tribal Priority Allocation (TPA) budget category of the BIA. The TPA is a block grant to tribes of a number of program allocations and authorities which originally were separate programs. Theoretically, the TPA system allows tribes flexibility to move funds between activities within the program to meet locally, tribally designated priorities. However, as with most block grant schemes, the TPA has been used as a budget regulatory tool, with amounts for the TPA account limited and not increasing with the needs of various components. In fact, the TPA has allowed the Federal government to flat-line funds for the account for years, while the needs of the constituent programs have increased. The tribes and the JOM Indian community resisted the proposed Bureau addition of the JOM to the TPA. Despite and educator opposition, the BIA added the JOM program to the TPA, creating the current program.

FUNDING METHODOLOGY FOR THE JOHNSON-O'MALLEY ACT

[Federal Register: August 3, 1995 (Volume 60, Number 149)] [Notices] [Page 39785-39786]

From the Federal Register Online via GPO Access [wais.access.gpo.gov]

[DOCID:fr03au95-124] [Page 39785]

ACTION: Notice of Johnson-O'Malley Program Issues.

Summary: Notice is hereby given that the Bureau of Indian Affairs (BIA) is continuing its consultation effort to obtain written comments concerning proposed methods of determining Johnson-O'Malley (JOM) contract funding amounts to be transferred to the Tribal Priority Allocation (TPA) category or the Special Programs and pooled overhead category of the Tribal Budget System.

Both the House and Senate Reports accompanying the BIA's FY1995 appropriation act transferred the JOM program from the "other recurring programs" account to the "TPA" account in the BIA's budget. Senate Report No. 103-294 stated that a portion of the JOM funds may be transferred to the Special Programs and pooled overhead category where such funding is not under tribal contracts i.e., states and public school districts. House Report No. 103-551 required the BIA to consult with tribes on the development of a method of determining each tribes portion of the JOM program and to publish such proposed methods in the Federal Register prior to finalizing such a distribution method.

During October, 1994, the BIA formally consulted with Indian Country, as required by Pub. Law 95-561 and the FY 1995 House and Senate Report(s) language on the development of such a distribution method. Eleven regional tribal consultation meetings were held across the country with more than 2700 comments received on the various education consultation items. Most of the comments received on the JOM item were in opposition to the movement of the

JOM program funds into the TPA budget category and preferred the program to be administered as currently is by formula distribution of funds. The majority of commenter chose not to agree with the BIA proposals and instead proposed an option for the BIA to consider. Based on information received from Congress and through the Tribal Consultation process, the BIA is seeking input from Indian country on two final proposed distribution methodologies. The following methods are being considered by the BIA for determining each tribes share of the JOM program funds for allocation to the TPA budget category.

Method A: JOM funds distributed to tribes under the TPA, which are earmarked for supplemental educational activities, according to tribal membership.

Method B: JOM funds distributed to tribes and non-tribal JOM contractors, which are earmarked for supplemental educational activities, according to service population.

Explanation of Method A: The following steps would be initiated for purposes of implementing this method:

1. Identify the number of JOM students by tribal enrollment to Federally-recognized tribes.
2. Divide the total amount JOM funds by the number of 1995 students to arrive at an equal share per student.
3. Distribute the JOM funds by tribal enrollment multiplied by the equal share
4. Establish the base for each tribe under the TPA.

Explanation of Method B: The following steps would be initiated

1. Identify the number of JOM students served by all JOM contractors.
2. Using the FY95 distribution method, identify the amount of JOM funds each tribal contractor receives to establish a base for each tribe.
3. Identify the amount of JOM funds each non-tribal JOM contractor (State and Public School Districts) receives.
4. Add another Line Item in budget, Special Programs and Pooled Overhead category entitled "Non-tribal JOM Contractors".
5. Place the proportionate share of JOM funds that are provided to tribes, as tribal JOM contractors, for all JOM students served into each tribe's line item under the TPA.
6. Place the proportionate share of JOM funds that are provided to States and public school districts, as JOM contractors, for all JOM students served into the Non-Tribal JOM contractor Line Item under the TPA category.

Dated: July 20, 1995

Ada E. Deer, Assistant Secretary-Indian Affairs

[FR Doc. 95-18909 Filed 8-2-95; 8:45 am]

Billing Code 4310-02-M

PUBLIC LAW 67-85
THE ACT OF NOVEMBER 2, 1921
THE SNYDER ACT

An Act authorizing appropriations and expenditures for the administration of Indian affairs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Bureau of Indian Affairs, under the supervision of the Secretary of the Interior, shall direct, supervise, and expend such moneys as Congress may from time to time appropriate, for the benefit, care, and assistance of the Indians throughout the United States for the following purposes:

- *General support and civilization, including education.*
- *For relief of distress and conservation of health.*
- *For industrial assistance and advancement and general administration of Indian property.*
- *For extension, improvement, operation, and maintenance of existing Indian irrigation systems and for development of water supplies.*
- *For the enlargement, extension, improvements, and repair of the buildings and grounds of existing plants and projects.*
- *For the employment of inspectors, supervisors, superintendents, clerks, field matrons, farmers, physicians, Indian police, Indian judges, and other employees.*
- *For the suppression of traffic in intoxicating liquor and deleterious drugs.*
- *For the purchase of horse-drawn and motor-propelled passenger-carrying vehicles for official use.*
- *And for the general and incidental expenses in connection with the administration of Indian affairs.*

PUBLIC LAW 73-167
THE ACT OF APRIL 16, 1934; AS AMENDED ON JUNE 4, 1936
AND BY TITLE II, PART A OF PUBLIC LAW 93-638, JANUARY 4, 1975
(Commonly referred to as the Johnson-O'Malley Act)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of April 16, 1934 (48 Stat. 596), entitled "An Act authorizing the Secretary of the Interior to arrange with States or Territories for the **education, medical attention, relief of distress, and social welfare of Indians, and for other purposes**", be, and the same hereby is amended to read as follows:*

*"That the **Secretary of the Interior be, and hereby is, authorized, in his discretion, to enter into a contract or contracts with any State or Territory, or political subdivision thereof, or with an State university, college, or school, or with any appropriate State or Private corporation, agency, or institution for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory, through the agencies of the State or Territory or any of the corporations and organizations hereinbefore named, and to expend under such contract or contracts, moneys appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory.***

*"Sec. 2. That the Secretary of the Interior, in making any contract herein authorized, may **permit such contracting party to utilize, for the purposes of this Act, existing school buildings, hospitals, and other facilities, and all equipment therein or appertaining thereto, including livestock and other personal property owned by the government, under such terms and conditions as may be agreed upon for their use and maintenance.***

"Sec. 3. That the Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulations, including minimum standards of service, as may be necessary and proper for the purpose of carrying the provisions of this Act into effect: Provided, that such minimum standards of service are not to be less than the highest maintained by the State or Territories within which said contract or contracts, as herein provided, are to be effective.

Background Summary:

The Johnson-O'Malley (JOM) Act (73 Cong., 2nd Session, Chs. 146-1481 April 16, 1934, Title 25 452-455) provided the Secretary of the Interior with the authority to arrange with the states or territories for the education, medical attention, agricultural assistance, relief of distress, and social welfare of the Indian, and for other purposes.

In 1934, Hiram W. Johnson was Chairman of the Senate Committee on Indian Affairs and Thomas P. O'Malley was Chairman of the House Committee on Indian Affairs. Mr. Johnson introduced the Bill S2571, in February of 1934. the report of the Senate Committee (S. Rpt. 511) was identical with that of the House (H. Rpt. 864), and stressed the bill was designed to handle "*Indian problems with those States in which the Indian tribal life is largely broken up and in which the Indians are to a considerable extent mixed with the general population.*" It was felt that where such circumstances prevailed, health and other problems were "so intermixed with that of the general health of the community that it is difficult to separate the two." The Committee felt separate white and Indian health facilities were "uneconomical and contrary to efficient administration." By this bill the state could handle the services to both white and Indians with the Federal Government bearing the added expense for services to the Indian populations. The committee noted the

Indian Service had already established the precedent of arranging with many local communities to take Indian children into the public schools, but ...lacked the authority to transfer such functions on the broader basis to the States. Mr. Johnson amended the bill during floor debate to add “or Territory” after State, so that the bill would be applicable to Alaska.

The JOM Act was amended by the 74th Cong., 2nd Sess., C. 490, 49 Stat. 1458, June 4, 1936. The bill was reported out of Committee in April 1936; Thomas of Oklahoma reported the bill with an amendment. The original act provided the Secretary must contract with some legally authorized institution for those services. Some of those States had not passed an enabling act on the subject, so the bill provided the Secretary might contract with the Governor in some States the Government may make the contract in the exercise of his inherent powers as Governor. Instead of “State or Territory” the bill now reads: “with any State or territory, or political subdivision thereof, or with any State university, college or school or with any appropriate State, or private corporation, agency or institution.” It was passed by the Senate with the additional change in which the non-applicability to Oklahoma was deleted in committee; no reason given. The House passed the bill and it was signed into law June 4, 1936. S1(15), June 29, 1960, 74 Stat. 248.

While the JOM Act was identified primarily with education and although that was where the bulk of funds were distributed, the Act itself designated the use of funds for such purposes as education, medical attention, agricultural assistance and social welfare, including relief of distress. The expenditure of some funds for welfare and agricultural extension programs was justified under the JOM authority by the BIAM but JOM funds continued to be emphasized in the area of education.

Prior to 1958, the JOM program was a basic Federal Aid program specifically designed to assist public school districts to educate Indian children from reservations and other Indian-owned, tax-exempt land areas. On August 12, 1958, Public Law 81-874, administered through the Department of Health, Education and Welfare, providing financial assistance to public schools was amended to include assistance for educating Indian children. This broader based Federal aid program met most of the basic financial needs of eligible school districts. Subsequently, the JOM program became a supplementary aid program geared to offset the financial deficit of unmet extraordinary and exceptional cases of need. Funds were available for operational purposes as distinguished from construction needs.

JOM funds were made available to stated based on separate plans negotiated between BIA and the respective States or tribal corporations for the express purpose of supplemental Federal assistance for educating Indian children in public schools. These funds, in turn, were administered by the States or tribal corporations to local school districts.

The purpose of the regulations established in Part 273 of Public Law 93-638, the Indian Self-Determination and Education Assistance Act of 1975, as Amended, was to set forth the application and approval process for education contracts under the JOM Act. Any State, school district, tribal organization or Indian corporation is eligible to apply for a contract. These regulations were written to ensure the maximum participation of Indian parents in the development of programs for eligible Indian students.

PUBLIC LAW 93-638 Indian Self-Determination and Education Assistance Act of 1975, as Amended

Pub. Law 93-638 provided authority for Federally-recognized tribes to contract for educational services formerly provided by the Bureau of Indian Affairs. Johnson-O'Malley was the program that served students attending public schools and Part 900 Implementation Regulations stated that the JOM program funds could not supplant existing Federal education funding and could only supplement it.

Public Law 93-638 and Part 900 Implementation Regulations supersede the JOM Regulations known as Part 273. In other words, the language in the JOM Regulations Part 273 is outdated and incorrectly stated in various sections.

[NOTE: See CD document electronic folder for more information]

25 CFR INDIANS PART 900 IMPLEMENTATION REGULATIONS

Part 900 Implementation Regulations provide explicit information relating to contracting for educational services by Federally-recognized tribes.

[NOTE: See CD documents under P.L. 93-638 for more information]

JOHNSON-O'MALLEY IMPLEMENTATION REGULATIONS

25 CODE OF FEDERAL REGULATIONS (CFR) INDIANS PART 273

EDUCATION CONTRACTS UNDER JOHNSON-O'MALLEY ACT

Subpart A-General Provisions

273.1 PURPOSE AND SCOPE

- (a) The purpose of the regulations in this part is to set forth the application and approval process for education contracts under the Johnson-O'Malley Act. Such contracts shall be for the purpose of financially assisting those efforts designed to meet the specialized and unique educational needs of eligible Indian students, including programs supplemental to the regular school program and school operational support, where such support is necessary to maintain established State educational standards.
- (b) the application and approval process in this part applies specifically to contracts with a State, school district, or Indian corporation.
- (c) Contracts with tribal organizations for supplemental and operational support will be entered into only upon the request of an Indian tribe(s), and shall be subject to the provisions of Part 271 of this chapter and 41 CFR Part 14H-70, except as provided in S273.11.
- (d) Nothing in these regulations shall be construed as:
- (1) Affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian tribe:
 - (2) Authorizing or requiring the termination or any existing trust responsibility of the United States with respect to the Indian people; or,
 - (3) Permitting significant reduction in services to Indian people as a result of this part.
- (e) Nothing in these regulations shall be construed to mandate an Indian tribe to request a contract or contracts. Such requests are strictly voluntary.

273.2 DEFINITIONS

As used in this part:

- (a) *Area Director* means the official in charge of a Bureau of Indian Affairs Area Office.
- (b) *Bureau* means the Bureau of Indian Affairs.
- (c) *Commissioner* means the Commissioner of Indian Affairs, under the direction and supervision of the Assistant Secretary-Indian Affairs, who is responsible for the direction of day-to-day operations of the Bureau of Indian Affairs.
- (d) *Days* means calendar days.
- (e) *Economic enterprise* means any commercial, industrial, agricultural, or business activity that is at least 51 percent Indian owned, established or organized for the purpose of profit.
- (f) *Education plan* means a comprehensive plan for the programmatic and fiscal services of and accountability by a contractor for the education of eligible Indian students under this part.
- (g) *Indian tribe* means any Indian tribe, band, nation, rancheria, pueblo, colony or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is federally recognized as eligible by the U.S. Government through the Secretary for the special programs and services provided by the Secretary to Indians because of their status as Indians.
- (h) *Indian corporation* means a legally established organization of Indians chartered under State or Federal law and which is not included within the definition of "tribal organization" given in paragraph (v) of this section.
- (i) *Indian Education Committee* means one of the entities specified by S273.15.
- (j) *Indian* means a person who is a member of an Indian tribe.
- (k) *Johnson-O'Malley* means the Act of April 16, 1934 (48 Stat. 596), as amended by the Act of June 4, 1936 (49 Stat. 1458, 25 U.S.D. 452-456), and further amended by the Act of January 4, 1975 (88 Stat. 2203).

- (l) Operational support means those expenditures for school operational costs in order to meet established State educational standards or State-wide requirements.
- (m) “Pub. L. 93-638” means the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638; 88 Stat. 2203).
- (n) Previously private school means a school (other than a Federal school formerly operated by the Bureau) that is operated primarily for Indian students from age 3 years through grades 12; and, in which at the time of application is controlled, sanctioned, or chartered by the government body(s) of an Indian tribe(s).
- (o) School district or “local education agency” means that subdivision of the State which contains the public elementary and secondary educational institutions providing educational services and is controlled by a duly elected board, commission, or similarly constituted assembly.
- (q) Secretary means the Secretary of the Interior.
- (r) State means a State of the United States of America or any political subdivision of a State.
- (s) Superintendent means the official in charge of a Bureau of Indian Affairs Agency Office.
- (t) Supplemental programs means those programs designed to meet the specialized and unique educational needs of eligible Indian students which may have resulted from socio-economic conditions of the parents, from cultural or language differences or other factors, and as provided by S 273.34(b).
- (u) Tribal government, “tribal governing body” and “tribal Council” means the recognized governing body of an Indian tribe.
- (v) Tribal organization means the recognized governing body of an Indian tribe or any legally established organization of Indians or tribes which is controlled, sanctioned or chartered by such governing body or bodies, or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; Provided, that a request for a contract must be made by the Indian tribe that will receive services under the contract; Provided further, that in any case where a contract is let to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting of such a contract.
- (w) Assistant Secretary-Indian Affairs means the Assistant Secretary-Indian Affairs who discharges the responsibility of the Secretary for activities pertaining to Indians and Indian Affairs.
[40 FR 51303, Nov. 4, 1975, as amended at 41 FR 5098, Feb. 4, 1976; 43 FR 37445, Aug. 23, 1978, 45 FR 13451, Feb. 29, 1980]

SUPPLEMENTAL GLOSSARY OF JOM TERMS

(Terms not found in 25 CFR INDIANS Part 273, but commonly used in JOM Contracting)
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Contract Application means the contract application is supporting documentation submitted by a State, Tribe, school district or Indian corporation wishing to receive Johnson-O’Malley funds. The JOM contract application (OMB Form #1076-0096) is written on a standard format outlining the number and names of eligible students to be served; a JOM program budget; position descriptions; Tribal Resolution supporting the application; and Education Plan outlining the program objectives supported by a needs assessment administered to the targeted Indian community.

Contractor means the state, school district, or Indian tribe or Indian corporation who contracts with the Bureau of Indian Affairs for Johnson-O’Malley funds.

Sub-contractor means the state, school district, or Indian tribe or Indian corporation who contracts with the Indian tribe.

Goal means the long-term purpose of the program organization as determined by the annual community needs assessment and approved by the LIEC.

Grievance Hearings means procedures for hearing and resolving complaints or concerns of Indian students, parents, community members and tribal representatives related to the Johnson-O'Malley supplemental programs. The Grievance Hearing Procedures are included in the organizational by-laws of the LIEC having the authority to hear the grievance.

Needs Assessment means a survey instrument designed to gather opinions and perceived learning needs from the parents and community of eligible students. The gathered data is organized into specific educational goals and objectives reflected in the educational plan and approved by the LIEC for implementation by the Contractor Director.

Objective means planned educational activities approved by the LIEC that are designed to achieve educational goals outlined in the education plan.

Organizational Papers and By-Laws means procedures set forth in approved organizational documents and by-laws under which the LIEC shall serve the eligible Indian students.

Parent Participation and Control means under 25 CFR Sec. 273.15(d); The existence of an LIEC shall not limit the continued participation of the rest of the Indian community in all aspects of programs contracted under this part.

Parliamentary Procedure means a structured means of conducting official business in lieu of Roberts Rules of Order.

Public Law 93-638 means the Indian Self-Determination and Education Assistance Act or 1975 as amended, (Pub. L. 93-638; 88 Stat. 2203).

Previously private school means a school (other than a Federal school formerly operated by the Bureau) that is operated primarily for Indian students from age 3 through grades 12; and, which at the time of application is controlled, sanctioned or chartered by the government body(s) of an Indian tribe(s).

Reservation or Indian reservation means any Indian tribe's reservation, pueblo, colony, or rancheria, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments.

School District or local education agency means that subdivision of the State which contains the public elementary and secondary educational institutions providing educational services, and is controlled by a duly elected board, commission, or similarly constituted assembly.

[NOTE: The above supplemental definitions are not regulatory language and either should have a disclaimer in its heading, or, relocate it to NJOMA Vision or one of the Introduction items.]

273.3 REVISION OR AMENDMENT OF REGULATIONS

In order to make any substantive revision or amendments to regulations in this part, the Secretary shall take the following actions.

- (a) Consult with the Indian tribes and national and regional Indian organizations to the extent practicable about the need for revision or amendment and consider their views in preparing the proposed revision or amendment.
- (b) Publish the proposed revisions or amendments in the FEDERAL REGISTER as proposed rulemaking to provide adequate notice to, and receive comments from, all interested parties.
- (c) After consideration of all comments received, publish the regulations in the FEDERAL REGISTER in final form not less than 30 days before the date they are made effective.
- (d) Annually consult with Indian tribes and national and regional Indian organizations about the need for revision or amendment, and consider their views in preparing the revision or amendment.

