

BUREAU OF INDIAN AFFAIRS ROCKY MOUNTAIN REGION



REGIONAL INDIAN SELF-DETERMINATION IMPLEMENTATION PLAN

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

BUREAU OF INDIAN AFFAIRS, ROCKY MOUNTAIN REGION

December, 2014

**PROCEDURES FOR THE IMPLEMENTATION OF DELEGATED
PUBLIC LAW 93-638 AUTHORITY
ROCKY MOUNTAIN REGION**

**BUREAU OF INDIAN AFFAIRS
INDIAN SELF-DETERMINATION SERVICES
ROCKY MOUNTAIN REGIONAL OFFICE
IMPLEMENTATION PLAN**

1.0 Purpose and Background: The purpose of the Rocky Mountain Regional Office (RMRO) Indian Self-Determination Services Implementation Plan (hereinafter referred to as “Plan”) is to provide implementation procedures for Public Law 93-638 contracting. This Plan establishes and outlines the relationship between the RMRO Branch of Indian Self-Determination and the Agency Indian Self-Determination Offices (hereinafter referred to as “Agencies”).

1.1 Plan: The Rocky Mountain Region, will provide the maximum delivery of customer service and technical assistance in the processing of Public Law 93-638 contracts submitted by Tribes/Tribal Organizations within the Region’s jurisdiction, following all applicable laws, regulations, and policies to ensure sound management control and business decisions. Tribes and Tribal Organizations within the Region:

Funds Center	Tribes/ Tribal Organization
AACC51201T	Blackfeet
AACC52202T	Crow
AACC55204T	Fort Belknap
AACC56206T	Fort Peck
AACC57207T	Northern Cheyenne
AACC57207T	Dull Knife Community College
AACC58280T	Shoshone and Arapaho Tribes Joint Business Council
AACC58281T	Northern Arapaho
AACC58281T	Sky People Higher Education
AACC58282T	Eastern Shoshone
AACC59205T	Rocky Boy's Chippewa Cree

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1.2 Transfer of Responsibilities: The following actions shall be taken to properly implement 3 IAM Chapter 4:

- a. Delegation of Authority to Approve and Decline Contract Proposals: The Regional Director may delegate to the Agency Superintendents, the authority to approve and decline all proposals to contract programs, services, functions, activities or portions thereof within the their area of jurisdiction. This may include construction agreements and discretionary grants except those grants awarded under the authority of Public Law 100-297.
- b. Authority to Award Contracts/Grants: Authority to award all agreements rests with the Regional Director, Bureau of Indian Affairs. Upon recommendations from Regional Director and Agency Superintendents those individuals designated shall follow the procedures to become a certified awarding official. These procedures are outlined in 13 IAM Chapter 3 and Chapter 4, and the Indian Self-Determination "Delegation of Authority Handbook" attachment no. 3.

1.3 Residual Regional Office Functions: The following functions and responsibilities shall remain at the Regional Office:

- a. Construction Contracts, Office of Justice Services and specific Discretionary Grants: The Regional Office shall continue to review, approve or decline, award, administer, and ensure close out of all construction contracts, OJS Contracts and specific Discretionary Grants under the Act. In addition, the Regional Office shall be responsible for providing coverage of awarding official duties when a vacancy occurs at an agency with delegated authority
- b. Contract Support Management: The Regional Office shall continue to administer the Regional Contract Support Costs (CSC) fund for all Agencies and shall coordinate the collection of pertinent contract funding data necessary to formulate the Regional CSC projections. The Regional Office shall ensure timely and equitable distribution of CSC to the Agencies. Agencies shall provide information as appropriate to ensure full participation in the forecasting of the annual projections; and timely distribution of the CSC.

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The Regional Office shall distribute CSC amounts based on the reported needs to the Agencies concurrently with the allocation of direct program funds, or at the time of tentative distributions, whichever occurs first.

