



P.L. 93-638 Indian Self- Determination and Education Assistance Act of 1975

Implementation Regulations
25 CFR *Indians* Part 900

Part 900

- Subpart A-General Provisions
- 900.1 Authority.
- 900.2 Purpose and Scope.
- (a) General. ..regulations codify... contracts.. implementing Title I of the Indian Self-Determination and Education Assistance Act.

900.2 Purpose and Scope

- (d) Freedom of Information. Access to records maintained by the Secretary is governed by the Freedom of Information Act

900.3 Policy statements.

- (a) Congressional policy. (1) ..assuring maximum Indian participation in the direction, planning, conduct and administration of educational..services to Indian communities...

900.3 Policy statements.

- (a)(5)..contracts ..shall be liberally construed for the benefit of the tribes ..to transfer the funding and the related functions, services, activities, and programs...

900.3 Policy statements.

- (a)(6) minimize ..burdensome reporting requirements. Reporting requirements over and above the annual audit report are to be negotiated with disagreements subject to declination procedures of section 102 of the Act.

900.3 Policy statements.

- (a)(8) ..self-determination contract proposals must be supported by the resolution..

900.3 Policy statements.

- (b)(1)..remove any obstacles which might hinder Indian tribes ..including obstacles that might hinder tribal autonomy and flexibility in the administration of such programs.

900.3 Policy statements.

- (b)(3) ..afford Indian tribes ..flexibility, information and discretion necessary to design ..programs to meet the needs of their communities consistent with their diverse demographic, geographic, economic, cultural, health, social, religious and institutional needs.

900.3 Policy statements.

- (b)(5) ..decisions to contract or not to contract are equal expressions of self-determination.

900.3 Policy statements.

- (b)(10) ..make available ..all administrative functions that may lawfully be contracted under the Act,...
- (11) ..regulations be liberally construed for the benefit of Indian tribes ..to effectuate ..self-determination ..

900.4 Effect on existing tribal rights

- Nothing in these regulations shall be construed as: (a) Affecting, modifying, diminishing, or otherwise impairing the sovereign immunity..enjoyed by Indian tribes;

Subpart C-Contract Proposal Contents



Subpart C-Contract Proposal Contents

900.8 What must an initial contract proposal contain?

- (a) ..full name, address and telephone number of the Indian tribe...

Subpart C-Contract Proposal Contents

900.8 (Continued)

- 900.8 What must an initial contract proposal contain?
- (d) .. authorizing resolution from the Indian tribe(s)...
- (e) The name, title, and signature of the authorized representative of the Indian tribe ...
- (f) The date of submission of the proposal.

Subpart C-Contract Proposal Contents

900.8 (Cont'd)

- (g) ..brief statement of the programs, functions, services, or activities (proposed)
 - (1) A description of the geographic service area
 - (2) .. number of Indian people who will receive the benefits ..
 - (3)programs, functions, services or activities to be contracted.
 - (4) ..description of the proposed program standards.

Subpart C-Contract Proposal Contents

900.8 (Cont'd)

- (g)(5) ..identification of the program reports, data and financial reports that the Indian tribe ..will provide, including.. frequency.
 - (6) ..description of any proposed redesign of the programs, services, functions, or activities...

Subpart C-Contract Proposal Contents

900.8 (Cont'd)

- (g)(7) Minimum staff qualifications proposed by the Indian tribe...
 - (8) A statement that the ..tribe ..will meet .. Minimum procurement, property and financial management standards...

Subpart C-Contract Proposal Contents

900.8 (Cont'd)

- (h) The amount of funds requested, including:
 - (1) ..identification of the funds requested by programs, functions, services, or activities...
 - (2) ..identification of the amount of direct contract support costs, including one-time start-up or pre-award costs ..presented by major categories such as:
 - i. Personnel;
 - ii. Equipment;

Subpart C-Contract Proposal Contents

900.8 (Cont'd)

- (h)(2) (Continued)
 - iii. Materials and supplies;
 - iv) Travel
 - v) Subcontracts; and
 - vi) Other appropriate items of cost

Subpart C-Contract Proposal Contents

900.8 (Cont'd)

- (h) ..amount of funds requested, including:
 - (3) An identification of funds.. to recover .. indirect contract support costs. This funding request must include either:
 - I. A copy of the most recent negotiated indirect cost rate agreement; or

Subpart C-Contract Proposal Contents

900.8 (Cont'd)

- (h) The amount of funds requested, including: (3)
 - (ii) ..estimated amount requested for indirect costs,..