- (e) Nothing in this section shall preclude Indian tribes or national or regional Indian organizations from initiating request for revisions or amendments subject to paragraphs (a), (b), and (c) of this section.

273.4 POLICY OF MAXIMUM INDIAN PARTICIPATION

The meaningful participation in all aspects of educational program development and implementation by those affected by such programs is an essential requisite for success. Such participation not only enhances program responsiveness to the needs of those served, but also provides them with the opportunity to determine and affect the desired level of educational achievement and satisfaction which education can and should provide. Consistent with this concept, maximum Indian participation in the development, approval and implementation of all programs contracted under this part shall be required.

SUBPART B-APPLICATION PROCESS

173.11 ELIGIBLE APPLICANTS

- (a) Any State, school district, tribal organization or Indian corporation is eligible to apply for contracts for supplemental or operational support programs. For the purposes of this part, previously private schools as defined in s273.2(n) are considered tribal organizations.
- (b) States, school districts, or Indian corporations shall apply for contracts for supplemental or operational support programs as required in this part.
- (c) Tribal organizations must comply with the following requirements to obtain contracts for supplemental programs or operational support.
- (1) The applications submitted by the tribal organizations shall meet the requirements in S273.20 in addition to those in S271.14 of this chapter.
 - (2) The requirements in Sections 271.1 through 271.27, 271.41 through 271.52, 271.54, 271.61 through 271.66, and 271.81 through 271.84 shall apply to such contracts with tribal organizations.
 - (3) The provisions in Sections 271.71 through 271.77 of this chapter concerning retrocession and reassumption of programs do not apply to a tribal organization retroceding a contract for supplemental programs or operational supports as the Bureau does not operate education programs authorized to be contracted under the Johnson-O'Malley Act. However, the tribal organization may retrocede such a contract and the Bureau will then contract with a State, school district, or Indian corporation under this part for the supplemental programs or operational support.
 - (4) The requirements in Sections 273.12 through 273.18, 273.20, 273.21, 273.31 through 273.38, 273.41, 273.51 and 273.52 shall apply to such contracts with tribal organizations.
 - (5) The requirements in 41 CFR part 14H-70 shall apply to such contacts with tribal organizations. [40 FR 51303, Nov. 4, 1975, as amended at 41 FR 5098, Feb. 4, 1976]

273.12 ELIGIBLE STUDENTS

Indian students, from age 3 years through grade(s) 12, except those who are enrolled in Bureau or sectarian operated schools, shall be eligible for benefits provided by a contract pursuant to this part if they are $\frac{1}{4}$ or more degree Indian blood and recognized by the Secretary as being eligible for Bureau services. Priority shall be given to contracts (a) which would serve Indian students on or near reservations and (b) where a majority of such Indian students will be members of the tribe(s) of such reservations (as defined in S 273.2(o)).

Note: This section was amended by Public Law 99-228 Section (f)(l) [which states] "...is a member of or at least one-fourth degree Indian blood descendent of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau of Indian Affairs to Indians because of their status as Indians."

Note: There is no mentioned requirement of a “Certificate of Indian Blood (CIB)”.

273.13 PROPOSALS ELIGIBLE FOR CONTRACTS

(a) Any proposal to contract for funding a program which meets the definition of a supplemental program given in 273.2(t) will be considered an eligible proposal under this part.

(b)(1) To contract for operational support, a public school district shall be required to establish as part of the proposal that:

- (i) It cannot meet the applicable minimum State standards or requirements without such funds.
- (ii) It has made a reasonable tax effort with a mill levy at least equal to the State average in support of educational programs.
- (iii) It has fully utilized all other sources of financial aid, including all forms of State aid and Pub. L. 874 payments. The State aid contribution per pupil must be at least equal to the state average.
- (iv) There is at least 70 percent eligible Indian enrollment within the school district.
- (v) It shall clearly identify the educational needs of the students intended to benefit from the contract.
- (vi) It has made a good faith effort in computing State and local contributions without regard to contract funds pursuant to this part.
- (vii) It shall not budget or project a deficit by using contract funds pursuant to this part.

(2) The requirement given in paragraph (b)(1) of this section do not apply to previously private schools.

(c) At his discretion, the Commissioner may consider as eligible a proposal to contract under which a school district will be reimbursed for the full per capita costs of educating Indian students who meet all of the following:

- (1) Are members of recognized Indian tribes.
- (2) Do not normally reside in the State in which the school district is located.
- (3) Are residing in Federal boarding facilities for the purposes of attending public schools within the school district.

273.14 PREPARING THE EDUCATIONAL PLAN

A prospective contractor in consultation with its Local Indian Education Committee shall formulate an educational plan and submit it to the appropriate Area Director as a part of the application to contract required by S 273.20. Such plan shall become a part of any contract awarded. The education plan shall contain:

- (a) The education programs approved by the Indian Education Committee(s) as required in 273.17.
- (b) Other requirements for the education plan given in 273.18.

273.15 ESTABLISHMENT OF AN INDIAN EDUCATION COMMITTEE

(a) When a school district to be affected by a contract(s) for the education of Indians pursuant to this part has a local school board not comprised of a majority of Indians, the tribal governing body(s) of the Indian tribe(s) affected by the contract(s) under this part shall specify one of the following entities to serve as the Indian Education Committee for the purposes of this part:

- (1). An Indian Education Committee to be elected from among the parents (**including persons acting in loco parentis** [refer to NJOMA determination item [e] except school administrators or officials) if eligible Indian students enrolled in the school(s) affected by a contract(s) under this part; or
- (2) A local Indian committee established pursuant to section 305(b)(2)(b)(ii) of the Act or
- (3) an Indian advisory school board or Indian Education Committee established pursuant to the Johnson-O’Malley Act and existing prior to January 4, 1975.

- (b) When the local school board is not composed of a majority of Indians and the tribal governing body(s) of the Indian tribe(s) affected by a contract(s) under this part determine which of the entities provided for in paragraph(s) of this section is to serve as the Indian Education Committee for the purpose of this part, it shall notify the Area Director of such determination by January 15 preceding the school year for which the contract will be let.
 - (c) the Indian Education Committee established under paragraph (a) of this section and its members shall establish procedures under which the Committee shall serve. Such procedures shall be set forth in the Committee’s organizational documents and by-laws. Each Committee shall file a copy of its organizational documents and by-laws with the appropriate Area Director, together with a list of its officers and members as soon as practicable after the Committee is organized.
- [Note: See appendix section for a sample organizational document and by-laws section for an Indian Education Committee to follow when addressing this section.]
- (d) the existence of an Indian Education Committee shall not limit the continued participation of the rest of the Indian community in all aspects of programs contracted under this part.

[NJOMA Opinion: ‘IN LOCO PARENTIS’ further defined]

8-4-09 Harold Dusty Bull, President, NJOMA:

“This definition is provided so that tribes would have the option to allow grandparents and other extended family members who are raising the grandchildren, nieces and nephews the opportunity to serve on the JOM IEC parent committee. Within the Indian communities it is unlikely that extended family members have legal custody (court documents) of the children they provide 24/7 care for, and this is due in part to our extended family values and tribal customs which include children who are in use and need of supervision and care. Therefore, this definition is provided to offer the JOM program the ability to include those families, who are primary care givers, the responsibility to be involved in the child/youth’s education.”

This definition is provided so that tribes would have the option to allow grandparents, and other extended family members who are raising their grandchildren, nieces and nephews the opportunity to serve on the JOM parent committee. Within the Indian communities it is unlikely that extended family members have legal custody (court documentation) of the children they provide 24/7 care to. This definition is provided to offer the JOM program the ability to include those extended family members, who are the primary care givers, the responsibility to be involved in the education of their grandchildren.

In loco parentis is a Latin phrase defined as: “in the place of a parent’. The English language definition is: “Acting as a temporary guardian of a child.” (Black’s Law Dictionary) Johnson-O’Malley Indian Education Committee members, who are exercising *in loco parentis*, should have daily responsibility for a student’s health, safety and welfare.

PARENT-The term parent includes a legal guardian or other person standing *in loco parentis* (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child’s welfare).

The term “*in loco parentis*, according to its generally accepted common law meaning, refers to a person who has put himself in the situation of a lawful parent by assuming the obligations incident to the parental relations without going through the formalities necessary to legal adoption. It embodies the two ideas of assuming parental status and discharging the parental duties..the key in determining whether the relationship is found is the intention of the person allegedly in loco parentis to assume the status of a parent toward the child. The intent to assume such parental status can be inferred form the acts of the parties. Other factors which are considered in determining whether in loco parentis status has been assumed are: (1) the age of the child; (2) the degree to which the child is dependent upon the person claiming to be standing in loco

parentis; (3) the amount of support, if any, provided; and (4) the extent to which duties commonly associated with parenthood are exercised....

The definitions of the term “in loco parentis’ are often context specific, and no court-or regulation-has defined the term exhaustively. The presence of a biological parent in the home may foreclose another from holding the status of “in loco parentis.”

[NOTE: The above supplemental definitions are not regulatory language]

273.16 POWERS AND DUTIES OF INDIAN EDUCATION COMMITTEE

- (a) Consistent with the purpose of the Indian Education Committee, each such Committee shall be vested with the authority to:
2. Participate fully in the planning, development, implementation, and evaluation of all programs, including both supplemental and operational support, conducted under a contract or contracts pursuant to this part. Such participation shall include further authority to:
 - i. Recommend curricula, including texts, materials, and teaching methods to be used in the contracted program or programs.
 - ii. Approve budget preparation and execution.
 - iii. Recommend criteria
 - iv. Nominate a reasonable number of qualified prospective educational programmatic staff members from which the contractor would be required to select.
 - v. Evaluate staff performance and program results and recommend appropriate action to the contractor.
 3. Approve and disapprove all programs to be contracted under this part. All programs contracted pursuant to this part shall require the prior approval of the appropriate Indian Education Committee.
 4. Secure a copy of the negotiated contract(s) which include the program(s) approved by the Indian Education Committee.
 5. Recommend to the Commissioner through appropriate Bureau contracting officer cancellation or suspension of a contract(s) which contains the program(s) approved by the Indian Education Committee if the contractor fails to permit such Committee to exercise its powers and duties as specified by this section.
- (b) The organizational papers and by-laws of the Indian Education Committee may include additional powers and duties which would permit the Committee to:
1. Participate in negotiations concerning all contracts under this part.
 2. Make an annual assessment of the learning needs of Indian children in the community affected.
 3. Have access to all reports, evaluations, surveys, and other program and budget related documents determined necessary by the Committee to carry out responsibilities, subject to only the provisions of Sections 273.49. (Freedom of Information Act)
 4. Request periodic reports and evaluations regarding the Indian Education Program.
 5. Hear grievances related to programs in the education plan.
 6. Meet regularly with the professional staff serving Indian children and with the local education agency.
 7. Hold Committee meetings on a regular basis which are open to the public.
 8. Have such additional powers as are consistent with these regulations.

273.17 PROGRAMS APPROVED BY INDIAN EDUCATION COMMITTEE

- (a) All programs contracted under this part shall:
1. Be developed and approved in full compliance with the powers and duties of the Indian Education Committee as set out in Sections 273.16 and as may be contained in the Committee’s organizational documents and by-laws.

2. Be included as a part of the education plan provided for in Section 273.14.
- (b) No program contracted pursuant to this part shall be changed from the time of its original approval by the Indian Education Committee to the end of the contract period without the prior approval, in writing, of the Committee.
- (c) Programs developed or approved by the Indian Education Committee pursuant to this part may, at the option of such Committee, include funds for the performance of Committee duties, including the following:
 3. Member's attendance at regular and special meetings, workshops and training sessions, as the Committee deems appropriate.
 4. Such other reasonable expenses incurred by the Committee in performing its primary duties, including the planning, development, implementation and evaluation of the program.

<p>273.18 ADDITIONAL REQUIREMENTS FOR EDUCATION PLAN</p>

In addition to incorporating the programs approved by the Indian Education Committee(s) as required by Sections 273.14(a), the education plan prepared by the prospective contractor shall:

- (a) Contain educational goals and objectives which adequately address the educational needs of the Indian students to be served by the contract.
- (b) Incorporate the program or programs developed and approved by the Indian Education Committee(s). As provided in Sections 273.17(b), changes in programs must have prior written approval of the Indian Education Committee(s).
- (c) Contain procedures for hearing grievances from Indian students, parents, community members, and tribal representatives relating to the programs contracted under this part. Such procedures shall provide for adequate advance notice of the hearing.
- (d) Identify established State standards and requirements which shall be maintained in operating programs and services contracted under this part.
- (e) Describe how the State standards and requirements will be maintained.
- (f) Provide that the contractor shall comply in full with the requirements concerning meaningful participation by the Indian Education Committee as required by Section 273.4.
- (g) Provide that educational facilities receiving funds shall be open to visits and consultations by the Indian Education Committee(s), tribal representatives, Indian parents in the community, and by duly authorized representatives of the Federal and State governments.
- (h) Outline procedures of administrative and fiscal management to be used by the contractor.
- (i) Contain justifications for requesting funds for operational support. The public school district must establish in its justification that it meets the requirements given in Section 273.13(b). The information given should include records of receipt of local, State, and Federal funds.
- (j) Include budget estimates and financial information needed to determine program costs to contract for services. This includes, but is not limited to the following:
 - (1) State and district average operational cost per pupil.
 - (2) Other sources of Federal funding the applicant is receiving, the amount received from each, the programs being funded, and the number of eligible Indian students served by such funding.
 - (3) Administrative costs involved, total number of employees, and total number of Indian employees.
 - (4) Costs which parents are normally expected to pay for each school.
 - (5) Supplemental and operational funds outlined in a separate budget, by line item, to facilitate accountability.
 - (6) Total number of employees for each special program and number of Indian employees for that program.
- (k) State the total enrollment of school or district, by age and grade level.

- (l) State the eligible Indian enrollment-total and classification by tribal affiliation(s) and by age and grade level.
- (m) State the total number of school board members and number of Indian school board members.
- (n) List Government equipment needed to carry out the contract.
- (o) State the period of contract term requested. (FY/CY/SY/Other)
- (p) Include the signature of the authorized representative of applicant.
- (q) Provide written information regarding:
 - (1) Program goals and objectives related to the learning needs of potential target students.
 - (2) Procedures and methods to be used in achieving program objectives, including ways whereby parents, students and communities have been involved in determining needs and priorities.
 - (3) Overall program implementation including staffing practices, parental and community involvement, evaluation of program results, and dissemination thereof.
 - (4) Determination of staff and program effectiveness in meeting the stated needs of target students.

273.19 OBTAINING APPLICATION FORMS

Application forms, instructions, and related application materials are available from Agency Superintendents, Area Directors and the Commissioner. Use of standard application forms will facilitate processing of applications. However, they are **not required** if the information required by Section 273.20 is given in the application to contract.

273.20 CONTENT OF APPLICATION TO CONTRACT

An application for a contract under this part shall be in writing and shall contain the following:

- (a) Name, address, and telephone number of the proposed contractor.
- (b) Name, address, and telephone number of the tribe(s) to be served by the contract.
- (c) Descriptive narrative of the contract proposal.
- (d) The education plan required by Section 273.14.
- (e) A separate budget outlining the Johnson-O'Malley funds for operational support and/or supplemental programs, by line item, to facilitate accountability.
- (f) A clear identification of what educational needs the Johnson-O'Malley funds requested for operational support will address.
- (g) Documentation of the requirements for operational support in 273.13(b)(1).

273.21 TRIBAL REQUEST FOR CONTRACT

- (d) An Indian tribal governing body(s) that desires that a contract be entered into with a tribal organization must so notify the Area Director no later than February 1 preceding the school year for which the contract will be let.
- (e) If the tribal governing body's notice is not received by the date given in paragraph (a) of this section, the Area Director may contract with the State, school district, or Indian corporation under this part.

273.22 APPLICATION APPROVAL OFFICIALS

- (a) Each Area Director is authorized to approve the contract(s) submitted by the State, school district, or Indian corporation under this part which will provide services to Indian children within the jurisdiction of that Area Office.
- (b) When a proposed contract(s) will provide services to Indian children within the jurisdiction of more than one Area Office, the contract must be approved by the Commissioner.

273.23 SUBMITTING APPLICATIONS TO AREA OFFICE

When services under proposed contract will be provided to Indian children within the jurisdiction of a single Area Office, the completed application shall be submitted to the Area Director of that Area Office.

273.24 AREA OFFICE REVIEW AND DECISION

Upon receiving a contract application, the Area Director shall:

- (f) Notify the applicant in writing that the application has been received. This notice shall be made within fourteen (14) days after the Area Office receives the application.

[Note: Outdated language/superseded by P.L. 93-638/Part 900 specifies 2 days]

- (g) Review the application for completeness and request within 20 days any additional information from the applicant which will be needed to reach a decision.
- (h) On receiving an application for operational support, make formal written determination and findings supporting the need for such funds. In arriving at such a determination, the Area Director must be assured that each local education agency has made a good faith effort in computing State and local contributions without regard to funds requested pursuant to this part.
- (i) Assess the completed application to determine if the contract proposal is feasible and if the proposal and the application comply with the appropriate requirements of the Johnson-O'Malley Act and of the regulations in this part.
- (j) Approve or disapprove the application after fully reviewing and assessing the application and any additional information submitted by the applicant.
- (k) Promptly notify the applicant in writing of the decision to approve or disapprove the application. If the application is disapproved, the notice will give the reasons for disapproval and the applicant's right to appeal pursuant to Part 2 of this chapter.

273.25 DEADLINE FOR AREA OFFICE ACTION

- (l) The Area Director shall approve or disapprove an application for a contract within sixty (60) days [P.L. 93-638 supersedes this-90 days] after the Area Office receives the application and any additional information requested in 273.24(b). The sixty (60) day deadline can be extended after obtaining the written consent of the applicant.
- (m) An application under this part cannot be approved before February 1 [NOT APPLICABLE] preceding the school year for which the contract will be let.

273.26 SUBMITTING APPLICATION TO CENTRAL OFFICE

When services under the proposed contract will be provided to Indian children within the jurisdiction of two or more Area Offices, the completed application shall be submitted to the Commissioner through the respective Area Offices.

273.27 CENTRAL OFFICE REVIEW AND DECISION

Upon receiving a contract application, the Commissioner shall:

- (a) Notify the applicant in writing that the application has been received. This notice shall be made within fourteen (14) days after the Central Office receives the application.
- (b) Review the application for completeness and request within 20 days any additional information from the applicant which will be needed to reach a decision.
- (c) On receiving an application for operational support, make formal written determination and findings supporting the need for such funds. In arriving at such a determination, the Commissioner must be assured that each local agency has made a good faith effort in computing State and local contributions without regard to funds requested pursuant to this part.

- (d) Assess the completed application to determine if the contract proposal is feasible and if the proposal and the application comply with the appropriate requirements of the Johnson-O'Malley Act and of the regulations in this part.
- (e) Approve or disapprove the application after fully reviewing and assign the application and any additional information submitted by the applicant.
- (f) Promptly notify the applicant in writing of the decision to approve or disapprove the application. If the application is disapproved, the notice will give the reasons for disapproval and the applicant's right to appeal pursuant to Part 2 of this chapter.