- c. Training and Technical Assistance: The Regional Office shall provide necessary technical assistance to ensure successful implementation of the delegated authority. As such, assistance may occasionally be requested by the Agencies for technical support services and advice on all matters relating to delegated authority, such as review of contract proposals for trust and other specialized programs, and on-site training and assistance in preparing contract modifications and amendments.

Additional assistance for Awarding Officials Technical Representative (AOTR) duties in monitoring the contracted programs may be necessary where technical expertise is non-existent at the Agencies.

- d. Management Reviews: To ensure successful implementation of delegated authority, the Regional Office shall provide routine monitoring and oversight of the Agency's performance in accordance with A-123 monitoring requirements and in accordance with an established schedule to be negotiated at a later time, or as may be requested from time to time by the Agencies.

The Regional Office management review team shall, upon completion of each monitoring visit, conduct exit interviews with each Agency Superintendent and provide a written report. The report shall contain findings and recommendations for corrective action or improvement. Each report shall contain an offer of technical assistance.

The Bureau Line Officer/Superintendent shall be responsible to take corrective action(s) as identified in the report.

- 1.4 Agency Functions and Responsibilities:** In compliance with 13 IAM, Chapter 2, Agency Superintendent, shall prepare an Agency Implementation Plan. As part of the Plan develop internal operating procedures for review, award, administration and close out of all non-construction contracts.

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Attachment No. 2, entitled Processes and Procedures herein satisfy the requirements of the Rocky Mountain Regional Office Implementation Plan develop in accordance with 13 IAM Supplement 2 Release No. 122 issued August 10, 2006. This document will serve as the agencies within Rocky Mountain Region's Implementation Plan.

The procedures shall be designed to provide for the most effective and efficient processing of contract documents, and to ensure:

- a. Separation of Duties: Separation of key duties and responsibilities in authorizing, processing, recording, and reviewing contract transactions which are role mapped through the Federal and Business Management System (FBMS).

- b. Waste Fraud and Abuse: Compliance with the OMB Circular A-123 to ensure appropriate management controls are in place to protect against fraud, waste, mismanagement, or misappropriation. Control system will provide for adequate:
A) documentation; B) recording of transactions and events; C) execution of transactions and events; D) separation of duties; E) supervision; and F) access to and accountability for resources.

- d. Maintenance of Contract Files: Agencies shall maintain original files of all non-construction contracts in full compliance with all applicable laws, regulations, policies and procedures.

- e. Required Training for Approving Officials: Approving Officials are required to take a minimum of one training course relating to the following subjects: (1) Delegation of Authority; and (2) Approving Official Training; and Basic 638 Law and Regulations. Courses are provided and scheduled through the BIA 638 training brochure.

- f. Vacant Self Determination Specialist position: When an Agency Self Determination position becomes vacant, a decision must be made between the Regional Director, Superintendent and Senior Awarding Official as to who will provide the awarding official responsibilities.

- g. Federal Business Management System: It should be noted that the mandated system to complete 638 obligations and modifications is the Federal Business

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Management System. The ability to access FBMS is structured to how the individual is role-mapped, and completion of required FBMS training.

(1) Role Mapping Access for Awarding Officials. Completion of the User Access Request (UAR) form is required for access. This form is initiated by the user and the Superintendent. Once completed the UAR form must be forwarded to the Senior Awarding Official for concurrence and to verify that the user is eligible for the roles being requested. The Senior Awarding Official will forward the form to the Regional UAR Coordinator for final processing.

(2) Role Mapping Access for Requisitioners, Fund Certifiers and Supervisor Approval. Due to the mechanics of FBMS, agencies need to maintain sufficient staff that can access and manage the workload needs for obligating funds to their respective tribe's 638 contracts.