Subpart C-Contract Proposal Contents

900.8 (Cont'd)

- (h)(4) ...any preaward costs, including the amount and time period covered..
 - (5) ..identification of programs, functions, services, or activities.. which will be funded from sources other than the Secretary.

Subpart C-Contract Proposal Contents

900.8 (Cont'd)

- (h)(5)(I) ..proposed starting date and term of the contract.
 - (k) ..extent of any planned use of Federal personnel and Federal resources.
 - (l) ..proposed waiver(s) of the regulations in this part; and

Subpart C-Contract Proposal Contents

900.8 (Cont'd)

- (h)(5)(m) A statement that the ..tribe ..will implement procedures appropriate to the programs, functions, services or activities proposed ...assuring ..confidentiality of medical records and of information relating to the financial affairs of individual Indians..

Subpart C-Contract Proposal Contents

- 900.9 May the Secretary require an Indian tribe ...to submit any other information beyond that identified in 900.8?
- No

Subpart C-Contract Proposal Contents

- 900.10 How does an Indian tribe ..secure a list of all Federal property ..in carrying out the programs, functions, services, or activities that benefit the ..tribe ..to assist in negotiating a contract?
- The ..tribe ..submits a written request..

Subpart C-Contract Proposal Contents

- 900.12 Are the proposal requirements the same for renewal of a contract and for securing an annual funding agreement after the first year ..?
- No, ..tribe ..should submit a renewal proposal ..90 days before the expiration of the contract ..

Subpart D-Review and Approval of Contract Proposals

900.15 What shall the Secretary do upon receiving a proposal?

- (a) Within two days notify the applicant in writing that the proposal has been received;

Subpart D-Review and Approval of Contract Proposals

900.15 What shall the Secretary do upon receiving a proposal?

- (b) Within 15 days, notify the applicant in writing of any missing items required by 900.8 and require that the items be submitted within 15 days of receipt of the notification

Subpart D-Review and Approval of Contract Proposals

900.15 What shall the Secretary do upon receiving a proposal?

- (c) Review the proposal to determine whether there are declination issues under Section 102(a)(2) of the Act

Subpart D-Review and Approval of Contract Proposals

900.16 How long does the Sec have to review and approve the proposal and award ..or decline..?

The Secretary has 90 days ..to review ..approve, ..award ..or decline ..

Subpart D-Review and Approval of Contract Proposals

900.17 Can the statutory 90-day period be
extended?

Yes. ..with written consent of the tribe

Subpart D-Review and Approval of Contract Proposals

900.18 What happens if a proposal is not declined within 90 days..?

....deemed approved..

Subpart D-Review and Approval of Contract Proposals

900.19 What happens when a proposal is approved?

..Secretary shall award the contract and add to the contract the full amounts of funds...

Subpart E-Declination Procedures

900.20 What does this Subpart cover?

..how and ..what circumstances the Secretary may decline a proposal..

Subpart E-Declination Procedures

900.21 When can a proposal be declined?

..within 90 days ...unless that period is
extended with the voluntary consent of the
..tribe..

Subpart E-Declination Procedures

900.22 For what reasons can the Secretary decline a proposal?

(..five specific reasons)

- (a) ..service ..will not be satisfactory;
- (b) ..protection of trust resources is not assured;

Subpart E-Declination Procedures

900.22 For what reasons can the Secretary decline a proposal? (Cont'd)

- (c) ..cannot be properly completed or maintained..
- (d) ..amount of funds proposed ..is in excess of applicable funding level..

Subpart E-Declination Procedures

900.22 For what reasons can the Secretary decline a proposal? (Cont'd)

(e) ..cannot lawfully be carried out..

Subpart E-Declination Procedures

900.25 What if only a portion of a proposal raises one of the five declination criteria?

...must approve any severable portion of a proposal that does not support a declination finding...

Subpart E-Declination Procedures

900.28 Is technical assistance available to a ..tribe ..to avoid declination?

Yes. ..Sec. Shall provide ..technical assistance to a ..tribe .., and share all relevant information ..in order to avoid declination..

Subpart E-Declination Procedures

900.28 When the Secretary declines all or a portion of a proposal, is a ..tribe ..entitled to any appeal?

Yes. ..entitled to an appeal ..and the right to engage in full discovery ..at its option the tribe ..has the right to sue ..to challenge the ..decision.

Subpart F-Standards for Tribal ..Management Systems

- 900.35 What is the purpose of this subpart?
- This subpart contains the minimum standards for ..(financial, procurement, and property) management systems used by ..tribes..