273.28 DEADLINE FOR CENTRAL OFFICE ACTION

- (a) The Commissioner shall approve or disapprove an application for a contract within sixty (60) days after the Central Office receives the application, and any additional information requested in Section 273.27(b). The sixty (60) day deadline can be extended after obtaining the written consent of the applicant.
- (b) An application under this part cannot be approved before February 1 preceding the school year for which the contract will be let.

273.29 NEGOTIATING THE CONTRACT

After the proposal for a contract has been approved by the Area Director or Commissioner as provided in Section 273.22, the contract will be negotiated by a Bureau contracting officer assisted by Bureau education personnel.

SUBPART C – FUNDING PROVISIONS

273.31 DISTRIBUTION FORMULA

- (a) Funds shall be distributed to eligible contractors based upon the number of eligible Indian students to be served times twenty-five (25%) percent of the higher of the State or national average per pupil operating cost. Notwithstanding any other provisions of the law, Federal funds appropriated for the purpose shall be allotted pro rata in accordance with the distribution method outlined in this formula.
- (b) The Assistant Secretary may make exceptions to the provisions of paragraph (a) of this section based on the special cultural, linguistic, social or educational needs of the communities involved including the actual cost of education in the community only after consultation with all tribes who may be affected by such exceptions.

(25 U.S.C 452-456; sec. 202. Pub. L. 93-638, 88 Stat. 2203, and Pub. L. 95-561, sec 1102(a) and (b). {45 FR 9241, Feb. 11, 1980}

[NOTE: SEE NJOMA OPINION ON FUNDING DISTRIBUTION]

273.32 PRO RATA REQUIREMENT

All monies provided by a contract pursuant to this part, shall be expended only for the benefit of eligible Indian students. Where students other than eligible Indian students participate in programs contracted under this part, money expended under such contract shall be prorated to cover the participation of only the eligible Indian students, except where the participation of non-eligible Indian students is so incidental as to be *de minimus*. Such *de minimus* participation must be approved by the Indian Education Committee.

273.33 USE OF FUNDS FOR OPERATIONAL SUPPORT

All funds for school operations shall be used to meet established State educational standards or Statewide requirements.

273.32 USE OF OTHER FEDERAL, STATE AND LOCAL FUNDS

- (a) Contract funds under this part shall supplement and not supplant Federal, State and local funds. Each contract shall require that the use of these contract funds will not result in a decrease in State, local or Federal funds which would be made available for Indian students if there were no funds under this part.
- (c) State, local and other Federal funds must be used to provide comparable services to non-Indian and Indian students prior to the use of contract funds.
- (d) Except as hereinafter provided, the school lunch program of the United States Department of Agriculture (USDA) shall constitute the only Federally-funded school lunch program for Indian students in public schools. Where Indian students do not qualify to receive free lunches under the National School Lunch Program of USDA because such students are non-needy and do not meet the family size and income guidelines for free USDA lunches, plans prepared pursuant to Section 273.18 may provide, to the extent of funding available for Johnson-O'Malley programs, for free school lunches for those students who do not qualify for free USDA lunches but who are eligible students under Section 273.12

[47 FR 57275, Dec. 23, 1982]

273.35 CAPITAL OUTLAY OR DEBT RETIREMENT

In no instance shall contract funds provided under this part be used as payment for capital outlay or debt retirement expenses; except that, such costs are allowable if they are considered to be a part of the full per capita cost of educating eligible Indian students who reside in Federal boarding facilities for the purpose of attending public schools.

273.36 ELIGIBLE SUBCONTRACTORS

No contract funds under the Johnson-O'Malley Act shall be made available by the Bureau directly to other than tribal organizations, States, school districts and Indian corporations. However, tribal organizations, States, school districts, and Indian corporations receiving funds under this part may use the funds to subcontract for necessary services with any appropriate individual, organization or corporation.

273.37 USE OF FUNDS OUTSIDE OF SCHOOLS

Nothing in these regulations shall prevent the Commissioner from contracting with Indian corporations who will expend all or part of the funds in places other than the public or private schools in the community affected.

273.38 EQUAL QUALITY AND STANDARD OF EDUCATION

Contracts with State education agencies or school districts receiving funds under the provisions of this part shall provide educational opportunities to all Indian children within that school district on the same terms and under the same conditions that apply to all other students provided that it will not affect the rights of eligible Indian children to receive benefits from the supplemental programs as provided for in this part. School districts receiving funds under this part must insure that Indian children receive all aid from the State, and other proper sources other than this contract, which other schools in the district and other school districts similarly situated in the State are entitled to receive. In no instance shall there be discrimination against Indians or schools enrolling such Indians.

SUBPART D-GENERAL CONTRACT REQUIREMENTS

273.41 SPECIAL PROGRAM PROVISIONS TO BE INCLUDED IN CONTRACT

All contracts under this part shall contain the following:

- (a) The education plan required by Sections 273.14 and 273.18 and, as part of the education plan, the education programs approved by the Indian Education Committee(s) under Section 273.17.
- (b) Any formal written determination and finding made by the Area Director or Commissioner supporting the need for operational support as required by Sections 273.24(c) and 273.27(c).
- (c) The provision that State, local, and other Federal funds shall be used to provide comparable services to non-Indian and Indian students prior to the use of Johnson-O'Malley funds for the provision of supplementary program services to Indian children, as required in Section 273.34(b).

273.42 CIVIL RIGHTS ACT VIOLATIONS

In no instance shall there be discrimination against Indians or schools enrolling such Indians. When informed by a complainant or through its own discovery that possible violation of Title IV of the Civil Rights Act of 1964 exists within a State school district receiving funds under this part, the Department of the Interior shall, in accordance with Federal requirements, notify the Department of Health, Education and Welfare of the possible violations of Title IV. The Department of Health, Education and Welfare will conduct an investigation into the matters alleged, pursuant to a Memorandum of Understanding between the Department of the Interior and the Department of Health, Education and Welfare. If the report of the investigation conducted by the Department of Health, Education and Welfare discloses a failure or threatened failure to comply with this part, and if the non-compliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to contract or to continue financial assistance under the Johnson-O'Malley Act or by any other means authorized by law. As delineated in 43 CFR 17.1, 17.8 and 17.9, such other means may include reference to the Department of Justice with a recommendation that appropriate legal proceedings be brought by the United States to secure compliance or by formal hearing before the Commissioner or, at his discretion, before an administrative law judge designated in accordance with section 11 of the Administrative Procedure Act. The Secretary, may, by agreement with one or more other Federal departments, provide for the conduct or consolidated or joint hearing as prescribed in 43 CFR 17.8(e).

273.43 ADVANCE PAYMENTS

Advance payments to States, school districts and Indian corporations will be made in accordance with the applicable provisions of 41 CFR Part 1 as supplemented by 41 CFR Part 14, and 41 CFR Part 14H, except 41 CFR Part 14H-70.

273.44 USE AND TRANSFER OF GOVERNMENT PROPERTY

- (a) The use of Government-owned facilities for school purposes may be authorized when not needed for Government activities. Transfer of title to such facilities (except land) may be arranged under the provisions of the Act of June 4, 1953 (67 Stat. 41) subject to the approval of the tribal government if such property is located on a reservation.
- (b) In carrying out a contract made under this part, the Area Director or Commissioner may, with the approval of the tribal government, permit a contractor to use existing buildings, facilities, and related equipment and other personal property owned by the Bureau within his jurisdiction under terms and conditions agreed upon their use and maintenance. The property at the time of transfer must conform to the minimum standards established by the Occupational Safety and Health Act of 1970 (84 Stat. 1590), as amended (29 U.S.C. 651). Use of Government property is subject to the following conditions:
 - (1) When nonexpendable Government property is turned over to public school authorities or Indian corporations under a use permit, the permittee shall insure such property against damage by flood, fire, rain windstorm, vandalism, snow and tornado in amounts and with

companies satisfactory to the Federal officer in charge of property. In case of damage or destruction of the property by flood, fire, rain, windstorm, vandalism, snow or tornado, the insurance money collected shall be expended only for repair or replacement of property. Otherwise, insurance proceeds shall be paid to the Bureau.

- (2) If the public school authority is self-insured and can present evidence of that fact to the Area Director or Commissioner, insurance for lost or damaged property will not be required. However, the public school authority will be responsible for replacement of such lost or damaged property at no cost to the Government or for paying the Government enough to replace the property.
 - (3) The permittee shall maintain the property in a reasonable state of repair consistent with the intended use and educational purposes.
- (c) The contractor may have access to existing Bureau records needed to carry out a contract under this part, as follows:
- (1) The Bureau will make the records available subject to the provisions of the Freedom of Information Act (5 U.S.C. 552), as amended by the Act of November 21, 1974 (Pub. L. 93-502, 88 Stat. 1561).
 - (2) The contractor may have access to needed Bureau records at the appropriate Bureau office for review and making copies of selected records.
 - (3) If the contractor needs a small volume of identifiable Bureau records, the Bureau will furnish copies to the contractor.

273.45 INDIAN PREFERENCE

- (a) Any contract made by the Bureau with a State, school district or Indian corporation shall provide that the contractor shall, to the greatest extent feasible, give preference in and opportunities for employment and training to Indians.
- (b) Any contract made by the Bureau with a State, school district or Indian corporation shall provide that the contractor shall to the greatest extent feasible, give preference in the award of subcontracts to Indian organizations and Indian-owned economic enterprises.
- (c) All subcontractors employed by the contractor shall, to the extent possible, give preference to Indians for employment and training and shall be required to include in their bid submission a plan to achieve maximum use of Indian personnel.
- (d) In the performance of contracts under this part 273 and subject to the provisions of Part 14H of Title 41, a tribal governing body may develop its own Indian preference requirements to the extent that such requirements are not consistent with the purpose and intent of paragraphs (a), (b), and (c) of this section.

273.46 LIABILITY AND MOTOR VEHICLE INSURANCE

- (a) States, school districts and Indian corporations shall obtain public liability insurance under contracts entered into with the Bureau under this part. However, where the Bureau contracting officer determines that the risk of death, personal injury or property damage under the contract is small and that the time and cost of procuring the insurance is great in relation to the risk, the contractor may be exempted from this requirement.
- (b) Notwithstanding paragraph (a) of this section, any contract which requires or authorizes, either expressly or by implication, the use of motor vehicles must contain a provision requiring the State, school district, or Indian corporation to provide liability insurance, regardless of how small the risk.
- (c) If the public school authority is self-insured and can present evidence of that fact to the Area Director or Commissioner, liability and motor vehicle insurance will not be required.

273.47 RECORD KEEPING

A contractor will be required to maintain a recordkeeping system which will allow the Bureau to meet its legal records program requirements under the Federal Records Act (44 U.S.C. 3101 et.seq.). Such a record system shall:

- (a) Fully reflect all financial transactions involving the receipt and expenditure of funds provided under the contract in a manner which will provide the accurate, current and complete disclosure of financial status; correlation with budget or allowable cost schedules; and clear audit facilitating data.
- (b) Reflect the amounts and sources of funds other than Bureau contract funds which may be included in the operation of the contract.
- (c) Provide for the creation, maintenance and safeguarding of records of lasting value, including those involving individual rights, such as permanent records and transcripts.
- (d) Provide for orderly retirement of permanent records in accordance with General Records Schedules and the Bureau Records Control Schedule, where there is no established system set up by the State, school district or Indian corporation.

273.48 AUDIT AND INSPECTION

- (a) During the term of a contract under this part and for three years after the project or undertaking is completed, the Comptroller General and the Secretary, or any of their duly authorized representatives, shall have access, for audit and examination purposes, to any of the contractor's books, documents, papers, and records which, in their opinion, may be related or pertinent to the contract or any subcontract.
- (b) The contractor will be responsible for maintaining all documents such as invoices, purchase orders, canceled checks, balance sheets and all other records relating to financial transactions in a manner which will facilitate auditing. The contractor will be responsible for maintaining files of correspondence and other documents relating to the administration of the contract properly separated from general records or cross-referenced to general files.
- (c) The contractor receiving funds under this part shall be responsible for contract compliance.
- (d) The records involved in any claim or expenditure that has been questioned shall be further maintained under final determination has been made on the questioned expenditures.
- (e) All contracts, non-confidential records concerning all students served by the program, reports, budgets, budget estimates, plans, and other documents pertaining to preceding and current year administration of the contract program shall be made available by the contractor and local school officials to each member of the Indian Education Committee and to members of the public upon request. The contractor or local school official shall provide, free of charge, single copies of such documents upon request.

273.49 FREEDOM OF INFORMATION

- (a) Unless otherwise required by law, the Bureau shall not place restrictions on contractors which will limit public access to the contractor's records except when records must remain confidential.
- (b) A contractor under this part shall make all reports and information concerning the contract available to the Indian people which the contract affects. Reports and information may be withheld from disclosure when both of the following conditions exist:
 1. The reports and information fall within one of the following exempt categories:
 - i. Specifically required by statute or Executive Order to be kept secret.
 - ii. Commercial or financial information obtained from a person or firm on a privileged or confidential basis.

- iii. Personnel, medical, social, or psychological, academic achievement and similar files where disclosure would be a clearly warranted invasion of personal privacy.
- 2. Disclosure is prohibited by statute or Executive Order or sound grounds exist for using the exemption given in paragraph (b)(1) of this section.
- (c) A request to inspect or copy reports and information shall be in writing and must reasonably describe the reports and information requested. The request may be delivered or mailed to the contractor. Within ten (10) working days after receiving the request, the contractor shall determine whether to grant or deny the request. The requester shall be notified immediately of the determination.
- (d) The time limit for making a determination may be extended up to an additional ten (10) working days for good reason. The requester shall be notified in writing of the extension, reasons for the extension, and date on which the determination is expected to be made.

273.50 ANNUAL REPORTING

- (a) A contractor under this part shall make a detailed annual report to the approving official before September 15 of each year and covering the previous school year. The report shall include, but not be limited to, an accounting of the amounts and purposes for which the contract funds were expended, information on the conduct of the program, a quantitative evaluation of the effectiveness of the contract program in meeting the stated objectives contained in the applicant's educational plans, and a complete accounting of actual receipts at the end of the contract period.
- (b) In addition to the yearly reporting requirement given in paragraph (a) of this section, the contractor shall furnish other contract-related reports when and as required by the Area Director or Commissioner.
- (c) A contractor under this part shall send copies of the reports required by paragraphs (a) and (b) of this section to the Indian Education Committee(s) and to the tribe(s) under the contract at the same time as the reports are sent to the Bureau.

273.51 PENALTIES

If any officer, director, agent, or employee of, or connected with, any contractor or subcontractor under this part embezzles, willfully misapplies, steals, or obtains by fraud any of the funds or property connected with the contract or subcontract, he shall be subject to the following penalties:

- (a) If the amount involved does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.
- (b) If the amount involved exceeds \$100, he shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

273.52 STATE SCHOOL LAWS

In those States where Pub. L. 83-280, 18 U.S.C. 1162 and 28 U.S.C. 1360 do not confer civil jurisdiction, State employees may be permitted to enter upon Indian tribal lands, reservations, or allotments if the duly-constituted governing body of the tribe adopts a resolution of consent for the following purposes:

- (a) Inspecting school conditions in the public schools located on Indian tribal lands, reservations, or allotments.
- (b) Enforcing State compulsory school attendance laws against Indian Children, parents or persons in loco parentis.

273.53 APPLICABLE PROCUREMENT REGULATIONS

States, school districts, or Indian corporations wanting to contract with the Bureau under this part must comply with the applicable requirements in the Federal Procurement Regulations (41 CFR Part 1), as

supplemented by the Interior Procurement Regulations (41 CFR Part 14), and the Bureau of Indian Affairs Procurement Regulations (41 CFR Part 14H), except 41 CFR Part 14H-70.

273.54 PRIVACY ACT REQUIREMENTS

(a) When a contractor operates a system of records to accomplish a Bureau function, the contractor shall comply with Subpart D of 43 CFR Part 2 which implements the Privacy Act (5 U.S.C. 552a).

Examples of the contractor's responsibilities are:

- (1) To continue maintaining those systems of records declared by the Bureau to be subject to the Privacy Act as published in the FEDERAL REGISTER.
- (2) To make such records available to individuals involved.
- (3) To disclose an individual's record to third parties only after receiving permission from the individual to whom the record pertains. 43 CFR 2.56 lists exceptions to this procedure.
- (4) To establish a procedure to account for access, disclosures, denials, and amendments to records.

(b) The contractor may not:

- 1 Discontinue or alter any established system of records without prior approval of the appropriate Bureau systems manager.
- 2 Deny requests for notification or access of records without prior approval of the appropriate Bureau systems manager.
- 3 Approve or deny requests for amendments of records without prior approval of the appropriate Bureau systems manager.
- 4 Establish a new system of records without prior approval of the Department of Interior and the Office of Management and Budget.
- 5 Collect information about an individual unless it is relevant or necessary to accomplish a purpose of the Bureau as required by statute or Executive Order.

(c) The contractor is subject to the penalties provided in section (i) of 5 U.S.C. 552a.

SUBPART E – CONTRACT REVISION OR CANCELLATION

273.61 CONTRACT REVISION OR AMENDMENT

Any contract made under this part may be revised or amended as deemed necessary to carry out the purposes of the program being contracted. A contractor may make a written request for a revision or amendment of a contract to the Bureau contracting officer. However, no program approved by the Indian Education Committee shall be altered from the time of its original approval to the end of the contract period without the written approval of the Committee.

273.62 CANCELING A CONTRACT FOR CAUSE

(a) Any contract entered into under this part may be cancelled for cause when the contractor fails to perform the work called for under the contract or fails to permit an Indian Education Committee to perform its duties pursuant to this part.

(b) Before canceling the contract, the Bureau will advise the contractor in writing of the following:

- a. The reasons why the Bureau is considering canceling the contract.
- b. The contractor will be given an opportunity to bring its work up to an acceptable level.

(c) If the contractor does not overcome the deficiencies in its contract performance, the Bureau shall cancel the contract for cause. The Bureau will notify the contractor, in writing, of the cancellation. The notice shall give the reasons for the cancellation and the right of the contractor to appeal under Subpart C of 43 CFR Part 4.

- (d) When a contract is cancelled for cause, the Bureau will attempt to perform the work by another contract.
- (e) Any contractor that has a contract cancelled for cause must demonstrate that the cause(s) which led to the cancellation have been remedied before it will be considered for another contract.

SUBPART F – APPEALS

273.74 CONTRACT APPEAL

A contractor may appeal an adverse decision or action of a Bureau contracting officer regarding a contract under this part as provided in Subpart C of 43 CFR Part 4.

273.72 APPEAL FROM DECISION TO CANCEL CONTRACT FOR CAUSE

A contractor may appeal the decision of a Bureau official to cancel a contract under this part for cause. The appeal shall be made as provided in Subpart C of 43 CFR Part 4.