1.5 Awarding Official Certification and Professional Oversight: The self-determination acquisition function and activity is viewed as a professional discipline by the Bureau in its personnel management operations. Accordingly, standards have been established to classify self-determination acquisition positions, and to recruit, select and retain those persons who exercise their knowledge, skills and abilities appropriately as self-determination acquisition specialist. Further the Certification System imposes additional requirements for knowledge, training, performance and experience in order to designate and certify personnel as Awarding Officials, who have the authority to sign and award legal instruments in the name of the Bureau.

Bureau employees who serve as (Certified) Awarding Officials may receive their administrative supervision from non-self-determination officials. However, professional supervision and technical direction in self-determination acquisition-related policies and procedures must be limited, in practice, solely to those individuals who have the professional education, training and experience associated with the specific personnel classification series in self-determination acquisition management. Thus, regardless of duty station or location, a (Certified) Awarding Official receives professional direction and assistance from the senior (Certified) Awarding Official serving the jurisdiction. It is this latter official who will exercise the major control on the self-determination acquisition authority and its employees within each Bureau Region.

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1.6 Delegation of Authority Documents

Attachment No. #1. Memo – This memorandum shall be used when delegating authority.

Attachment No. #2. Agency Implement Plan Processes and Procedure

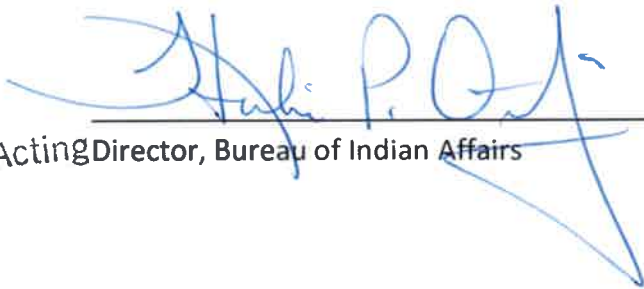
Attachment No. #3. Indian Self Determination Delegation of Authority Handbook



Regional Director, Rocky Mountain Region



Date



Acting Director, Bureau of Indian Affairs



Date

AGENCY IMPLEMENTATION PLAN PROCESSES AND PROCEDURES

2.1 Designation of Key Officials – Separation of Duties. The following officials are designated to provide for distinct separation of key duties and responsibilities in authorizing, processing, recording, and reviewing transactions involved in the contract approval and award process.

A. Approving Official. The Approving Official shall be the Agency Superintendent. The responsibilities and duties of the Approving Official include, but are not limited to:

- (1) Determines the contractibility of a program, service, function, activity or portion thereof, identifying potential declination and/or trust protection issues.
- (2) Ensure that within two days of the receipt of a proposal, the applicant is notified in writing that the proposal has been received.
- (3) Ensure the contract application is reviewed to determine that all items required by 25 CFR Part 900, Subpart C, 900.8 and/or 900.12 have been submitted.
- (4) Ensure that within 15 days the applicant is notified in writing of any missing items required by 25 CFR Part 900, Subpart C – 900.8 or 900.12 and request that the items be submitted within 15 days of receipt of the notification.
- (5) Ensure the proposal is reviewed to determine whether there are declination issues under Section 102(a)(2) of the Act and 25 CFR Part 900, Subpart E. If declination issues exist, ensure technical assistance is provided to overcome the stated objections in accordance with Section 102(b) of the Act, and 25 CFR Part 900, Subpart E.
- (6) Determine the applicable funding level for the contract in accordance with Section 106(a) of the Act.
- (7) Ensure that within 90 days after receipt, the proposal is reviewed, approved, and awarded or is declined in compliance with Section 102 of the Act and 25 CFR Part 900, Subpart E.

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- (8) Ensure compliance with appropriation law and use of appropriated funds.
- (9) Ensure the timely and effective transfer of Federal Government contracted responsibilities and funding to the tribal government.
- (10) Ensure the timely and effective return of Federal Government responsibilities in accordance with 25 CFR Part 900, Subpart P in the event of retrocession and re-assumption.