Subpart F-Standards for Tribal ..Management Systems

- 900.35 What requirements are imposed upon ..tribes ..by this subpart?
- ..tribes ..shall develop, implement, and maintain systems that meet the minimum standards

Subpart F-Standards for Tribal ..Management Systems

900.39 What is the difference between a standard and a system?

- (a) Standards (are)..minimum baseline requirements for performance of an activity.
- (b) Systems (are)..procedural mechanism and processes for the day-to-day conduct of an activity.

Subpart F-Standards for Tribal ..Management Systems

900.40 When are ..management standards and
..systems evaluated?

- (a) ..standards are evaluated ..when ..tribe
..submits an initial ..proposal.
- (b) ..systems are evaluated by an independent
auditor through the annual single audit
report ..

Subpart F-Standards for Tribal ..Management Systems

900.41 How long must ..tribe ..keep
management system records?

..tribe must retain financial, procurement and
property records for the minimum periods
described..

(a) Financial ..records ..retained for three
years..

Subpart F-Standards for Tribal ..Management Systems

900.41 How long must ..tribe ..keep
management system records?

- (b) Procurement records ..retained for three years after ..final payment and all other pending matters are closed.
- (c) Property ..records of ..transactions ..retained for three years from the date of disposition, replacement, or transfer.

Subpart F-Standards for Tribal ..Management Systems

900.41 How long must ..tribe ..keep
management system records?

(d) Litigation, audit exceptions and claims
..retained until the action has been
completed.

Standards for Financial Management Systems

- 900.42 What are the general financial management system standards ..?
- ..tribe shall expend and account for contract funds in accordance with all applicable tribal laws, regulations, and procedures.

Standards for Financial Management Systems

- 900.44 What minimum general standards apply (to) ..financial management systems..?
- The fiscal control and accounting procedures ..shall be sufficient to:
 - (a) Permit preparation of reports required by a Self-Determination contract...

Standards for Financial Management Systems

- 900.44 What minimum general standards apply (to) ..financial management systems..?
- (b) Permit the tracing of contract funds to a level of expenditure adequate to establish that they have not been used in violation of any restrictions or prohibitions..

Standards for Financial Management Systems

- 900.45 What specific minimum requirements shall ..tribe ('s) financial management system contain ..?
- (seven elements)
- (a) Financial reports. ..accurate, current and complete disclosure of the financial results..

Standards for Financial Management Systems

- 900.45 What specific minimum requirements shall ..tribe ('s) financial management system contain ..?
- (b) Accounting records. ..sufficiently detailed .. source and application of ..funds ..contract awards, obligations and unobligated balances, assets, liabilities, outlays, ..expenditures and income.

Standards for Financial Management Systems

- 900.45 What specific minimum requirements shall ..tribe ('s) financial management system contain ..?
- (c) Internal controls. ..effective..
accountability for ..funds received ..real property, personal property, and other assets furnished for used by the ..tribe..

Standards for Financial Management Systems

- 900.45 What specific minimum requirements shall ..tribe ('s) financial management system contain ..?
- (d) Budget controls. ..system shall permit the comparison of actual expenditures ..with the amounts budgeted ..

Standards for Financial Management Systems

- 900.45 What specific minimum requirements shall ..tribe ('s) financial management system contain ..?
- (e) Allowable costs. ..reasonableness, allowability, and allocability of ..costs

Standards for Financial Management Systems

- 900.45 What specific minimum requirements shall ..tribe ('s) financial management system contain ..?
- (f) Source documentation. ..canceled checks, paid bills, payroll records, time and attendance records, contract award documents, purchase orders, and .. records that support ..fund expenditures.

Standards for Financial Management Systems

- 900.45 What specific minimum requirements shall ..tribe ('s) financial management system contain ..?
- (g) Cash management. ..accurate, current, and complete disclosure of cash revenues disbursements, cash-on-hand balances, and obligations by source and application ..

Standards for Financial Management Systems

- 900.46 What requirements are imposed upon the Secretary for financial management by these standards?
- The Secretary shall establish procedures, consistent with Treasury regulations ..for transfer of funds from the United States to the Indian tribe ...

Procurement Management System Standards

- 900.47 When procuring property or services with SDC funds, can ..tribe ..follow the same procurement policies and procedures applicable to other Indian tribe ..organization funds?
- ..tribes..shall have standards that conform to the standards in this subpart. ..if different, ..identify the standards it will use..

Procurement Management System Standards

- 900.48 If the ..tribe ..does not propose different standards, what basic standards shall the ..tribe ..follow?
- (b) The ..tribe ..shall maintain written standards of conduct governing the performance of its employees who award and administer contracts.