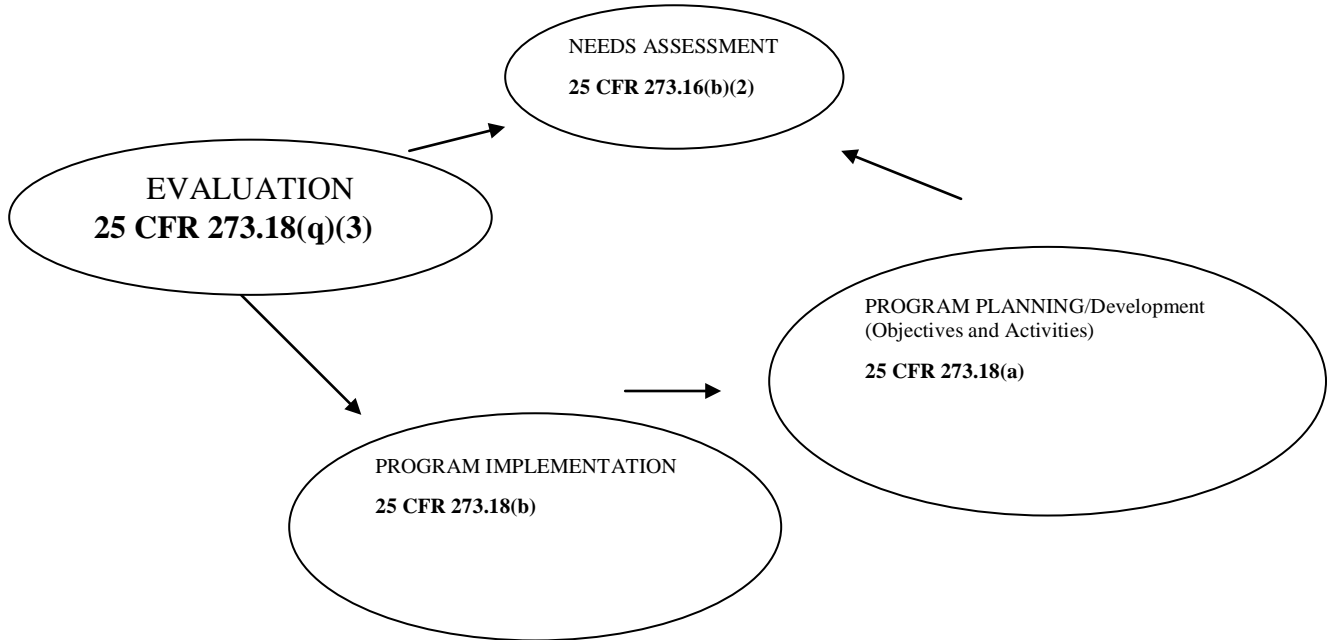
273.73 OTHER APPEALS

Any decision or action by a Bureau official under this part, other than those given in Sections 273.71 and 273.72, may be appealed as provided in Part 2 of this chapter.

ANNUAL CONTRACT PROCEDURES/GRAPH

Upon receipt of the contract award, the JOM funding is available to obligate for expenditure on program budget items.

ANNUAL CONTRACT PROCEDURES



CHAPTER 2 PARENTS OF ELIGIBLE INDIAN STUDENTS

Parent Questions (PQ)

PQ 1. What is JOM?

Years ago, JOM was funded to provide operational support in which schools used funds to buy buses, school equipment, and more. The JOM program was redesigned to be a supplementary program instead of basic support program to provide special services to “meet the unique specialized needs of Indian children attending public schools”.

JOM funds are supplementary and are not intended to take the place of Federal, state or local funds.

PQ 2. How does the JOM Program work?

To receive contract funds, a state, a school district, an Indian tribe, or an Indian corporation may contract with the Bureau of Indian Affairs. (See Section 73.11, Rules and Regulations.) Broad general regulations outline the requirements for the contract, allowing the programs to be developed to meet local needs and differences. (See Rules and Regulations.) JOM programs have been operated since 1995 under the student count freeze and since no new JOM programs have been awarded contracts.

PQ 3. What are my responsibilities to the JOM program?

Federally-recognized tribal Parents/guardians, and persons acting in loco parentis, or providing daily care to eligible Indian students in lieu of parents, are the principal voice eligible to serve on the Indian Education Committee required to provide oversight and approve/disapprove official actions for operation of the Johnson-O’Malley program.

My responsibilities as Parent/guardian are to:

- Become informed- Parent/guardians/in loco parentis should attend JOM meetings; should learn about the annual JOM contract funding cycle; should become aware of the need to serve Indian students as IEC leadership role; should become aware of the positive critical role parental support has on student learning.
- Become aware-Observe and be aware of strengths and weaknesses of JOM program
- Become empowered-to improve local school serving Indian community students
- Be Committed-Volunteer to serve on JOM LIEC

PQ 4. What is the Indian Education Committee?

The Local Indian Education Committee (LIEC) is established by the local Indian community and works with the contractor to develop educational programs designed to meet the specialized and unique educational needs of Indian children, and approves all programs and budgets funded by JOM.

PQ 5. Who can be elected to the IEC?

25 Code of Federal Regulations (CFR) *INDIANS* Part 273.15(1) provides the LIEC is elected from parents or legal guardians of eligible Indian students enrolled in the school(s) affected by the contract. To avoid conflict of interest or give the appearance of a conflict of interest, school officials, or their spouses, persons directly involved in oversight of the JOM program should not be eligible to serve as LIEC members.

PQ 6. What is the authority of the Indian Education Committee?

The IEC is authorized by 25 CFR Part 273.16 *Powers and duties of Indian Education Committee*.

- (a) *Consistent with the purpose of the Indian Education Committee, each such **Committee shall be vested with the authority...***

PQ 7. What are the duties and responsibilities of the IEC?

Per 25 CFR Part 273.15; 273.16; 273.17 the IEC duties and responsibilities are:

*To participate fully in the **planning, development, implementation, and evaluation** of all programs, including both supplemental and operational support, conducted under a contract or contracts pursuant to this part. Such participation **shall include further authority** to:*

- ***Recommend curricula***, including ***texts, materials, and teaching methods*** to be used in the contracted program or programs.
- ***Approve budget preparation and execution.***
- ***Recommend criteria for employment in the program.***
- ***Nominate*** a reasonable number of ***qualified prospective educational programmatic staff members*** from which the ***contractor would be required to select.***
- ***Evaluate staff performance and program results*** and ***recommend appropriate action to the contractor.***
- ***Approve and disapprove all programs to be contracted under this part. All programs contracted pursuant to this part shall require the prior approval of the appropriate Indian Education Committee.***
 - *Secure a copy of the negotiated contract(s) which include the program(s) approved by the Indian Education Committee.*
- ***Recommend to the Commissioner through the appropriate Bureau contracting officer cancellation or suspension of a contract(s) which contains the program(s) approved by the Indian Education Committee if the contractor fails to permit such Committee to exercise its powers and duties as specified by this section***

PQ 8. What are the annual IEC elections?

Annual elections are conducted usually once a year to fill any vacancies that may have occurred on the Indian Education Committee. Generally, elections are scheduled annually but there may be circumstance where special elections are held more often to address loss of a member from the IEC. Eligible voters are parents/guardians/*in loco parentis* of eligible Indian students enrolled within the contract school system. This means that both parents of a child are eligible to serve on the LIEC. Voting by proxy should not be allowed at any time. Students are not allowed by Federal regulation to vote or hold a LIEC position.

PQ 9. How are IEC officers selected?

After the community elections that fill the vacant IEC member positions, and following organizational papers and by-laws, the IEC in official action will decide which members will fill which leadership positions on the IEC board. The results become part of the official record.

PQ 10. Does the IEC Committee receive financial compensation?

The authority that is delegated to the IEC include authority to decide on financial compensation for the committee members.. In the recent past many IECs received no compensation but the trend changed in the past ten years to a nominal meeting fee. For official JOM-related travel, IEC members can receive per diem at the Federal traveler rates, airfare/ personal vehicle mileage and lodging, with required record keeping of receipts and travel details.

PQ 11. What are IEC Organizational papers and by-laws?

The IEC is the authorizing and governing body for the JOM program funds appropriated annually by Congress. The IEC is the authorized body responsible for accountability and proper expenditure of JOM program funds and ensuring budget items support the annual education plan. The IEC authority requires periodic meetings where important decisions are made in official action and necessitates uniform operating procedures that an audit trail and substantiating rational and educated oversight management of the JOM program. The IEC Organizational Papers and By-laws is a required document and is a valuable tool that strengthens the advisory and authorizing body of Indian parents.

PQ 12. What are official IEC actions?

Official IEC actions are those decision reached by consensus established by the authorized body of IEC members present.

The Indian parents who are members of the IEC are trained to distinguish their official IEC capacity roles from their personal life role. Without training and information, some IEC members believe they are IEC members outside of an official meeting with a quorum present. When the full quorum of IEC is present in a duly called meeting, the individual members are authorized to decide important and often difficult decisions. When the meeting is adjourned so does the authority of the IEC.

PQ 13. How are parent recommendations critical to JOM Needs Assessment?

Indian parent/guardians/*in loco parentis* are the deciding voice to shape the education plan of the Johnson-O'Malley program through recommendations and ideas offered through the periodic JOM Needs Assessment Survey. The Indian Education Committee gathers survey responses and prioritizes them based on number of survey responses from parents of eligible Indian students.

PQ 14. How are priority goals determined from results of the Needs Assessment?

The JOM Director leads inquiry with IEC oversight, to conduct review of the survey responses for purposes of tallying the results. The most requested responses are evaluated in correlation with OMB A-87 to establish that it is an allowable cost. If the priority item is determined to be an allowable cost, it then becomes an essential item that will be developed into goals and objectives of the Education Plan. The Education Plan is a result of parent responses to perceived specialized and unique educational needs of their eligible Indian students.

PQ 15. How is the JOM Education Plan developed?

The Educational Plan is the written document outlining the plans for providing educational programs designed to meet the specialized and unique educational needs of Indian children. The Education Plan is developed in coordination with the contractor and the LIEC. Its scope reflects assessment of educational needs of Indian students, states the goals and objectives to be achieved, describes operational procedures for implementation and evaluation methods, and an annual program budget is attached with a budget narrative. (See Section 273.14; 273.18)

The annual education plan is the most critical document in the JOM program and improvement is a year-round or contract-long effort. After the Needs Assessment survey results are tallied and measured against the 42 items of cost as specified in Office of Management and Budget Cost Principles A-87 for tribal governments, the allowable goals and objectives are stated in an education plan. The Education Plan includes: Statement of Work; Goals and Objectives; program activities; Projected Outcomes and Evaluation. A Program Budget and Budget Narrative also support the costs stated in the annual education plan.

PQ 16. What are performance goals and objectives?

A Goal is stated in a summative statement describing who, what, when, and where the JOM program is anticipating meeting the specialized and unique educational needs of eligible Indian students.

PERFORMANCE OBJECTIVES:

A well constructed performance objective presents comprehensive information and describes anticipated sequential outcomes in quarterly incremental terms. An adequate performance objective addresses the following questions:

WHO is the eligible Indian student population (ages 3 to Grade 12) to receive specialized and unique educational services; this could also include a description of the specialized providers of the educational activities.

WHAT is the description of specialized and unique educational services, activities, materials, texts, and anticipated methods of delivery to the targeted population of eligible Indian students.

WHEN is the description of the recurrence of delivery of specialized and unique education services to eligible Indian students, i.e., minutes, hours and dates.

WHERE provides information on the location for delivery of specialized and unique educational services to eligible Indian students.

QUANTIFIABLE EVALUATION AND DEMONSTRATION OF ACCOMPLISHMENT:

describes baseline data of targeted student, i.e., statement of problem area including current performance data, start date, and anticipated projected growth or increases in performance. This area will substantiate that the JOM program's educational plan will increase this particular student from current to a projected level of attainment. This is a key area of value when evaluating the JOM program for input of annual data.

Note: Student Progress folders can be written similar to Individual Education Plans (IEP) as in Special Education programs. The value is that the progress is evaluated quarterly and annotated on a chart of growth.

GOAL STATEMENT SAMPLE:

Students will develop a clearer perception and more positive attitude toward Indians existing as a minority within a larger society, based upon facts. An accurate picture of American Indians and their contribution to American life will enable students and teachers to respect Indians as individuals and give them a deeper appreciation of their Indian heritage.

PQ 17. How are cultural activities related to academic improvement?

Several education research studies have established connection between positive self-esteem and quality academic performance by students. Indian community cultural activities contribute to the positive interactions between tribal elders and the student learners. An Indian child with a positive attitude and involved with ongoing cultural activities is likely to have enhanced scholastic performance. The school staff of the local public school would greatly assist the community by embracing and modeling cultural involvement and being knowledgeable of on-going activities.

PQ 18. What is a Statement of Work (SOW)?

The Statement of Work (SOW) is the summative statement in the annual JOM contract reapplication process describing deliverables, goals and objectives and program activities, that is approved/disapproved by the Education Line Officer prior to becoming an official new contract. The SOW is normally supported by a program budget and budget narrative breakdown of program expenditures.

PQ 19. What is OMB Cost Principles Circular A-87?

The OMB is the Office of Management and Budget and has issued a Cost Principles Circular noted as A-87 for tribal governments to determine allowability of program costs. A-87 provides background information on 42 items of program costs and ensures program expenditure are in compliance with prevailing statute.

PQ 20. What happens if the JOM program is in compliance?

A JOM program being operated in compliance with prevailing regulations and law is a positive accomplishment and reflects positively upon the Tribal Education Director (TED) of the IEC. In the past, annual contract reports were forwarded to the BIA Central Office and the data was recorded before being forwarded onto Congressional officials for refunding of JOM. Currently however, that is not the case; BIA no longer gathers the required annual reports into a central office and has mostly abandoned the mission of assisting contracting tribes serving eligible Indian students attending public schools.

PQ 21. What happens if the JOM program is not in compliance?

JOM programs failing to comply with established requirements risk sanctions imposed by the BIA that could lead to reassumption of the program by the Federal government. P.L. 93-638 provides for increased technical assistance by the Bureau and requires they do everything in their power to keep the contract being operated by contracting tribes. Life-safety issues associated with the contract would result in immediate notice to tribal contractor to cease and desist with expending and performing contract functions.

PQ 22. What are the Privacy Act requirements?

The approved JOM program serves eligible Indian students and private individual information such as Social Security numbers, and other private data must be protected and assurances of security given.

PQ 23. What is the Freedom of Information Act?

The Freedom of Information Act requires release of certain information to agencies and organizations only under specified conditions of release. The JOM program is responsible for the private data and must keep documents secure and in locked storage cabinets and rooms.

PQ 24. Where are the JOM Implementation Regulations found?

The JOM regulations are stated in 25 Code of Federal Regulations (CFR) *INDIANS*, Part 273,

Part 273 Regulations concerning IEC Duties and Responsibilities; [] brackets denote further interpretations.

The following sections of 25 CFR INDIANS Part 273 concern the IEC Duties and Responsibilities.

IEC 273.3 REVISION OR AMENDMENT OF REGULATIONS.

In order to make any substantive revision or amendments to regulations in this part, the Secretary shall take the following actions:

(a) Consult with the Indian tribes and national and regional Indian organizations to the extent practicable about the need for revision or amendment and consider their views in preparing the proposed revision or amendment.

(b) Publish the proposed revisions or amendments in the FEDERAL REGISTER as proposed rulemaking to provide adequate notice to, and receive comments from, all interested parties.

(c) After consideration of all comments received, publish the regulations in the FEDERAL REGISTER in final form not less than 30 days before the date they are made effective.

(d) Annually consult with Indian tribes and national and regional Indian organizations about the need for revision or amendment, and consider their views in preparing the revision or amendment.

(e) Nothing in this section shall preclude Indian tribes or national or regional Indian organizations from initiating requests for revisions or amendments subject to paragraphs (a), (b), and (c) of this section.

IEC 273.4 POLICY OF MAXIMUM INDIAN PARTICIPATION

The meaningful participation in all aspects of educational program development and implementation by those affected by such programs is an essential requisite for success. Such participation not only enhances program responsiveness to the needs of those served, but also provides them with the opportunity to determine and affect the desired level of educational achievement and satisfaction which education can and should provide. Consistent with this concept, **maximum Indian participation* in the development, approval and implementation of all programs contracted under this part shall be required.**

[*Note: This means if a program is in compliance with this section, there should be no community members who feel they are not represented or heard by the IEC. If they feel that they are not allowed to participate, they may file a grievance, which the IEC must hear as required in their Organizational documents and By-Laws. If the grievant feels they were not served, their complaint then is forwarded to the appropriate Federal agency and it becomes involved to resolve the issue. If this were to continue, the JOM program may be required to cease and desist from spending until the community member's complaint is resolved to mutual satisfaction.]

Subpart B—Application Process

IEC 273.11 ELIGIBLE APPLICANTS

(a) Any State, school district, tribal organization or Indian corporation is eligible to apply for contracts for supplemental or operational support programs. For the purposes of this part, previously private schools as defined in S273.2(n) are considered tribal organizations.

(b) States, school districts, or Indian corporations shall apply for contracts for supplemental or operational support programs as required in this part.

(c) Tribal organizations must comply with the following requirements to obtain contracts for supplemental programs or operational support:

(1) The applications submitted by the tribal organizations shall meet the requirements in S273.20 in addition to those in S271.14 of this chapter.

(2) The requirements in Sections 271.1 through 271.27, 271.41 through 271.52, 271.54, 271.61 through 271.66, and 271.81 through 271.84 shall apply to such contracts with tribal organizations.

(3) The provisions in Sections 271.71 through 271.77 of this chapter concerning retrocession and reassumption of programs do not apply to a tribal organization retroceding a contract for supplemental programs or operational support as the Bureau does not operate education programs authorized to be contracted under the Johnson-O'Malley Act. However, the tribal organization may retrocede such a contract and the Bureau will then contract with a State, school district, or Indian corporation under this part for the supplemental programs or operational support.

(4) The requirements in Sections 273.12 through 273.18, 273.20, 273.21, 273.31 through 273.38, 273.41, 273.51 and 273.52 shall apply to such contracts with tribal organizations.

(5) The requirements in 41 CFR part 14H-70 shall apply to such contracts with tribal organizations.

[40 FR 51303, Nov. 4, 1975, as amended at 41 Fr 5098, Feb. 4, 1976]

IEC 273.12 ELIGIBLE STUDENTS.

*Indian students, from **age 3 years through grade(s) 12**, except those who are enrolled in Bureau or sectarian operated schools, shall be eligible for benefits provided by a contract pursuant to this part **if they are ¼ or more degree Indian blood* and recognized by the Secretary** as being eligible for Bureau services. Priority shall be given to contracts (a) which would serve Indian students on or near reservations and (b) where a majority of such Indian students will be members of the tribe(s) of such reservations (as defined in S 273.2(o)).*

[*NOTE: The eligibility section provides no mention of requirement for a Certificate of Indian Blood or CIB, other than the Indian blood must be from a Federally-recognized tribe.]

IEC 273.13 PROPOSALS ELIGIBLE FOR CONTRACTS.

(a) Any proposal to contract for funding a program which meets the definition of a supplemental program given in 273.2(t) will be considered an eligible proposal under this part.

(b)(1) To contract for operational support, a public school district shall be required to establish as part of the proposal that:

- (i) It cannot meet the applicable minimum State standards or requirements without such funds.*
- (ii) It has made a reasonable tax effort with a mill levy at least equal to the State average in support of educational programs.*
- (iii) It has fully utilized all other sources of financial aid, including all forms of State aid and Pub. L. 874 payments. The State aid contribution per pupil must be at least equal to the State average.*
- (iv) There is at least 70 percent eligible Indian enrollment within the school district.*
- (v) It shall clearly identify the educational needs of the students intended to benefit from the contract.*
- (vi) It has made a good faith effort in computing State and local contributions without regard to contract funds pursuant to this part.*
- (vii) It shall not budget or project a deficit by using contract funds pursuant to this part.*

(2) The requirements given in paragraph (b)(1) of this section do not apply to previously private schools.