B. Awarding Official. The Awarding Official shall be the Self-Determination Specialist. The Awarding Official designation is delegated by the Regional Director to the Self-Determination Specialist. The delegated authority is limited to non-procurement non-construction contracts entered under the Act; and does not include construction contracts, discretionary grants under Section 103 of the Act, and Title IV, Tribal Self-Governance compacts of the Act. The authority of such delegation is stated in the memorandum of delegation of authority to award and modify non-procurement and non-construction contracts under Public Law 93-638, the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 b (j)), as amended. The responsibilities and duties of the Awarding Official include, but are not limited to:

- (1) Negotiates, awards contracts, and contract modifications or amendments within 30 days of receipt of the approval letter signed by the Agency Superintendent (Approving Official).
- (2) Executes the obligation of the contract action by:
 - (a) Attaching an Financial Business Management System (FBMS) Entry Document (FED) showing that funds are available on an attached budget addendum to the signed SF-26 award document or SF-30 modification document for signature of the Budget Official certifying that funds are available.
 - (b) Preparing a Purchase Requisition (PR) for entry into the FBMS by the ACQ Requisitioner (ACQ_REQ).
 - (c) Purchase Requisition is approved and certified by the ACQ Certifying Funds Approver (ACQ_CFA) and ACQ PR Approving Official (ACQ_AO).

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- (d) Approved Purchase Requisition is assigned to the Financial Assistance Agreements Officer (FA_AGO) or Financial Assistance Grants Specialist by the ACQ Expediter (ACQ_EXP) in PRISM.
- (e) The FA_AGO releases award or modification in PRISM upon receipt of tribal authorization.
- (3) Ensures the transactions are properly documented by maintaining the official contract file.
- (4) Complements the technical knowledge of program officials with expertise in business and other administrative areas, such as adequacy of the tribal organization's plans to accomplish contract objectives and to comply with program requirements, evaluation of the quality of tribal organization's performance and availability of funds.
- (5) Ensures compliance with all appropriate laws, rules, regulations, policies, and procedures.
- (6) Issues correspondence involving business management aspects of contracts.
- (7) Exercises contracting authority as otherwise established in law, regulations, manuals, and this supplement.
- (8) Implements applicable policies and procedures.
- (9) Provides assistance, consultation, and training to program officials and tribal organizations.
- (10) Represents the Federal Government on contract management matters before the public, in litigation, and in administrative appeals.
- (11) Reviews and evaluates business management aspects of applications to assure compliance with applicable regulations and policies.
- (12) Negotiates cost-schedule, Federal Government oversight and review, and administration of fiscal terms and awards.

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- (13) Prepares, issues, and tracks awards; certifies that all legal, regulatory and policy requirements are met, and certifies that award amounts are accurate and appropriate.
- (14) Tracks, reviews and analyzes post award actions; identifies and resolves management and administrative problems that arise during performance.
- (15) Advises the tribal organization of any violation of the contract terms and provisions and promptly brings the matter to the attention of the Approving Official if the tribal organization fails or is unable to correct or stop the violation.
- (16) Reviews any proposed modifications initiated by the tribal organization and furnishes recommendations regarding their costs, need, etc.
- (17) Ensures vendors and/or contractors (tribes/tribal organizations) are registered in the System for Awards Management (SAM) and the Automated Standard Application for Payments (ASAP)
- (18) Reviews contracts for compliance with reporting. Tracks and reviews SF-425, Quarterly Financial Reports and annual monitoring reports.
- (19) Reviews contract progress reports for approval or disapproval.
- (20) Ensures that all accountable real and personal property purchased with contract/grant funds or provided as Federal Government furnished property are accounted for, tagged, and inventoried annually, as well as ensure that laws, regulations, departmental and Bureau directives are followed in the excess and disposal processes.
- (21) Acts as consultant to the tribal organization on management and administrative matters through site visits and other management assistance services; and initiates formal action when necessary to protect the Federal Government's interests.
- (22) Initiates independent audits, as warranted.
- (23) Ensures timely resolution of audits and the Single Audit Act, as well as ensures follow-up actions are taken. Issues timely management decisions relating to Single Audit Reports.