Procurement Management System Standards

- 900.48 If the ..tribe ..does not propose different standards, what basic standards shall the ..tribe ..follow?
- (b)(2) An employee, officer, elected official, or agent of an Indian tribe ..is not allowed to solicit or accept gratuities, favors, or anything of monetary value from contractors...

Procurement Management System Standards

- 900.48 If the ..tribe ..does not propose different standards, what basic standards shall the ..tribe ..follow?
- (b)(3) These standards shall also provide for penalties, sanctions, or other disciplinary actions for violations of the standards.

Procurement Management System Standards

- 900.48 If the ..tribe ..does not propose different standards, what basic standards shall the ..tribe ..follow?
- (f) The ..tribe ..shall maintain records on the significant history of all major procurement transactions.

Procurement Management System Standards

- 900.48 If the ..tribe ..does not propose different standards, what basic standards shall the ..tribe ..follow?
- (g) The ..tribe..is ..responsible, ..for processing and settling all contractual and administrative issues arising out of procurement. ..issues ..are..source evaluation, protests, disputes and claims.

Procurement Management System Standards

- 900.48 If the ..tribe ..does not propose different standards, what basic standards shall the ..tribe ..follow?
- (g)(1) ..settlement of any protest, dispute, or claim shall not relieve the ..tribe ..of any obligations ..
- (2) Violations ..shall be referred to the tribal or Federal authority having proper jurisdiction

Property Management System Standards

- 900.51 What is an Indian tribe property management system expected to do?
..account for all property furnished or transferred ..for use ..or acquired with contract funds.

Property Management System Standards

- 900.52 What type of property is the ..system required to track?
 - (a) Personal property with an acquisition value in excess of \$5,000 per item;

Property Management System Standards

- 900.52 What type of property is the ..system required to track?
 - (b) Sensitive personal property, ..subject to theft and pilferage.. All firearms shall be considered sensitive personal property;
 - (c) Real property provided by the Secretary for use under the contract.

Property Management System Standards

- 900.53 What kind of records shall the property management system maintain?
 - ..records that accurately describe the property, including any serial number.. ..source, titleholder, acquisition date, cost, share of Federal participation in the cost, location, use and condition ..and ..date of disposal and sale price,..

Property Management System Standards

- 900.54 Should the property management system prescribe internal controls?

Yes. Effective internal controls ..include..:

- (a) For the conduct of periodic inventories;
- (b) To prevent loss or damage..
- (c) To ensure ..property is used ..until ..property is declared excess to the needs of the contract...

Property Management System Standards

- 900.55 What are the standards for inventories?

..inventory should be conducted at least once every two years. The results ..shall be reconciled with the ..organization's internal property and accounting records.

Subpart G-Programmatic Reports and Data Requirements

- 900.65 What Programmatic reports and data shall the ..tribe..provide?

..Each ..tribe ..shall negotiate ..type and frequency of program narratives and program data report(s) ..

Subpart K-Waiver Procedures

- 900.140 Can any provision of the regulations under this part be waived?

Yes. Upon the request an Indian tribe .., the Sec. Shall waive any provision of these regulations, including any cost principles adopted by the regulations under this part. ..granting the waiver is ..in the best interest of the Indians...

Subpart K-Waiver Procedures

- 900.141 How does an Indian tribe ..get a waiver?
- ..tribe..shall submit a written request to the Secretary identifying the regulation to be waived and the basis for the request. ..shall explain the intended effect of the waiver, impact ..if the waiver is not granted..

Subpart K-Waiver Procedures

- 900.142 Does an Indian tribe waiver request have to be included in the initial contract proposal?

No. Although a waiver request may be included in a contract proposal. It can also be submitted separately.

Subpart K-Waiver Procedures

- 900.143 How is a waiver request processed?
- ..Secretary shall approve or deny a waiver within 90 days...decision shall be in writing
- 900.144 What happens if the Secretary makes no decision within the 90-day period?
- ..waiver request is deemed approved

Subpart K-Waiver Procedures

- 900.145 On what basis may the Secretary deny a waiver request?
- (same criteria as 900.22)

- 900.146 Is technical assistance available for waiver requests?

Yes.

Subpart K-Waiver Procedures

- 900.147 What appeal rights are available?
 - ..tribe ..has the right to appeal decision and request a hearing on the record...
 - ..tribe ..may sue in Federal district court to challenge the Secretary's action.

Subpart L-Appeals

- Appeals other than Emergency Reassumption and Suspension. Withholding or Delay in Payment

Subpart M-Federal Tort Claims Act Coverage General Provisions

Subpart O-Conflicts of Interest

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Subpart P-Retrocession and Reassumption Procedures