(c) At his discretion, the Commissioner may consider as eligible a proposal to contract under which a school district will be reimbursed for the full per capita costs of educating Indian students who meet all of the following:

- (1) Are members of recognized Indian tribes.*
- (2) Do not normally reside in the State in which the school district is located.*
- (3) Are residing in Federal boarding facilities for the purposes of attending public schools within the school district.*

IEC 273.14 PREPARING THE EDUCATION PLAN.

A prospective contractor in consultation with its Indian Education Committee(s) shall formulate an education plan and submit it to the appropriate Area Director as a part of the application to contract required by S 273.20. Such plan shall become a part of any contract awarded. The education plan shall contain:

(a) *The education programs approved by the Indian Education Committee(s) as required in 273.17.*

(b) Other requirements for the education plan given in 273.18.

IEC 273.15 ESTABLISHMENT OF AN INDIAN EDUCATION COMMITTEE.

- (a) When a school district to be affected by a contract(s) for the education of Indians pursuant to this part has a local school board not comprised of a majority of Indians, the tribal governing body(s) of the Indian tribe(s) affected by the contract(s) under this part shall specify one of the following entities to serve as the Indian Education Committee for the purpose of this part:
- (1) *An Indian Education Committee to be elected from among the parents (including persons acting in loco parentis except school administrators or officials) of eligible Indian students enrolled in the school(s) affected by a contract(s) under this part;* or
 - (2) A local Indian committee established pursuant to section 305(b)(2)(B)(ii) of the Act of January 23, 1972 (86 Stat. 235) and existing prior to January 4, 1975; or
 - (3) An Indian advisory school board or Indian Education Committee established pursuant to the Johnson-O'Malley Act and existing prior to January 4, 1975.
- (b) When the local school board is not composed of a majority of Indians and the tribal governing body(s) of the Indian tribe(s) affected by a contract(s) under this part determine which of the entities provided for in paragraph (a) of this section is to serve as the Indian Education Committee for the purpose of this part, it shall notify the Area Director of such determination by January 15 preceding the school year for which the contract will be let.
- (c) *The Indian Education Committee established under paragraph (a) of this section and its members shall establish procedures under which the Committee shall serve. Such procedures shall be set forth in the Committee's organizational documents and by-laws.* Each Committee shall file a copy of its organizational documents and by-laws with the appropriate Area director, together with a list of its officers and members as soon as practicable after the Committee is organized.
- (d) *The existence of an Indian Education Committee shall not limit the continuing participation* of the rest of the Indian community in all aspects of programs contracted under this part.*

[*Note: Second mention of promoting community participation in all aspects of JOM program.]

IEC 273.16 POWERS AND DUTIES OF INDIAN EDUCATION COMMITTEE.
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- (b) Consistent with the purpose of the Indian Education Committee, *each such Committee shall be vested with the authority to:*
- (1) *Participate fully in the planning, development, implementation, and evaluation of all programs, including both supplemental and operational support, conducted under a contract or contracts pursuant to this part. Such participation shall include further authority to:*
 - i. *Recommend curricula, including texts, materials, and teaching methods to be used in the contracted program or programs.*
 - ii. *Approve budget preparation and execution.*
 - iii. *Recommend criteria for employment in the program.*

- iv. Nominate a reasonable number of qualified prospective educational programmatic staff members from which the contractor would be required to select.
 - v. Evaluate staff performance and program results and recommend appropriate action to the contractor.
- (2) Approve and disapprove all programs to be contracted under this part. All programs contracted pursuant to this part shall require the prior approval of the appropriate Indian Education Committee.
- (3) Secure a copy of the negotiated contract(s) which include the program(s) approved by the Indian Education Committee.
- (4) Recommend to the Commissioner through the appropriate Bureau contracting officer cancellation or suspension of a contract(s) which contains the program(s) approved by the Indian Education Committee if the contractor fails to permit such Committee to exercise its powers and duties as specified by this section.

(c) The organizational papers and by-laws* of the Indian Education Committee may* include additional powers and duties which would permit the Committee to:

[*Note: If the IEC wants "additional powers and duties" they need to exert a concerted effort in an official meeting to develop the organizational papers and by-laws operating procedures to state explicitly the parameters of their organization. Keep in mind this is an organic document and should be revisited annually and the IEC should make the document fit them and the changing times.]

(1) Participate in negotiations concerning all contracts under this part.

[Note: This section is rarely used in practice. Usually because all parties are too busy and IECs leave this responsibility up to the Tribal Education Director or JOM Program Director to review the contract prior to signing. It is important for the IEC to review the proposal and proposed contract before signing. IECs are the authorized entity should the tribe go to court over a contractual problem.]

(2) Make an annual* assessment of the learning needs of Indian children in the community affected.

[*Note: "Annual" is qualified by "may include". Conclusion is Annual Needs Assessment is required only by those IECs explicitly stating it in their organizational papers and by-laws. If they have not stated it thusly, an annual needs assessment is not required.]

(3) Have access* to all reports, evaluations, surveys, and other program and budget related documents determined necessary by the Committee to carry out responsibilities, subject only to the provisions of Sections 273.49.

[*Note: IECs should be aware of all facets of implementation of the educational plan they are responsible for. This section provides them with access to relevant program information. Conversely, IECs should allow the JOM program Director and staff to operate the program without being "micro-managed" by the IEC. IEC members have authority only when in an official meeting established with a quorum present; at all other times they are community members.]

(4) Request periodic reports and evaluations regarding the Indian education program

[Note: Section (4) says "Request" reports and evaluations, meaning the IEC must put in writing their request for information.]

(5) Hear grievances related to programs in the education plan

[Note: Third mention of a requirement to hear the community grievances. This is to ensure full participation by the community in JOM programs. This grievance clause is required to be included in the organizational papers and by-laws.]

(6) Meet regularly with the professional staff serving Indian children and with the local education agency .

[Note: This section contains language from when JOM programs were largely operated by public school districts.]

(7) Hold committee meetings on a regular basis which are open to the public.

[Note: "regular" does not say monthly as many IECs believe. Regular can be as few as twice a year, quarterly, or whatever is determined to be "regular."]

(8) Have such additional powers as are consistent with these regulations.

[Note: This authorization to expand IEC authority "consistent with these [JOM] regulations" is rarely used by IECs. IECs apparently are unaware of the inherent potential to expand their jurisdiction.]

IEC 273.17 PROGRAMS APPROVED BY INDIAN EDUCATION COMMITTEE.

- (a) All programs contracted under this part *shall*:
- (1) Be developed and approved in full compliance with the powers and duties of the Indian Education Committee as set out in Sections 273.16 and as may be contained in the Committee's organizational documents and by-laws.
 - (2) Be included as a part of the education plan provided for in Section 273.14.
- (b) No program contracted pursuant to this part *shall be changed* from the time of its original approval by the Indian Education Committee to the end of the contract period without the prior approval, in writing, of the Committee.
- (c) Programs developed or approved by the Indian Education Committee pursuant to this part may, at the option of such Committee, include funds for the performance of Committee duties, including the following:
- (1) Member's attendance at regular and special meetings, workshops and training sessions, as the Committee deems appropriate.
 - (2) Such other reasonable expenses incurred by the Committee in performing its primary duties, including the planning, development, implementation and evaluation of the program.

[Note: This section authorizes IEC board members [note-"may"] to receive stipends for the above purposes from JOM funds for services provided. Amounts IECs receive range from \$0 to \$100 per meeting.]

IEC 273.18 ADDITIONAL REQUIREMENTS FOR EDUCATION PLAN

In addition to incorporating the programs approved by the Indian Education Committee(s) as required by Sections 273.14(a), *the education plan* prepared by the prospective contractor *shall*:

- (a) Contain educational goals and objectives which adequately address the educational needs* of the Indian students to be served by the contract.

[Note: This section is where the IEC describes the key educational plan components designed "to meet the specialized and unique educational needs of eligible Indian students." This section is sometimes referred to as the "Statement of Work"]

- (b) Incorporate the program or programs developed and approved by the Indian Education Committee(s). As provided in Sections 273.17(b), changes in such programs must have prior written approval of the Indian Education Committee(s).
- (c) Contain procedures for hearing grievances* from Indian students, parents, community members, and tribal representatives relating to the programs contracted under this part. *Such procedures shall provide for adequate advance notice of the hearing.*

[*Note: Fourth mention of requirement for procedures for hearing grievances from the Indian community served by the JOM program. This section requires that it be stated in the education plan.]

- (d) Identify established State standards and requirements which shall be maintained in operating programs and services contracted under this part.

[Note: This section contains language from when JOM programs were largely operated by public school districts.) Citing respective state education standards to comply with enhances scope and depth of education plan.]

- (e) Describe how the State standards and requirements will be maintained.

[*Note: This section contains language from when JOM programs were largely operated by public school districts.) Citing respective state education standards to comply with enhances scope and depth of education plan.]

- (f) Provide that the contractor shall comply in full with the requirements concerning meaningful participation by the Indian Education Committee as required by Section 273.4.

[Note: This section contains language from when JOM programs were largely operated by public school districts.]

- (g) Provide that educational facilities receiving funds shall be open to visits and consultations by the Indian Education Committee(s), tribal representatives, Indian parents in the community, and by duly authorized representatives of the Federal and State Governments.

[Note: This section contains language from when JOM programs were largely operated by public school districts.]

(h) **Outline procedures of administrative and fiscal management** to be used by the contractor.

[Note: 25 CFR Part 900 (Implementation Regulations for P.L. 93-638) Subpart F-provides required Standards for Tribal or Tribal Organization Management Systems for tribe wanting to contract under Public Law 93-638.)

- Part 900.35-41 provides General information on required standards;
- Part 900.42-46 provides Standards for Financial Management Systems;
- Part 900.47-50 provides Procurement Management System Standards; and
- Part 900-51-60 provides Property Management System Standards.]

(i) **Contain justifications for requesting funds for operational support.** The public school district must establish in its justification that it meets the requirements given in Section 273.13(b). The information given should include records of receipt of local, State, and Federal funds.*

[Note: This section contains language from when JOM programs were largely operated by public school districts.]

(j) **Include budget estimates and financial information needed to determine program costs** to contract for services. This includes, but is not limited to, the following:

(1) State and district average operational cost per pupil.*

[Note: This section contains language from when JOM programs were largely operated by public school districts.]

(2) Other sources of Federal funding the applicant is receiving, the amount received from each, the programs being funded, and the **number of eligible Indian students served by such funding.**

[Note: This section contains language from when JOM programs were largely operated by public school districts. However, We do want to know the number of eligible Indian students served.]

(3) Administrative costs involved, total number of employees, and **total number of Indian employees.**

(4) Costs which parents normally are expected to pay for each school.

[Note: This section contains language from when JOM programs were largely operated by public school districts.]

(5) Supplemental and operational funds outlined in a separate budget, by line item, to facilitate accountability.

[Note: This section contains language from when JOM programs were largely operated by public school districts.]

(6) Total number of employees for each special program **and number of Indian employees for that program.**

(k) State the total enrollment of school or district, by age and grade level.

[Note: This section contains language from when JOM programs were largely operated by public school districts.]

(l) State the **eligible Indian enrollment-total and classification by tribal affiliation(s) and by age and grade level.**

(m) State the total number of school board members and number of Indian school board members.

[Note: This section contains language from when JOM programs were largely operated by public school districts.]

a. **List Government equipment needed to carry out the contract.**

[Note: Tribes can request in writing to their local BIA agency, a list of available equipment the tribe may need to perform contract services to eligible Indian students.]

b. **State the period of contract term requested.**

[Note: State in terms of Fiscal Year, Calendar Year, School Year or other period preferred by tribe and negotiated with BIA agency.]

c. Include the **signature of the authorized* representative** of applicant.

[Note: "Authorized" in terms of P.L. 93-638 contracts means the authorized tribal leader: i.e., Pueblo Governor, President, Chairperson official signatory, since the tribe is the "contractor."]

d. Provide **written information regarding:**

(1) **Program goals and objectives related to the learning needs of potential target students.**

[Note: It is recommended that stated programs goals be limited to not more than three or four and should be stated in terms of achievable goals attainable within the contract year. Correspondingly, program objectives might be stated in terms of quarterly objectives with behavioral or performance milestones set in quantifiable terms.]

- (2) Procedures and methods to be used in achieving program objectives, including ways whereby parents, students and communities have been involved in determining needs and priorities.

[Note: The information on recommended procedures and methods to be used to achieve program objectives should reflect input provided by community parents and students.]

- (3) Overall program implementation including staffing practices, parental and community involvement, evaluation of program results, and dissemination thereof.

[Note: Implementation of the JOM program education plan should provide: 1. how the staffing will provide JOM services to students; 2. how the program will keep the community informed and involved to foster ownership; 3. how the program will evaluate the projected outcomes of the education plan, and; 4. methods of sharing program achievements and failures with the Indian community.]

- (4) Determination of staff and program effectiveness in meeting the stated needs of target students.

[Note: The JOM education plan should provide information on how program effectiveness will be determined in terms of staff performance and provision of direct JOM services to students.]

IEC: ROLE OF JOM EDUCATION DIRECTOR-PROGRAM LEADERSHIP

The JOM Education Director provides the day-to-day leadership over implementation of the JOM annual contract and IEC approved education plan. The contract management responsibilities are the JOM Education Directors and he/she compiles reports for the IEC and updates them at the progress of the annual cycle of operations. The JOM Education Director is responsible for performing essential contract management duties occurring throughout the annual contract cycle. The JOM Education Director ensures the Statement of Work activities are implemented and documents the progress accomplished by staff and students.

IEC: ROLE OF IEC-AUTHORIZATION AND ADVISORY

25 CFR *INDIANS* Part 273 authorizes the Indian Education Committee to approve/disapprove expenditures and advise the JOM Education Director on matters important to successful operation of the JOM contract. The IEC is the tribal organization that acts as grantee for receipt of annual JOM funds. It is a responsibility of the IEC to provide oversight assistance to JOM Education Director: on the development of an effective Needs Assessment survey; development and approval in official action of the JOM education plan, program budget, and budget narrative. The IEC is the legally responsible tribal organization body that ensures expenditures are related to implementation of the approved Education Plan. The IEC reviews the annual contract performance results written in an annual report, before providing official approval in an official meeting. Were JOM program performance deficiencies prevalent, i.e., malfeasance, waste, fraud or abuse of appropriated funds, the IEC is the authorized body that would be prosecuted; therefore their approval authority is highly respected. Annual training for the IEC is a program budget line item justified by their responsibility toward signed assurances for preserving the integrity of the contract award funds.

IEC: ELECTIONS

As determined and approved in official action, the IEC are responsible for scheduling the annual contract events, including elections for IEC vacancies. The IEC is comprised of Indian parents of eligible Indian students and are elected by Indian parents from the local tribal community.

IEC: EDUCATION PLAN

The JOM Education Plan is the single most critical document and driving force for the annual JOM contract award. A strong Education Plan is necessary to the successful operation that implements educational activities addressing the specialized and unique needs of eligible Indian students.

IEC: PRIVACY ACT

As the JOM program serves eligible Indian students it is required to gather private individual information such as Social Security numbers, and other private data. This personal data must be protected and assurances of security given for the standards and processes of record keeping. The Privacy Act specifies procedures and methods for systematic preservation of personal data..

IEC: FREEDOM OF INFORMATION

The Freedom of Information Act criteria and applicable procedures under which release of certain information is provided to agencies and organizations. Evaluation and preview of information requests are required prior to following specified conditions of release. The JOM program is responsible for the private data and are required to protect private documents secure and in locked storage cabinets and rooms.

IEC: ORGANIZATIONAL PAPERS AND BY-LAWS:

The IEC develops, revises and approves JOM program matters according to rules stated in the IEC organizational papers and by-laws. These operating documents are reviewed and approved by the IEC and are consistent protocol for making decisions.

INDIAN EDUCATION COMMITTEE BY-LAWS

The following are by-laws that have been established and approved by the (Your program name) JOM IEC.

ARTICLE I - Reference

In accordance with the Indian Self Determination and Education Assistance Act - Johnson O'Malley Act of 1934, 25 CFR Part 273 of the federal regulations., a Parent Committee selected in accordance with federal regulations, will adopt and abide by reasonable by-laws for the conduct of the project for which assistance is sought.

ARTICLE II - Name

The name of this committee shall be the (Your program name) JOM Indian Education Committee.

ARTICLE III - Purpose

The establishment and the work of the parent committee are to comply with the rules and regulations as found in the Federal Register, Vol. 40, No 213, Tuesday, Nov. 4, 1975. (Refer to 25 CFR Indians Sec. 273.16 Powers and Duties of Indian Education Committees and Sec. 273.17 Programs approved by an Indian Education Committee to complete the purpose.)

(The following are only examples. You should design your own purpose for your school. You may have only one purpose and not three. Ask yourself, "what are we trying to accomplish with this program?")

Section 1. To promote the welfare of Indian children and youth in home, school, community and tribe.

Section 2. To raise the standards of school achievement of Indian children.

Section 3. To bring into closer relationship the home and the school so that parents and teachers may cooperate intelligently in the education of Indian children and youth.

ARTICLE IV - Membership

Section 1. Establishment of the Indian Education Committee

- A. According to Sub-Part A, Sec. 273.15 of the Nov. 4, 1975 regulations and Indian Education Committee is to be elected from the parents/ legal guardians (including persons acting ‘in loco parentis’)
- B. The Indian Education Committee shall be composed of **5** members. Comprised of the Chairperson, Vice chair, secretary and two at-large members. (The IEC may be comprised of any number of members. There is no specific number listed in the regulations. You may also have a treasurer and sergeant at-arms if so desired)
- C. All IEC members must have formal authorization by action (motion recorded in minutes) to represent or speak on behalf of the IEC.

Section 2. Election **of the 5** (or whatever number of members you decided on) Members of the IEC

- A. New members are elected in an open meeting for a term of two years by a majority vote of parents/ legal guardians of eligible Indian students in attendance in a public school within the (Name) School District.
- B. Two members are elected in odd calendar years and three members elected in even calendar years. (It is good business to rotate members so that there wouldn’t be a totally new IEC who didn’t know the program)
- C. Membership in the Indian Education Committee cannot be transferred.
- D. Members may run for a second, two year term if reelected by the community
- E. The IEC elections are to elect the IEC members and not an election of officers. Officers are to be elected by the IEC members themselves at their first re-organizational meeting.