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(24) Serves as Property Officer (both real and personal property) to ensure proper certification of annual inventories, utilization and disposal procedures for excess real and personal property according to applicable laws and regulations. Certification of Federal Government furnished property for tribal organization use and donation of excess property in the performance of the contract.

(25) Reports contract awards and modifications in compliance with the Department of Interior reporting system for P.L. 93-638 contracts and grants as required by BIA, as appropriate.

(26) Conducts final reviews of completed contracts, makes adjustments or appropriate disallowances, ensures proper disposition of property, and formal closeout of contracts.

(27) Prepares and executes determination and findings.

(28) Designates a representative(s) to serve as the Awarding Official's Technical Representative (AOTR) and the Subordinate Awarding Official's Technical Representative (SAOTR) if needed.

C. Awarding Official's Technical Representative (AOTR). Designation(s) of Awarding Official's Technical Representative (AOTR) shall be specific to an individual, and not by position, and shall be appointed by the Awarding Official. The Agency Office program staff, in most instances, shall be appointed as the AOTR. These appointed positions are an extremely important aspect of the contract management team that will be responsible for the successful administration and completion of all P.L. 93-638 contracts. Duties and responsibilities of the AOTR shall include, but are not limited to the following:

- (1) Become thoroughly familiar with the terms and conditions of the contract.
- (2) Prepares a plan for monitoring the contract and submit it to the Awarding Official within 45 calendar days of receipt of the designation memorandum.
- (3) Recommends resolution of questions of fact with regard to quality and acceptability of work performed when determining compliance with the terms and provisions of the contract.

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- (4) Advises the tribal organization of any violation of the contract terms and provisions, and promptly brings the matter to the attention of the Awarding Official if the tribe or tribal organization fails or is unable to correct or stop the violation.
- (5) Reviews any proposed modifications initiated by the tribe or tribal organization and furnishes recommendations regarding their cost, need, etc., to the Approving Official and Awarding Official.
- (6) Maintains a working contract file.
- (7) Submits semi-annual narrative reports for term contracts and annual narrative reports for mature contracts.
- (8) Reviews contract progress reports and recommends approval or disapproval to the Awarding Official.
- (9) Ensures that all accountable real and personal property purchased with contract funds or provided as Federal Government furnished property are accounted for, tagged, and inventoried annually, and ensures that laws, regulations, departmental and Bureau directives are followed in the excess and disposal processes.
- (10) The responsibilities as AOTR cannot be re-delegated during the appointee's absence; however, the duties can be re-delegated to a person who is acting for the AOTR. The appointee is not authorized to take any of the following actions:
 - (a) Enter into supplemental agreements.
 - (b) Suspend work or issue change orders (modifications).
 - (c) Grant extensions of time for any reason.
 - (d) Modify the terms and conditions or provisions of the contract.
 - (e) Commit the Federal Government (Awarding Official) in any manner.

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- (f) Terminate in whole or part the contractor's right to proceed with any part of the work covered by the contract.
- (g) Make a final decision that is subject to appeal under the Contract Disputes Act.

D. Budget Official. The Budget Official shall be responsible for ensuring the validity of funding authority and the availability of funding to prevent deficiency as defined by the Anti-Deficiency Act, 31 U.S.C. Section 1341.