Section 3. Annual Elections / community voting rights

- A. The Annual Election meeting shall be held on the (**last weekday**) of (**the month**), or at date as near to that day as determined by the IEC.
- B. Nominations for new IEC members shall be taken from the floor by an eligible voter at the duly called Annual meeting. (An eligible voter being a parent or legal guardian of an eligible JOM student, if you give out the ballots at the door when the parents check in, just by having a ballot will denote that they are eligible)
- C. Individual votes shall be cast by secret ballot and tallied visibly so that all in attendance will know the results.
- D. The IEC Chairperson or designee shall act as the election judge for the Annual meeting. (The election judge should be a non-voting, non partisan person and of no relation to those running for the IEC)
- E. The IEC will also have the option of having the election judge preside over the election of Officers at the first official meeting of the new Indian Education Committee

Section 4. Election Voting Procedures -

- A) Election procedures: The (**Name**) JOM Parent Committee is made up of **5** parents or legal guardians of eligible JOM students.
- B) Eligibility to run for the IEC: According the Federal Regulations - Sub part a, Section 273.15 “the Indian Education Committee is to be elected for the parents (including persons acting “in loco parentis” - legal guardian) except school officials of the eligible Indian student on the schools affected by the subcontract under this part.” (This is where you might want to insert the provision of extended family members acting “in loco parentis”) To avoid conflict of interest or give the appearance of a conflict of interest, school officials or their spouses, persons directly involved in oversight of the name of the tribe JOM Program (if this is in for a tribal contract) should not be eligible to serve as committee members.
- C) Nominations at the Annual Meeting:
 - 1. Nominations for new members shall be taken from the floor at the Annual meeting.
 - a. The Nominator must be an eligible JOM parent or guardian.
 - b. Votes shall be cast by secret ballot and tallied by the election judge

- c. Each person nominated will have an opportunity to give a 3 minute (you can set any time limit, but it would be good to give them an opportunity to speak) speech explaining why they want to serve on the committee.
- d. The top (2 or 3) vote recipient, depending on it being an odd or even year, will be seated as the new IEC members. (notice this is the seating of IEC members. The officers should be selected by the newly elected IEC board members. This way the board selects their own leadership and you don't scare off potential parents who don't want to be chairperson or vice chair)
- e. What are the responsibilities of an IEC member:
 - 1. Attend monthly meetings
 - 2. Assist other IEC members in planning and implementing program and special events.

Section 5. Voting Rights - for IEC meetings

- A. Each member of the IEC shall have one vote in any matter submitted to the parent committee for a general vote.
- B. Proxy voting and absentee balloting shall not be permitted
- C. An IEC member may abstain only from a conflict of interest that is determine valid by the chairperson. If there is no conflict, the IEC member must cast a vote.
- D. The Chairperson may only vote in case of a tie among the other members.

Section 6 Termination of Membership

- A. Any IEC member may resign by giving a written resignation to the parent committee.
- B. An IEC member shall be automatically removed from membership on the Indian Education Committee for the following reasons:
 - 1. The member does not attend any regular or special meetings of the committee for 2 consecutive months. (you may set your own time limit, ie.. 2 consecutive meetings, 3 out or 5 meetings,)
 - 2. The child of the member is no longer enrolled in the **(Name)** school district.
 - 3. For action or behavior that brings discredit to the **(Name)** IEC/JOM Program. (you may want to list the type of behavior, but always make sure you add "but not limited too"....)
 - 4. A recall petition towards an IEC member signed by ___#___ JOM parents shall call for action of removal if just cause has been sited and that the IEC member has been given warning of such action. The cause for the recall petition may be: (you can list what causes you see fit)

Section 7 Vacancies

- A. Names of the nominated candidates, who were not elected to the IEC at the Annual Meeting, will be listed as alternates and will be utilized as alternates for any member of the IEC who resigns, is terminated or otherwise ineligible to serve on the IEC.
- B. If the alternates are not able to serve, the IEC shall select by majority vote, an eligible JOM parent to fulfill the vacant IEC term.
- C. By affirmative vote of members of the committee, a vacancy can be filled.
- D. The new member will only serve the remain time of the vacancy.
- E. If the new member replaces an IEC officer, that officer position does not transfer to the new member.
- F. The newly elected IEC member will only serve only for the unexpired portion of the term of the vacancy left by the IEC member.
- G. An election among the IEC members shall be held to replace the officer whose position has become vacant. (This means that there could be a reassignment of the officers during the year)

Section 8 Powers and Duties

- A. Recommend curriculum, including texts, materials and teaching methods to be used in the contract programs
- B. Approve budget preparation and execution
- C. Recommend criteria for employment in the program
- D. Nominate up to three qualified prospective staff members from which School District would select for interview and review for hire.
- E. Evaluate job positions and program results and make recommendations to the School District Administration.
- F. Secure and have available a copy of the sub-contract application on file.
- G. Recommend cancellation or suspension of approved program if the **(Name)** School District fails to permit committee to exercise powers and duties.
- H. The organizational papers and by-laws of the Indian Education Committee may include additional powers and duties which would permit the Committee:
 - 1. Participate in negotiations concerning all contracts under this part.
 - 2. Make an annual assessment of the learning needs of Indian children in the community affected.
 - 3. Have access to all reports, evaluations, surveys and other program and budget related documents determined necessary by the Committee to carry out its responsibilities, subject only to provisions of 273.49.
 - 4. Request periodic reports and evaluations regarding the Indian Education program. **(Staff reports)**
 - 5. Hear grievances related to programs in the education plan.
 - 6. Meet with the **(Name)** JOM staff serving the Indian children and with local education agencies.
 - 7. Hold committee meetings on a regular basis which are open to the public.
 - 8. Review and approve the Annual Program Report.
 - 9. Have such additional powers as are consistent with these regulations

ARTICLE V - Officers

The officers of the Indian Education Committee shall be a chairperson, vice-chair and secretary. Other officers may be appointed as the committee elects. (or other offices if so desired)

Section 1. Election , Terms of Office and Officers selection

The Indian Education Committee shall be elected by a majority vote at the annual committee election, the committee members shall serve for two years.

- A. Nomination from floor by an eligible JOM parent / guardian
- B. Individual ballots
- C. Ballots counted individually in a visible manner.
- D. Newly elected IEC members shall take their positions as IEC members, at the first official meeting of the new Indian Education Committee
- E. The current IEC members shall maintain their positions as the IEC until the completion of the Annual Election Meeting. The presiding Chairperson (or a remaining officer from the current IEC, if the Chairperson is not re-elected) shall call the first official meeting of the 'new' IEC members.
- F. Officers (Chair, Vice chair and Secretary) shall be elected by the IEC at the first official meeting of the new Indian Education Committee. This will be considered a re-organizational meeting.
- G. Each officer of the IEC shall hold their office from annual meeting to annual meeting.

Section 2. Officer Vacancies

A vacancy of an officer of the Indian Education Committee during the year may be filled by a majority vote of the IEC members present at a regular/special meeting. The newly elected officer shall serve only for the unexpired portion of the year term.

The officer position may also be left vacant until the following annual meeting if so desired. (This would be beneficial if close to the annual meeting time)

Section 3. Removal

Any officer may be removed by a (two-thirds) vote of all members present whenever it is in the best interest of the committee according to ARTICLE IV, Section 6,(B).

Section 4. Duties of the Officers and IEC Members At-Large.

A. Chairperson

The chairperson shall perform all duties incidental to the office of the chairperson and such other duties as may be prescribed by the Indian Education Committee from time to time. The chairperson shall act on behalf of the IEC, by recorded by motion, of the IEC.

Specific duties are:

1. To preside over all general meetings
2. Prepare the meeting agendas in conjunction with the JOM Coordinator.
3. Sign on behalf of the IEC, all letters, reports and other committee documents as required with authority given by the IEC to do so.

B. Vice-Chairperson

The vice-chairperson shall:

1. Assume the role of the chairperson in his/her absence.
2. Ensure that membership on the Indian Education Committee is consistent with the federal regulations
3. Arrange for speakers and special programs.
4. Shall perform such other duties as may be prescribed by the committee from time to time.

C. Secretary

The Secretary shall:

1. Distribute to the IEC prior to the meetings the following:
 - A. The agenda prepared by the Chairperson.
 - B. The minutes of the previous committee meeting
 - C. Staff reports
 - D. Financial reports.
2. Keep the minutes of the regular, special and emergency meetings.
3. Shall provide minutes to the committee and to such other persons the committee may indicate.
4. He/She shall see that all notices are given in accordance with the provisions of these by-laws.
5. Be custodian of the committees records.
6. Keep a list of the address and telephone numbers of each committee member.
7. The secretary shall perform other such duties as prescribed by the Indian Education Committee from time to time.

D Members At-Large

1. To be present at monthly meetings
2. To participate fully in the IEC meetings
3. Perform other such duties as prescribed by the IEC from time to time.

E All IEC members must have formal authorization by action (motion recorded in minutes) to represent or speak on behalf of the IEC.

ARTICLE VI - Meetings

The Indian Education Committee shall meet not less than (___) times a year including the Annual Meeting. A majority of the members present at any meeting may adjourn the meeting. All meetings will be held using parliamentary procedures to conduct an orderly meeting. IEC meetings must be held in accordance with the school districts (contractor) meeting policies. The IEC shall vote on all issues brought before them in accordance with the approved agenda.

Section 1. Regular Meetings

- A. The date and time of the regular IEC meeting shall be the third (3rd) Monday of each month. (this can vary from IEC to IEC)

- B. Notice of the regular meetings shall be published in the local newspaper stating the date, hours and location of the meeting.
- C. IEC (monthly) packets shall be mailed to each member not less than 5 days prior to each meeting. The Monthly packets shall include:
 - 1. The Agenda
 - 2. Copy of the last IEC meeting minutes
 - 3. Staff Reports
 - 4. Financial Reports
 - 5. All regular meetings shall be open to the public.

Section 2. Special Meeting

Special meetings of the IEC may be called by the Chairperson or by a majority vote of the committee. All IEC members shall be given a two day notice by telephone of the special meeting. The IEC members must be given the purpose of the Special meeting. Agenda items must be limited to those areas of concern causing the call of the special meeting. No other items may be added or discussed during the meeting.

Section 3 Informal meetings of the IEC

Informal meetings (work sessions) are conducted when a quorum of the IEC is not established at a regular or special meetings. No formal action (motions) will be taken at any informal meeting unless by action of the IEC noted from a previous meeting where the IEC has approved the Officers to act on behalf of the IEC.

Section 4 Executive Session meeting (no minutes or recording are to be made in this session) The participants of an executive session are not to discuss or disclose the issues made known the executive session. An executive session may be called by any two members (this number can vary) of the IEC, before or during a regular IEC meeting. To qualify for an executive session, the issue must be one of the following:

- A. Personnel matters
- B. Misconduct of an IEC member
- C. Dealing with sensitive issues pertaining to program
- D. Once out of session a formal motion of action **must** be brought up at the regular meeting. (Table, vote up or down on an issue)

Section 5 Quorum: The presence of a simple majority of the committee shall be required to constitute a quorum necessary for the transaction of the business of the Indian Education Committee. No decision of the committee shall be valid unless there is a majority vote of the members constituting a quorum. (the number needed for a quorum may be any number, as long as it is stated in the by-laws. The IEC members once agree on the number for a quorum must remember that if an action is taken and they are not present to vote, they give up that opportunity to do so by the number they establish as a quorum)

Section 6 Agenda

- A. The agenda for each meeting shall be prepared by the chairperson. Individual members of the Indian Education Committee are encouraged to submit agenda items for the chairperson or present their proposals formally under the agenda item of "New Business".
- B. An item may be placed on the agenda by contacting the chairperson at least 5 days prior to the regular meeting date.
- C. In accordance with the (your state) Open Meeting Act an agenda must be posted at the place of the regular meeting at least 24 hours in advance of the meeting.

ARTICLE VII - Parliamentary Authority

The (Name) JOM Indian Education Committee will conduct their meetings in accordance with Parliamentary Procedures.

ARTICLE VIII -Amending the By-Laws

The By-Laws shall be amended only at a regular meeting by a majority vote of the members of the IEC in attendance. Provided that the amendment is to carry out the purpose and objectives of the parent committee as sited in Article III, sections 1-3. Any amendment must conform to the rules and regulations of the federal register, code of federal regulations 25 CFR, Part 273.15

ARTICLE IX - Ratification

These by-laws shall be declared adopted by the Indian Education Committee when passed by majority of the full membership of the committee at a regular meeting of the IEC.

ARTICLE X - Grievance Procedure (Option - can be made separate from the by-laws)

Grievance procedures for complaints from **(Name)** Indian students, parents and JOM staff relating to program(s) contracted under Johnson-O'Malley shall be as follows:

- Section 1 The complainant shall submit a grievance in writing to the Indian Education Committee for investigative review and action.
- A. Upon receipt of a written complaint, the IEC shall, within 15 (you pick the number of days that bests your needs) working days, make an investigation document and submit its findings to the complainant. If the complaint cannot be resolved with the specified time, the Indian Education Committee may request additional time from the complainant.
 - B. If the complaint cannot be resolved by the Indian Education Committee to the satisfaction of the complainant, the IEC shall forward the complaint with all investigative documents, findings, and /or recommendations to the School District Administration..

- Section 2** The School District Administrator shall proceed as follows:
- A. Schedule a meeting with the IEC Chairperson within 10 (you pick the number of days that bests your needs) working days after a complaint has been received.
 - B. A grievance committee consisting of: the School Administrator, IEC Chairperson and a IEC member, (or any number of IEC members) will review the complaint, investigative documents, findings, and /or recommendations.
 - C. Within 10 working days of this meeting, the School Administrator will contact the complainant to review the grievance committee disposition in resolving the complaint.
 - D. If the complainant is not satisfied, the School Administrator will forward the complaint with all investigative documents, findings, and /or recommendations to the JOM Program Manager for review and action.(you may use this if needed)
 - E. The findings of the Manager (or who ever you choose to be the final word) shall be final.

ARTICLE XI - Ratification

These By-Laws shall be declared adopted by the Indian Education Committee when passed by majority of the full membership of the committee, at a general meeting of the committee.

Theses By-Laws are approved by the **(Name)** Indian Education Committee at a regular meeting held on _____, 20__

IN WITNESS THEREOF,

Chairperson

Vice-Chairperson

Secretary

School District Representative

The signatures may included all the IEC members, the Chairperson and School District Representative or a limited number of IEC members. The bylaws must be signed and dated to be valid. Minutes of the IEC meeting where the minutes where approved must also be submitted along with the by-laws to show that the IEC voted to approve.

Definition of "in loco parentis"

This definition is provided so that tribes would have the option to allow grandparents, and other extended family members who are raising their grandchildren, nieces and nephews the opportunity to serve on the JOM parent committee. Within the Indian communities it is unlikely that extended family members have legal custody (court documentation) of the children they provide 24 hour care for. This definition is provided to offer the JOM program the ability to include those extended family members, who are the primary care givers, the responsibility to be involved in the education of their grandchildren.

In loco parentis is a Latin phrase defined as: "in the place of a parent". The English language definition is: "Acting as a temporary guardian of a child." (Black's Law Dictionary). Johnson-O'Malley Indian Education Committee members, who are exercising **in loco parentis**, should also have daily responsibility for a student's health, safety and welfare.

PARENT – The term parent includes a legal guardian or other person standing *in loco parentis* (such as a grandparent or stepparent with who the child lives, or a person who is legally responsible for the child's welfare).

The term "*in loco parentis*", according to is generally accepted common law meaning, refers to a person who has put himself in the situation of a lawful parent by assuming the obligations incident to the parental relation without going through the formalities necessary to legal adoption. It embodies the two ideas of assuming parental status and discharging the parental duties....The key in determining whether the relationship is

found is the intention of the person allegedly *in loco parentis* to assume the status a parent toward the child. The intent to assume such parental status can be inferred from the acts of the parties. Other factors which are considered in determining whether *in loco parentis* status has been assumed are (1) the age of the child; (2) the degree to which the child is defendant on the person claiming to be standing *in loco parentis*; (3) the amount of support, if any, provided; and (4) the extent to which duties commonly associated with parenthood are exercised....

The definitions of the term "*in loco parentis*" are often context specific, and no court-or regulation- has defined the term exhaustively. The presence of a biological parent in the home may foreclose another from holding the status of "*in loco parentis*."

CHAPTER 4 JOM CONTRACT-EDUCATION PLAN IMPLEMENTATION

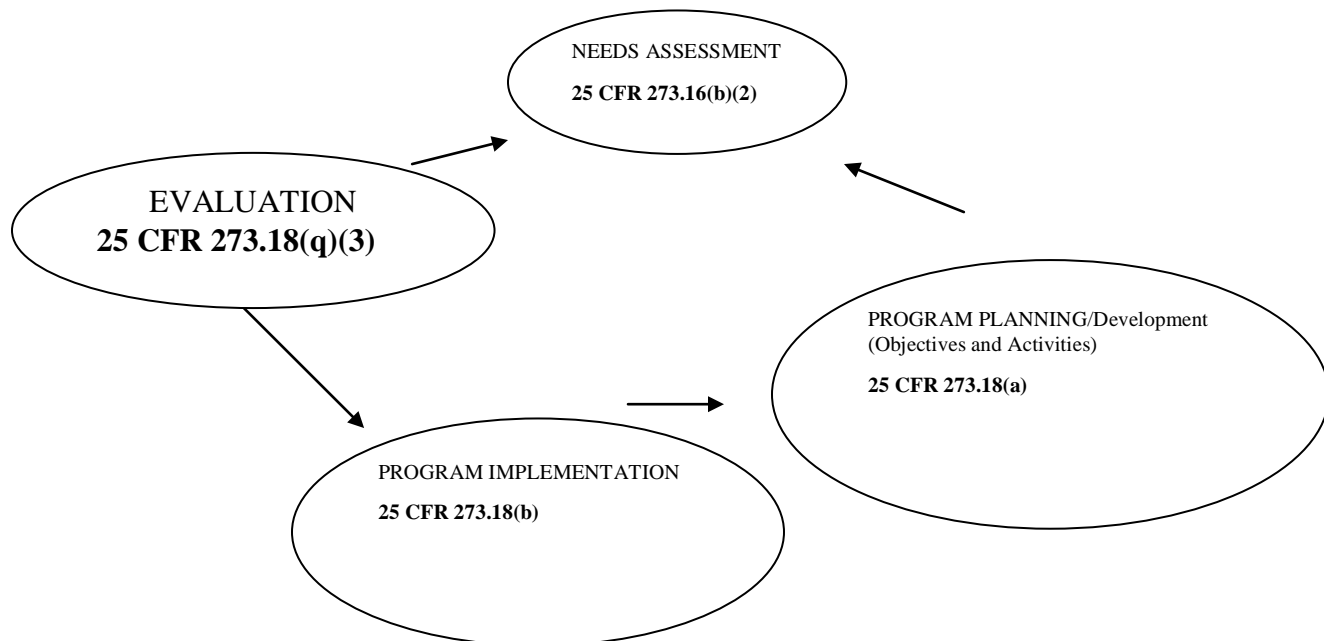
ANNUAL CONTRACT CYCLE OF PROGRAM ACTIVITIES:

The JOM contract cycle is one year beginning with award date to close of year date. There are three basic year cycles that JOM contracts follow.

1. **Fiscal Year (FY):** This is the cycle followed by the U.S. Federal Government. FY begins October 1 and ends Sept 30 a year later.
2. **Calendar Year (CY):** This CY cycle begins January 1 and ends December 31 a year later.
3. **School Year (SY):** This SY cycle begins July 1 and ends June 30 a year later.
4. **Tribal Preference:** The fourth option is open to tribal preference, e.g., one tribe may want a start date of February 1 and ends January 31 a year later; or another tribe might want a start date of November 1 and ends October 31 a year later.

A contract year award signals implementation of program and beginning expenditure of program funds. The JOM program is implemented and pre-ed plan data is gathered, pre-tests are given to assess and provide baseline data. Program supplies are purchased, travel is scheduled, staff are hired and the education plan becomes reality.

ANNUAL CONTRACT PROCEDURES



ANNUAL CONTRACT JOM EDUCATION DIRECTOR-LEADERSHIP ROLE:

The Education Director is the responsible agent for management of the contract, and pays attention to matters of implementation, accountability and documentation of progress. The Education Plan is the item of focus and its validity is always being measured by implementation progress. Even while the annual education plan is being implemented, the Education Director is cognizant of curriculum areas in need of improvement, areas of education strength and possible alternative routes that might provide improved education strategies. If the approved education plan needs to be updated or revised, approval is required by the IEC and the approved changes forwarded to the BIA/BIE Agency.

ANNUAL CONTRACT JOM INDIAN EDUCATION COMMITTEE :

In the annual contract process, the IEC provided approval/disapproval and serves in an Advisory Role to the JOM Education Director and JOM staff implementing the annual plan.

- The IEC is authorized to approve/disapprove the JOM Education Plan, the Ed Plan Budget, and Budget Narrative; submit names of qualified candidates for JOM positions to school; and suggest curriculum, texts to use in the Education plan.
- The IEC provides advisory oversight for implementation of the JOM Annual Contract and is kept informed of the progress of implementation over the span of the annual contract effective period. Annual timeline events are brought to the attention of the IEC by the JOM Education Director and decisions are made by the IEC at various points in the annual contract year.
- The IEC is an integral decision-maker in the continuous and on-going improvement and development of the JOM Education Plan of the current year and in preparation for the succeeding year contract.
- The IEC plays an integral part in development of, and implementation of the JOM Needs Assessment survey. The JOM Needs Assessment survey is not required to be conducted annually, however the IEC can specify the intervals upon which the Needs Assessment survey will be conducted to keep the education plan current with prevailing trends.
- The IEC is a critical player in development of priority goals, objectives and activities of the education plan. The IEC needs to keep in focus the scope and depth of the goals and objectives as measured with progress of achievement by eligible Indian students.
- The IEC is an integral party to the Evaluation process of the JOM Program. The evaluative data documented for the required annual report should be conducted with participation by the IEC.
- The IEC approves the Annual Report that is submitted by the JOM Education Director and is the summative evaluation document of the JOM Program contract. The annual report states the measure of student achievement and progress toward projections and outcomes of stated goals and objectives.

ANNUAL CONTRACT OVERSIGHT OF JOM ANNUAL CONTRACT

During the annual contract year, the Education Director has primary oversight responsibility for implementation of the functions and activities of the JOM program.

ANNUAL CONTRACT OVERSIGHT OF JOM PROGRAM TIMELINES

During the annual contract year, the Education Director has primary oversight responsibility for maintaining observation of program timelines for accomplishment. It is important to be cognizant of the ongoing implementation of program activities and to record the progress of meeting each timeline event.

There are required quarterly events such as submitting the Financial Status Report to the Bureau of Indian Affairs.

ANNUAL CONTRACT DEVELOPMENT OF ANNUAL EDUCATION PLAN

The Education Director is the responsible official to oversee the development of the Education Plan in conjunction with oversight and input by the IEC. The IEC plays an integral part in the development and should be informed of the progress, issues and pending activities leading up to development of goals, objectives and supporting educational activities of the JOM program.

ANNUAL CONTRACT OVERSIGHT OF JOM NEEDS ASSESSMENT

Development of a comprehensive but effective needs assessment is accomplished under leadership of the JOM Educational Director who endeavors to involve the IEC in ongoing activities by keeping them informed. The IEC should be invited to assist and have input on development of the needs assessment.

The needs assessment survey is not an annual event and the IEC can specify the intervals upon which it will be conducted.

ANNUAL CONTRACT OVERSIGHT OF JOM PROGRAM DEVELOPMENT PLANS

The Education Director has prime responsibility for developing the JOM program scope and depth. The IEC should be kept informed of ongoing program development plans.

ANNUAL CONTRACT OVERSIGHT OF JOM OBJECTIVES AND ACTIVITIES

In the annual contract year, the Education Director will need to be cognizant of the implementation of the JOM Education Plan and goals and objectives. The Ed Director may need to tweak the program activities to better fit the stated goals and objectives. It is important to keep the IEC informed of any issues with potential change of program activities should there be need to revise the Statement of Work.

ANNUAL CONTRACT EVALUATION OF JOM PROGRAM IMPLEMENTATION

At the end of the annual contract cycle the program evaluation will need to be conducted. A tally is conducted based on pre-test data and post-test data and graphs can highlight progress toward stated objectives. The IEC should be kept informed of the JOM program data and accomplishments. Program strengths and weaknesses should be visible in the assessment data. Some JOM programs have an outside evaluator conduct the assessment while other JOM programs are evaluated by Education Directors knowledgeable in statistical assessment.

ANNUAL CONTRACT JOM PROGRAM ANNUAL REPORT

An essential deliverable as stated in the annual contract, and requirement for receiving Federal JOM funds, all contracting tribes are required to submit an Annual Report detailing financial, programmatic and assessment data outcomes. Any remaining funds are identified on this report and can be carried over into the next annual contract year.

ANNUAL CONTRACT JOM SUCCESSOR ANNUAL FUNDING AGREEMENT PROCESS

Most JOM programs are ongoing Successor Annual Funding Agreements, or continuation of a successive contract year, using the same SOW and adjusted budget based on the current Federal Budget amounts. The timelines for submission of reapplication materials are stated in 25 CFR Part 900 and simply stated, 90 days before end of contract year, the Education Director submits an IEC-approved budget, usually based on previous year's program; a statement that the SOW will remain the same, and if possible, a cover letter from the tribal leadership.

END

APPENDIX A: TECHNICAL ASSISTANCE INFORMATION
FORM 1: JOM APPLICATION FORM:

Johnson-O'Malley
Application for Contract
Part I

Summary of Contents

Contract Summary

Instructions: The purpose of Johnson-O'Malley funds are to provide programs to meet the special education needs of eligible JOM children and to make available, program funding for allowable administrative and Indian Education Committee costs.

The application consist of four parts as summarized below:

PART I CONTRACT SUMMARY

Page(s)

The Summary of Contents provides a preview of the application and the forms to be completed. **1**

This page covers contractor identification, basic information, and signatures of the contractor's authorized representative, the Indian Education Committee (IEC) chairperson and JOM Manager. **2**

Privacy Act & Paper Reduction Act Statement and Service/School Locations, & Enrollment information
3

The Budget Summary / Justification page showing the consolidation of all projected program costs. The Contract
4

Administration, IEC and Program budgets provided the detailed breakdowns and justifications.
The total amounts are entered in the appropriate category of the Budget Summary.

PART II CONTRACT ADMINISTRATION

"Assurances" outlines the contractor's responsibilities in the administration of the contract. **5**

PART III PROGRAMS

Needs Assessment Priority List: This describes how the special educational needs of Indian students were assessed, **6**
priority needs identified and how these needs will be met.

Education Plan: This describes the program(s), based on the needs assessment, designed to meet the special **7**
educational needs of JOM Indian students. Should describe in detail each program component, e.g. home-school
counselor, pre-school programs, and cultural enrichment. Use additional sheets as needed.

PART IV INDIAN EDUCATION COMMITTEES (IEC)

The contractor must have an IEC that fully participates in program development and implementation. **8**
The duties are outlined in 25 CFR 273.16 and allowable reasonable costs are contained in 273.18.
Should be used to explain the IEC's activities and projected budget needs in carrying out its responsibilities.

PART V APPLICATION CHECK LIST

This section is a check list for all documents that should be attached to the Application

JOM PROGRAM

Education Contracts under Johnson-O`Malley Act
Application and Regulatory Reporting Requirement 25 CFR 273

1. Name of Public School District

Contact Person:

Title:

Address:

Address:

city state zip

Telephone _____

E-mail _____

1. Eligible Student count _____

Date submitted to: _____
JOM Office

2. Proposed Budget \$ _____

Proposed Contract Period: _____
(Months)

Ending

Sub-Contractor Certification:

The data in this application is true and correct, the document has been duly authorized by the appropriate officials of the applicant and the applicant will comply with attached assurances.

Name & Title of Authorized Representative

Signature: _____

Date: _____

Indian Education Committees:

The Indian Education Committee has participated fully in the planning and development of this contract application.

Certification of Indian Education Committee Chairperson

Signature: _____

Date: _____

FOR INTERNAL USE ONLY

To be completed by JOM Manager:
Certification:

I certify the application has been reviewed in accordance with standards set forth in CFR, Johnson-O`Malley regulations, and is hereby recommended for approval.

Date Received: _____

Date Forwarded: _____

Amount Approved: _____

Title: JOM Manager

Signature: _____

**Johnson-O'Malley
Application for Contract
PART I**

SERVICE LOCATION , PRIVACY ACT AND PAPER REDUCTION ACT STATEMENT

- a. The authority to request this information is in **Public Law 93-638**, The Indian Self-Determination and Education Assistance Act of 1975.
- b. This information is required in order to obtain supplemental educational assistance programs for eligible Indian children.
- c. The information is collected and used to determine the amount of funding to be allotted to contractors serving eligible JOM Indian students; to approve funding for supplemental programs to meet the special needs of Indian students that are in compliance with appropriate statutes and regulations.
- d. The routine use of this information is to ensure proper administration in the implementation of programs, for documentation, and accountability purposes. The effect of not providing the information would mean that Indian children would not receive supplemental education programs to meet their special needs.

~~II. Student Enrollment-Total Combined School Enrollment Indian and non-Indian (273.18(k))~~

Name of School	Ages 3 yrs.	4 yrs.	Elementary School	Jr. High School	High School	Totals
Totals						

II. Eligible Indian Enrollment

Community/ School	Ages 3 yrs.	4 yrs.	Elementary School	Jr. High School	High School	Totals
Totals						

Contract Budget Summary

Instructions: In the spaces provided below summarize the total contract budget by category. The justification should reflect the items/ services that will be purchased in that category

OCAS Code	Category	JUSTIFICATION FOR BUDGET AMOUNTS	Proposed Budget
100	Personnel/Salaries (payroll staff)		
200	Fringe Benefits		
300	Consultants/Contractual Services (non-payroll staff, cultural instructors, presenters, tutors)		
400	Purchased Property (repair and maintenance Services)		
500	Other Purchased Services (student transportation, staff travel, contracted food services, postage, telephone, printing, advertising, mileage)		
600	Supplies & Materials (office, paper products, copier supplies, student supplies, food & Milk, books, periodicals, magazines, workbooks)		
700	Property - (Equipment, audio visual, computers, furniture)		
800	Other Program cost- (dues, fees, conference Registration fees)		
800	IEC Cost (Stipend, training/ conference fees, awards Banquet, food cost, incentives, IEC travel etc..)		
		TOTAL	

JOM Committee Chairperson Date

School Administrator Date

**Johnson-O`Malley
Application for Contract
Part II**

Required Assurances Contract Administration

The contractor assures that they will comply with the statutes, regulations, and policies of the program under the Johnson-O`Malley Act and contract provisions. **(Regulations: 25 CFR 271, 273, and 276).**

- (1) All reasonable steps were taken to obtain maximum Indian participation in the development, approval, and implementation of all contracted programs herein proposed **(273.4)**.
- (2) All students counted for services are eligible. A current list of eligible JOM Indian students showing degree of Indian Blood, Grade, and Tribal affiliation will be sent to the appropriate JOM staff during student count week.
- (3) The IEC' (s) for this application have participated fully in the planning and development of this application and are vested with all powers and duties as outlined by regulation **(273.16)**.
- (4) The application as approved by the IEC will not be changed or revised without the written approval of the IEC **(273.17)**.
- (5) The education facilities where the programs are to be conducted shall be open to visits and consultations **(273.18 (g))**.
- (6) That the contract funds shall supplement, and not supplant, other funds and that use of these funds will not result in a decrease of other funds. **(273.34)**.
- (7) That other funds shall be used provide comparable services to non-Indian and Indian students, prior to the use of Johnson-O`Malley funds for the provision of supplementary program services to Indian children **(273.34, 273.41)**.
- (8) That Indian preference will be exercised in all hiring, training, and subcontracting in programs under this application **(273.45)**.
- (9) That the required public liability insurance coverage will be in effect covering programs contracted and said insurance will be applied for with this application **(273.46)**
- (10) The required record keeping system covering all required topics will be maintained for programs applied for with this application **(273.47)**.
- (11) Access to contract records and documents will be allowed to authorized representatives of the Comptroller General and the Secretary of the Interior **(273.48)**.
- (12) Access to all-confidential records will be allowed to the Indian people which the contract affects and other interested parties **(273.49)**.
- (13) A detailed annual report will be submitted to the MCN JOM office within 90 days following the ending date of each contract year **(273.50)**.
- (14) All student records and confidential records/report will be maintained following the ending date of each contract year **(273.54)**.
- (15) A current set of Indian Education Committee by-laws which meet the criteria set forth in **(273.15 (c))** has been given and reviewed with IEC members.
- (16) Records of property purchased with contract funds will be maintained.
Records of this MCN property will include description, manufacturer's serial number acquisition date and cost **(276.11 (e))**.
- (17) An annually conducted inventory of government property assigned to the contract is on file for review.
- (18) Procedures established for hearing and responding to grievances from Indian students, parents, community members and tribal representatives are attached **(273.18(c))**.
- (19) Contract funds will not be used for capital outlay or debt retirement **(273.35)**.
- (20) Attach copies of any subcontracts to be used in carrying out this contract.
- (21) Each IEC member will receive a copy of the completed application **(273.16)**.
- (22) Local school districts will be responsible to insure against lost or damaged JOM property. The school shall maintain the property in a reasonable state of repair consistent with the intended use and educational purposes **(273.44)**.
- (23) Educational needs will be assessed and prioritized by the Indian Education Committee **(273.16(b) (2))**.

- (24) School will make available standardized test scores for needs assessments.
- (25) JOM staff employed with the school district will attend all training services sponsored by the Muscogee Creek Nation.
- (26) The school district and the Indian Education Committee will participate in monitoring processes.
- (27) In compliance as a minimum requirement of the Oklahoma Open Meeting Act, all scheduled meetings for the school year shall be filed with the County Clerk. All regular and special-called JOM meeting shall be conducted on school or tribally owned property. Basic parliamentary procedures utilizing Parliamentary Procedures will be observed.
- (28) All parents of eligible Indian students may serve and participate in all IEC activities and functions of the respective school district in which their children are enrolled, regardless of residence.
- (29) In no instance shall there be discrimination against Indians or schools enrolling such Indians (273.38) (273.42) .
- (30) IEC annual elections will comply with standardized voting policies and procedures as prescribed in the Muscogee Creek Nation JOM Handbook and IEC approved governing By-Laws and is to be used by all Muscogee Creek Nation JOM contractors.
- (31) A JOM Handbook will be distributed to all JOM Schools and Indian Education Committees annually in advance of each School Program Year. The Creek Nation JOM Handbook will implement and set forth specific requirements for the administration of the Johnson-O`Malley Program. Please refer to the handbook for specific information and blank program forms.

IEC Member initial: _____

School Administration initial _____

Johnson O'Malley
Application for Contract
PART III
Needs Assessment Priority List

I. Describe the method by which the needs assessment and ranking process was carried out. Include the method of assessment of other education program services available and the involvement of the Indian Education Committee, parents, students and the Indian/Native community.

II. List the education needs of Indian students in priority order as determined by the required needs assessment.

A. Priority needs of Indian students demonstrating those needs	B. Total # of students demonstrating need:	C. Are Services other than JOM provided to address these needs?		D. Supplementary Funding source and amount	E. # of students served by Column D	F. Are these services sufficient?		G. Will JOM be used to address these needs?		H. # of JOM students served?
		yes	no			yes	no	yes	no	
1.		yes	no			yes	no	yes	no	
2.		yes	no			yes	no	yes	no	
3		yes	no			yes	no	yes	no	
4		yes	no			yes	no	yes	no	
5		yes	no			yes	no	yes	no	
6		yes	no			yes	no	yes	no	
7		yes	no			yes	no	yes	no	

Johnson O'Malley
Application for Contract
PART III

Education Plan

Instructions: Describe each program components, e.g. home school counselor, pre-school program, cultural enrichment below and on a separate sheet if needed. Enter cumulative totals on appropriate line in the Contract Budget Summary on page 5.

Name of school / pre-school/ project site: _____
 No.(#) of JOM eligible students counted: Pre-K____ K-6____ 7-12____
 No (#) of JOM eligible students to be served: Pre-K____ K-6____ 7-12____
 Length of Program: _____ to _____ (date)

1 Program and Staffing Needs	2. Educational Goals

3 Measurable Objectives	4. Activities

Application for Contract
PART IV

IEC Activities and Budget

Indian Education Committee Listing

NAME / OFFICE	ADDRESS	TELEPHONE

Instructions: The contractor **must** have an IEC that fully participates in program development and implementation. The duties are as outlined in 273.17 (c). In carrying out its responsibilities, the IEC may have activities such as regular meetings, workshops, travel cost, etc. Items numbered 5-7 will describe the activities and cost. The cost will also be entered in the Contract Budget Summary, page 4 under the OCAS 800 code

1. Describe the IEC's activities regarding the planning and development of this application.

- 2 Describe the IEC's activities regarding implementation and operation of the programs proposed in this application.

- 3 Describe the IEC's activities regarding monitoring, evaluation, and staff effectiveness for the program components in this application.

- 4 Does the contractor and IEC need training to increase the IEC effectiveness in carrying out their program responsibilities? If so, describe the type of training needed and cost that may be incurred.

- 5 List travel, meetings, and other expenses with itemized cost. (Stipend, travel, conference fees etc..)

**Application for Contract
PART V**

Application Check List

Please note that the following documents are attached to the Application or it will be considered incomplete and will not be processed.

Items Required	Complete	Not complete
1. FY ___ Needs Assessment		
a. Approving Minutes of Discussion and Prioritizing		
b. Needs Assessment Survey Form and Results		
2. Minutes Approving FY ___ Application		
3. Check Signatures on all Documents		

JOM Chairperson

JOM Coordinator

ANNUAL REPORT FORM

PAGE 1:

1. Complete all requested information:

- a. List Contractor Name, School, Tribe or IEC
- b. List Contact Person (program coordinator/director)
- c. List Contract Number (7 characters, beginning with MCN)
- d. List Address, City, State, Zip Code and Telephone Number
- e. List Contract Period

2. List all schools/project sites served

3. Signatory Authority: The individual who is authorized to sign the contract documents must sign on the line entitled, "Contractor's Representative." The report will be returned if it is not signed.

PAGE 2 - SECTION II:

1. Complete all sections for each page utilized.

2. Refer to your contract to see how many approved education plans were included in your application (include any approved modifications if the education plans were revised). If your approved application contained three (3) education plans, you will need to copy page 2 three times and complete an education plan for each component.

3. All information needed (except objectives achieved) for Section II A. (1) will come from the education plans in your approved application, including the measurable objectives. It is your responsibility to meet the objectives, as outlined in your education plan(s), and to be able to document whether or not the stated objectives were met.