2.2 Agency Review and Approval of Contract Proposals. The Agency Superintendent has 90 days after receipt of proposal to review and approve the proposal and award the contract or decline the proposal in compliance with Section 102 of the Act and 25 CFR Part 900, Subpart E. At any time during the review period, the Agency Superintendent may approve the proposal and notify the Awarding Official to award the requested contract. Upon the approval by the Agency Superintendent, the Awarding Official shall award the contract and add to the contract the full amount of funds to which the contractor is entitled under Section 106(a) of the Act. A proposal that is not declined within 90 days (or within any agreed extension under 35 CFR 900.17) is deemed approved and the Awarding Official shall award the contract or any amendment or renewal and add to the contract the full amount of funds pursuant to Section 106(a) of the Act. To ensure that action on the proposal is taken within the 90 day period, there is hereby established an Agency Review Committee. The membership of the Review Committee and their responsibilities shall be as follows:

A. Review Committee. The Review Committee shall be responsible for conducting technical review of the contract proposal and shall make appropriate recommendations to the Approving Official to ensure sound decisions are made. The membership of the Review Committee shall consist of the Agency Superintendent, Deputy Agency Superintendent – Trust Services, Supply & Property Management Specialist, Program AOTR, and Self-Determination Specialist. The Self-Determination Specialist shall serve as the Chairperson of the Committee. The responsibilities and duties of the Review Committee include, but are not limited to:

- (1) The Chairperson of the Review Committee shall serve as the official recipient of all initial and renewal contract proposals.

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- (2) The Chairperson of the Review Committee shall within two days of the receipt of an initial or renewal contract proposal prepare a letter for the Approving Official's signature, notifying the applicant that the proposal has been received.
- (3) The Chairperson of the Review Committee shall within ten days of receipt of a contract proposal convene the Review Committee to review the proposal and:
- (a) Determine that the program plan and design of the tribal organization for the contract operation of the Bureau of Indian Affairs' program or portion of the program are consistent with the applicable part(s) of Title 25 CFR. If the tribal organization proposal contains a request for a waiver of any provisions of the appropriate regulations ensure that the requirements contained in Title 25 CFR Part 900, Subpart K are met. If it is determined that items required by 25 CFR Part 900, Subpart K are missing, state the specific items and cite the specific regulatory requirement for the missing items.
 - (b) If the proposal being reviewed is an initial contract proposal, determine that all items required by 25 CFR Part 900, Subpart C, 900.8 have been submitted. If it is determined that items required are missing, state the specific items and cite the specific regulatory requirement for the missing items.
 - (c) If the proposal being reviewed is a renewal contract proposal, determine that all items required by 25 CFR Part 900, Subpart C, 900.12 have been submitted. If it is determined that items required are missing, state the specific items and cite the specific regulatory requirement for the missing items.
 - (d) Determine whether there are declination issues under Title 25 CFR Part 900, Subpart E. If it is determined that declination issues exist, state specific objections, and provide with specificity what shall be required of the tribal organization to overcome the state objectives.
- (4) If the review of the Committee determines that the proposal meets all the requirements contained in (A)(3)(a) through (c) above, and pursuant to (A)(3)(d) above determines that no declination issues exist, the Chairperson of the Review Committee shall within 15 days of the receipt of the proposal prepare a letter for the Approving Official's signature, notifying the Awarding Official that the proposal is approved and to negotiate and award the contract within 30 days of the receipt of the notification. The Chairperson of the Review Committee shall immediately mail a copy of the signed approval letter to the recipient.

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(5) If the review of the Committee determines that the proposal is incomplete and does not meet all the requirements contained in (A)(3)(a) through (A)(3)(c) above, and/or that pursuant to (A)(3)(d) determines that declination issues exist, the Chairperson of the Review Committee shall within 15 days of the receipt of the proposal, prepare a letter for the Approving Official's signature notifying the applicant of the deficiencies and request that the required items be submitted within 15 days of the receipt of the notification. The notification to the applicant shall provide the following specific information and offer technical assistance to overcome the deficiencies.

(a) A listing of all missing items required by Title 25 CFR Part 900, Subpart K, and/or Title 25 CFR Part 900, Subpart C, 900.8 or 900.12 with a citation of the specific regulatory requirement for each missing item.