PAGE 3:

Indian Education Committee Report: All sections are to be completed by the Indian Education Committee (parent committee). It is a vital component of the Annual Report. The page must be signed and dated by the IEC Chairperson. The report will be returned if it is not completed and signed by the IEC chairperson. PLEASE ATTACH IEC MINUTES SHOWING APPROVAL OF THIS ANNUAL REPORT

JOHNSON O'MALLEY ANNUAL REPORT

CONTRACTOR _____ PROGRAM CONTACT _____

PERSON _____ E-MAIL _____

ADDRESS: _____ CITY _____ STATE _____ ZIP _____

TELEPHONE: _____ FAX _____ CONTRACT PERIOD: _____

<u>SCHOOL/PROJECT SITES CONTAINED IN THIS REPORT:</u>	<u>SIGNATORY AUTHORITY:</u>
NAME ADDRESS	SIGNATURE / DATE _____
1.	SCHOOL REPRESENTATIVE _____
2.	IEC REPRESENTATIVE _____
3.	JOM PROGRAM MANAGER _____
4.	
5.	
6.	COMMENTS: FOR TRIBAL USE ONLY
7.	
8.	

JOHNSON O'MALLEY - ANNUAL REPORT

SECTION II TO BE COMPLETED FOR EACH EDUCATION GOAL AND RESPONDING MEASURABLE OBJECTIVE LISTING IN YOUR CONTRACT UNDER PART III # 6 & 7

Use additional sheets as needed.

Name of school/pre-school/project site _____

Person in charge _____

No. Of eligible students actually served Pre-K _____ K-6 _____ 7-12 _____

No. Of students actually served Pre-K _____ K-6 _____ 7-12 _____

A. (1) QUANTITATIVE EVALUATION OF EFFECTIVENESS OF PROGRAMS IN MEETING STATED OBJECTIVES.

Describe the activities that were carried out during the year to meet the objectives as outline in your approved Education Plan.

This section must include your measurable objective quantitative results showing %'s or number based statistics

GRADE

PROGRAM	LEVELS	Measurable objectives for the period covered by the contract	Objectives Achieved (explain)

Evaluation (2) If objective were not achieved or fully achieved, describe problems encountered and recommended corrective actions.
(Describe any unusual achievements or successes.)

B. Comments: (Regarding administrative, fiscal, and/or programmatic aspects)

**JOHNSON O'MALLEY ANNUAL REPORT
INDIAN EDUCATION COMMITTEE REPORT**

School/Project Site: _____ Administrator _____

Program _____ In School _____ Out of School _____

Number of Indian Education Committee members: _____

Briefly explain how the IEC was involved in the planning, implementation and evaluation of the Johnson-O'Malley programs.

Does the IEC, after receiving the annual report, recommend the continued operation of all of the Johnson O'Malley program described?

_____ Yes, (comments)

_____ Yes, with changes/alternations (explain)

_____ No, (explain)

What was the average number of IEC members who attended the Johnson O'Malley meetings? _____

How many meetings were held: _____ Dates of meetings _____

SIGNATURE: IEC Chairperson

DATE

FORM 3: JOM SELF-MONITORING/COMPLIANCE FORM 1

**JOM PROGRAM
FY 2009 JOM Contractors Program Compliance**

The Annual Contract Compliance monitor visit is to assure that each JOM Contractor is meeting reporting requirements according to 25 CFR 273 JOM Regulations and applicable state requirements. In most cases of the items listed below, copies of the item will need to be attached to the monitoring sheet for proof of compliance. A copy of the final evaluation will be forwarded to the contractor, with copies made available to the program coordinator and IEC. The monitoring instrument is only used to assure compliance and will not reflect in a dollar increase or decrease based on the findings.

Date of Monitoring	Name of School
Funding Allocation	# of Eligible Students
Name of Contact Person	Representative

yes	no	Item	Verification
Following items are mandated by federal regulations to be submitted to the JOM Program			
		a. Application (submitted by deadline, signed and dated)	
		b. Revision (submitted with corrected amount)	
		c. Bylaws (ratified within the current school year)	
		d. IEC certification form (showing IEC with HOME address)	
		e. Needs assessment form and results (Were the needs assessment results used to develop the goals and objectives?)	
		f. Annual Report (FY __ report submitted by _____) Were measurable objectives attained?	
		g. Required assurances (initialed by the IEC and Administrator)	
		h. Student eligibility requirements (transmittal form / roster finalization form)	
		i. FY 09 budget claims (submitted on a quarterly basis, expended by _____)	
The following items must be shown as relevant to the program goals and objectives			
		a. Budget summary designed using program goals and objectives?	
		b. Copy of job descriptions submitted / match educational plan?	
		c. Stated measurable objectives attainable & were they attained?	
		d. Inventory listed with description, serial #, cost, date of purchase & location	
The following minutes must be on file to show IEC approval			
		IEC minutes for approval for the following	
		a. application (minutes submitted with application)	
		b. revision (minutes showing approval of all changes)	

		c. needs assessment (minutes showing approval and results)	
		d. annual report (minutes show review and approval)	
During the Annual Program Compliance Monitor, an IEC member is required to participate and address each item listed below. Copies of requested items should be provided.			
yes	n	IEC MEETINGS:	
	o	a. IEC meeting held regularly (Copy of advertisements)	
		b. Elections held according to By-laws (Month held)	
		c. Method of advertisement of meetings (copy submitted)	
		d. Agenda, minutes, staff report and financial reports provided prior to each meeting	
		e. How did the IEC assist with the needs assessment	
		f. What IEC trainings were attended?	
		g. How did the IEC assure staff trainings / development?	
		IEC HANDBOOK:	
		a. Each IEC member provided a handbook?	
		b. Copy of FY __ Application, Budget Revision provided?	
		c. Parliamentary procedure guidelines provided?	
		d. Copy of JOM Federal Regulations?	
		e. Listing of all staff job descriptions	
		f. Officers roles and responsibilities	
		g. Oklahoma Open Meeting Act	
		h. Copy of the FY09 Annual Report	
Student Files & Records			
		a. Student files maintained and secure. (Where are they kept)	
		b. Student file system maintained (where kept)	
		c. Individual student file records include:	
		1. Grade monitoring (showing progress)	
		2. Supplies	
		3. Student involvement (tutoring, cultural activities, field trips)	
		4. Extracurricular sponsored cost / ACT fee payments	
Education Plan			
		a. Educational Goal design – were they met	

	b. Measurable Objective design – were they met	
	c. Activities designed to match Education Goal	

Monitor conducted by: _____
Date _____

School Representative _____
Date _____

IEC Member _____
Date _____

monitor form

FORM 4 JOM PROGRAM APPLICATION CHECKLIST:

SCHOOL _____ FY _____ Compliance check list

	Items to be reviewed and approved by IEC	Date submitted	comments
1	Application		
2	Revision (submitted with corrected amount)		
3	Bylaws (ratified within the current school year)		
4	IEC certification form (showing IEC with HOME address)		
5	Needs assessment form and results		
6	Annual Report (FY 09 report submitted by Nov. 13 2009)		
7	Required assurances (initialed by the IEC and Administrator)		
8	Student eligibility requirements (transmittal form / roster finalization form)		
9	FY 09 budget claims (submitted on a quarterly basis, expended by 9/30/09)		
	Questions to be asked and verified		
10	Budget summary designed using program goals and objectives?		
11	Copy of job descriptions submitted / match educational plan?		
12	Stated measurable objectives attainable & were they attained?		
13	Inventory listed with description, serial #, cost, date of purchase & location		
	IEC minutes for approval for the following		
14	application (minutes submitted with application)		
15	revision (minutes showing approval of all changes)		
16	needs assessment (minutes showing approval and results)		
17	annual report (minutes show review and approval)		
	IEC MEETINGS (To be asked of an IEC Member)		
18	IEC meeting held regularly (Copy of advertisements)		
19	Elections held according to By-laws (Month held)		
20	Method of advertisement of meetings (copy submitted)		
21	Agenda, minutes, staff report and financial reports provided prior to meeting		
22	How did the IEC assist with the needs assessment		
23	What IEC trainings were attended?		
24	How did the IEC assure staff trainings / development?		
	IEC HANDBOOK (To be asked of an IEC member)		
25	Each IEC member provided a handbook?		
26	Copy of FY 09 Application, Budget Revision provided?		
27	Parliamentary procedure guidelines provided?		
28	Copy of JOM Federal Regulations?		
29	Listing of all staff job descriptions		
30	Officers roles and responsibilities		
31	Oklahoma Open Meeting Act		
32	Copy of the FY09 Annual Report		
	Student Files & Records		
33	Student files maintained and secure. (Where are they kept)		
34	Student file system maintained (where kept)		

35	Student files: Grade monitoring, supplies, Student involvement, extracurricular activities		
	Education Plan		
36	Educational Goal design - Measurable Objective design - Activities designed to match Education Goal		

w/FY08 compliance check list

APPENDIX B SAMPLES OF JOM PROGRAM IMPLEMENTATION

SAMPLE 1 NEEDS ASSESSMENT REQUIREMENT

25 CFR Section 273.16(v)(b)(s) Make an annual assessment of the learning needs of Indian children in the community affected.

INTERPRETATION:

The purpose of a Needs Assessments is to gather information about the specialized and unique educational needs of eligible Indian students. It provides an opportunity for parents to shape the development of the JOM program that serves their students. The results for the Needs Assessment survey will be used to develop the goals and objectives for the JOM tribal program.

DEVELOPMENT OF A NEEDS ASSESSMENT

When conducting a needs assessment sufficient time and effort should be devoted to it to ensure accurate results. It does not have to be a complicated process. Needs are developed from a study of current existing data or from collected information which is specific to determining whether a particular "condition or discrepancy" truly does exist within the district. From this information a clear, concise, credible list of district needs can be objectively determined.

The following steps are guidelines for developing a survey instrument:

1. **Determine what questions you will ask.** Involve parents, teachers, and administrators in order to identify as many students specialized and unique educational and culturally related needs as possible.
2. **Decide how the survey will be designed.** Needs will be ranked from low to high; Yes/No questions; written comments.
3. **Determine how the survey will be distributed.** Mail; Group meetings; Telephone; Newspaper questionnaires; door to door; delivered through students; face to face
4. **Collect survey responses.** Organize the answers in a cumulative form in order to determine the areas with highest responses.
5. **Obtain objective information to document the existence of the needs identified.** Dropout rates; standardized test scores; pre/post testing; school grades; academic achievement levels; attendance records; number of students participating in school activities
6. **Rank needs on a priority basis.** Look at the total cost; the amount of time it will take and how much space is available to meet those needs; examine other programs in order to coordinate services under the JOM program with local, state, or Federal programs. JOM funds are to be used to supplement existing programs and to meet the specialized and unique educational, and culturally related needs. Supplanting is illegal.

Each Indian Education Committee should design a survey to gather information about the specialized and unique educational and culturally related needs of the students in the community. Each IEC should also determine the distribution of the survey and the content.

SAMPLE 2	NEEDS ASSESSMENT IMPACT
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NEEDS ASSESSMENT

The Needs Assessment survey is the essential document upon which the Johnson-O'Malley Program education plan's goals and objectives are developed. Prevailing concerns and preferences are stated as educational data received from conducting needs assessment of the community served. An effective Needs Assessment questionnaire is a key procedure to development of a strong JOM program that meets the "specialized and unique educational needs" of eligible Indian students.

To build a supportive educational program for eligible Indian students, periodic Needs Assessments are used to gather information about specialized and unique educational needs of eligible Indian students. Parent and community responses provide essential direction for the development of programs to meet specific needs. The results for the survey will be used to develop the goals and objectives for the review and official approval action of the IEC.

When planning implementation of the needs assessment survey, sufficient time and effort should be devoted to ensure accurate results. The following steps are guidelines for developing a survey instrument:

A. Determine what questions you will ask.

Try not to use leading questions such as, "Does your child need tutoring?", since the word "tutoring" leads them to think that tutoring is the limit of potential services.

B. Decide on survey format.

1. Needs will be ranked from high to low.
2. Yes or No type questions
3. Written comments

C. Determine how the survey will be distributed

1. Mail
2. Telephone
3. Door-to-door
4. Face-to-face
5. Newspaper questionnaires
6. Delivered through students
7. Group meetings/piggy-back on other meetings

D. Collect Community responses to the survey.

Organize the community responses in a cumulative form in order to determine the areas with highest responses.

E. Substantiate quantifiable (baseline) information to verify existence of needs identified by community responses.

1. Dropout rates
2. Academic achievement levels
3. Standardized test scores
4. Attendance records
5. Number of students participating in school activities (e.g. band, athletics)
6. School grades

F. Rank the community responses and organize them from top priority to lowest priority.

1. The IEC should review expressed priorities in terms of the total cost to implement a program designed to address meeting the needs. Examine the cost factors in terms of the potential allocation of time and personnel, and whether there is space and equipment available to meet those needs. If there isn't the JOM program will have to absorb the costs.

2. An option is to network with other tribal programs that may be conducive to coordinate services with the JOM Program. JOM funds should be used to supplement existing programs and to meet students specialized and unique educational and culturally related needs. Keep in mind that *SUPPLANTING IS ILLEGAL*.

SAMPLE 3. GENERIC NEEDS ASSESSMENT SURVEY

Purpose: Johnson-O’Malley funds are contracted under Public Law 93-638 Indian Self-Determination and Education Assistance Act, on a formula basis to financially assist efforts designed to meet the specialized and unique educational needs of eligible Indian students (ages 3 through Grades 12, except those enrolled in Bureau or sectarian operated schools).

Funding Information: The _____ tribe has been awarded a P.L. 93-638 contract in the amount of \$_____ effective for the period of _____ [Fiscal Year (FY)-Oct. 1 to Sept. 30; Calendar Year (CY) Jan. 1-Dec. 31; School Year (SY) July 1-June 30] to develop and implement a comprehensive plan for the programmatic and fiscal services of and accountability by the _____ tribe for the education of eligible Indian students.

LIMITATION: 273.34(a): Contract funds under this part shall supplement and supplant Federal, State and local funds..

Parents of eligible Indian Students Educational Survey:

Parents, please provide your responses, in priority, to the following questions to direct us with developing Johnson-O’Malley educational programs to meet the specialized and unique educational needs of your students. Please understand there is a limited budget and that the JOM Parent Committee will try to design next years program goals and objectives based on your following responses.

- 1. My children have the following specialized and unique educational needs:

- 2. I would like to see the JOM program provide the following for my children:

- 3. My “other” concerns for improving educational achievement are as follows

Please return this survey to the Johnson-O’Malley Program office by _____(date)_____, and your name will be placed in a drawing for a \$25 gift card.

JOHNSON-O'MALLEY STUDENT SURVEY **GRADE IN SCHOOL**_____

Please complete the following questions.

1. Do you know about the JOM program? _____ How do you know about it?

2. How would you like the JOM program to assist you?

3How important are the following items to you? Rate each item by circling the number which best indicates your feelings. A number 1 rating is low in importance and a number 5 is high in importance.

4. I need to increase skills in :		<u>Low</u>				<u>High</u>
Math	1	2	3	4	5	
Reading	1	2	3	4	5	
Writing		1	2	3	4	5
Study/Organizational Skills	1	2	3	4	5	
Science		1	2	3	4	5
Social Studies	1	2	3	4	5	

SAMPLE 5	GOALS AND OBJECTIVES
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UNDERSTANDING GOALS AND OBJECTIVES

Goals and Objectives are sometimes used interchangeably and are often confusing terms to understand. Analogies are often used to convey understanding of confusing concepts:

A ladder is a simple analogy utilized to convey meaning of goals versus objectives. The ladder is a simple tool with two long supports for evenly spaced rungs. We use ladders to overcome limitations imposed by our legs and arms. Standing on the ground level (baseline) we use a ladder to reach the roof or goal. The sequential ladder rungs provide achievable increments (objectives) that allow us reach the roof or our goal.

A similar analogy to the ladder is a football field grid where the goal area is one hundred yards marked by ten-yard increments. A football team begins one hundred yards away from their goal and through a series of plays (objectives) endeavors to transport the football to reach the end zone where they are rewarded with a goal.

WRITING GOALS-EXAMPLES:

Students will develop a clearer perception and more positive attitude toward Indians existing as a minority within a larger society, based upon facts. An accurate picture of American Indians and their contribution to American life will enable students and teachers to respect Indians as individuals and give them a deeper appreciation of their Indian heritage.

DEVELOPING A PERFORMANCE OBJECTIVE

A well constructed objective will say the same thing to everyone and show the same outcome. In other words, no surprises! To ensure that everyone is fairly together in this idea, a performance objective should include the following four parts:

WHO relates to the person to perform the activity.

DOES WHAT is that which is to be known or done.

WHEN relates to a specific point in time when something will have been learned or done.

HOW WILL IT BE MEASURED relates to assessment techniques.

OBJECTIVE:

The current year absenteeism rate of 25% for Indian high school students will be reduced by 10% by...(end of school; semester; etc.,)

ANALYSIS:

The Committee's intent to reduce the absenteeism rate is clear and the time frame for the objective is met. Now, a program can be developed to reduce the rate of absenteeism.

SAMPLE 7	CULTURAL DEVELOPMENT ACTIVITIES
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CULTURAL DEVELOPMENT ACTIVITIES

The IEC powers and duties required development of an education plan that has a variety of educational activities designed to meet the specialized and unique educational needs of Indian children. The following are just a sample of approaches. The essential task is to identify cultural skills and concepts to be acquired and develop specific activities for learning each concept. The educational plan should describe a continuous effort integrating multicultural education into the total curriculum.

1. Cultural presentations by guest speakers, tribal elders and Indians of other tribes.
2. Each classroom develops monthly displays of Indian student educational activities.
3. Field trips to local historical Indian sites: old villages; battlefields; travel routes, etc.
4. Employ classroom aides of Indian descent to provide a positive identify model.
5. Artifact Day put on by Indian students, parents and community.
6. Cultural Foods Day
7. Murals, posters, signs, sculptures and Indian artwork to enhance atmosphere of school.
8. Family tree project
9. Student generated poetry, stories, film, and songs of cultural heritage.
10. Cultural clothing projects where students would create works to be displayed in a final day.
11. Historic photo project where students use photo copies and research the background information of specific photos, i.e., location, individual name, year, photographer, other information.
12. Community/school newsletter-where students assume responsibility of gathering information, interviewing individuals, taking photographs, laying the prototype out and printing for distribution.
13. Research and compile a publication of games and recreational activities of the local tribe(s).
14. Cultural Dance and performance group/by grade or by school.
15. Cultural Language activities-publication/program on local radio station.
16. Cultural jewelry activities
17. Cultural social activity clubs
18. Field trip project-visits to other schools/grades.
19. College-bound field trips for upper grades.
20. In school Cultural Showcase-each class or club is responsible for rotating displays.
21. School museum/gift shop-where students are responsible for development and oversight.

SAMPLE 8	STATEMENT OF WORK (SOW)
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A STATEMENT OF WORK (SOW) is the written description of the contractual requirements for supplies and services.

The minimum generic language for a JOM SOW is provided in 25 CFR Part 273.1-

Purpose and scope:

The purpose of the JOM program is “*to meet the specialized and unique educational needs of eligible Indian students.*”

Conversely, the SCOPE OF WORK describes the purpose of the work; the desired end product specified in terms of:

- Goals: Targeted areas to improve
- Objectives: How areas will improve (Measurable/Performance/Behavior)
- Quantitative Evaluation: Numerical data verifying student achievement of goals

The National Johnson-O'Malley Board would like to thank you for purchasing this Handbook and that its resources will be valuable information and tools to improve your Johnson-O'Malley program.

If you have suggestions to improve the manual or wish to include your samples for others to view, please contact the NJOMA board.