(b) A listing of all declination issues found pursuant to Title 25 CFR Part 900, Subpart E with specific citations for each stated objection and shall provide with specificity what is required of the tribe or tribal organization to overcome each of the stated objections.

(6) If the information requested under (A)(5) above is submitted by the applicant within the requested 15 days of the notification, the Chairperson of the Review Committee shall convene the Review Committee to review the additional documents submitted by the tribe or tribal organization, and recommend approval or declination of the proposal to the Approving Official.

(a) If the review of the Committee determines that the proposal meets all of the requirements contained in (A)(3)(a) through (c) above, and the tribe has overcome all stated declination issues, the Chairperson of the Review Committee shall prepare a letter for the Approving Official's signature, notifying the Awarding Official that the proposal is approved and to negotiate and award the contract within 30 days of receipt of the notification. The Chairperson shall immediately mail a copy of the signed approval letter to the applicant.

(b) If the information requested under (A)(5) above was requested to overcome stated declination findings, and the review of the Committee recommends that all or a portion of the proposal be declined, the Chairperson of the Review Committee shall prepare a letter for the Approving Official's signature, advising the applicant:

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(1) Of the objections, including a specific finding that clearly demonstrates that (or that is supported by a controlling legal authority) one of the conditions set forth in 900.22 exists, together with a detailed explanation of the reason for the decision to decline the proposal and provide any documents relied upon in making the decision.

(2) Of the applicant's rights described in 900.31.

(3) That technical assistance is available to overcome the stated objections as described in 25 CFR, 900.30.

2.3 Internal Controls. The Agency Superintendent, the key officials designated pursuant to Section 2.1 and the Review Committee members designate pursuant to Section 2.2 shall ensure that:

A. Documentation. All transactions and other significant events are clearly documented and the documentation is readily available for examination.

B. Recording of Transactions and Events. All transactions and other significant events are promptly recorded and properly classified.

C. Execution of Transactions and Events. All transactions and other significant events are authorized and executed only by persons acting within the scope of their authority.

D. Access to and Accountability for Resources. Access to resources and records is limited to authorized individuals.

2.4 Evaluation of Agency Performance.

A. Responsibility. The Regional Director and Agency Superintendent are responsible for reviewing the Agency's performance and implementing any corrective action to ensure compliancy with the delegate authority.

(1) **Regional Director.** The Regional Director shall be responsible for conducting management reviews of Agency performance under the delegated authority and shall prepare a report outlining his findings and recommendations to the Agency Superintendent. This review shall be conducted in accordance with the Rocky Mountain Regional Office specific

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implementation plan. Upon completion of the management review, the Regional Director shall prepare a summary report to the Director of Indian Services containing, at a minimum, a status of the delegation of authority.

(a) Such report shall include evaluation methodology, tribal input, successes and problems, as well as Regional Office recommendation for permanency of programs for further Bureau of Indian Affairs implementation.

(b) The Regional Director, or Regional Self Determination Officer, or the designee of the Regional Director shall conduct an independent evaluation of the delegate Agency.

(2) Agency Superintendent. The Agency Superintendent shall be responsible for preparing and implementing a corrective action plan to ensure correction of deficiencies identified in the administrative management review, if warranted.

B. Factors. The scope of the management review shall include, but not be limited to an evaluation of the following factors:

(1) The application review and award process in compliance with 25 CFR Part 900.

(2) A random sample of contracts and actions for proper budget certification and fund authority.

(3) A random sample of personal property inventory for accountability.

(4) Proper separation of duties, internal controls, and independence of decision making.

(5) Compliance with the designated duties and responsibilities by key officials, including budget and finance officials.

(6) Compliance by the tribal organization with the terms and conditions of the contracts awarded.

(7) Maintenance of contract files in accordance with 19 BIAM, Supplement 14 as well as 16 BIAM.

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- (8) A review of the determination and findings of the Awarding Officials.
- (9) Any matter which may pertain to waste, fraud, or abuse; and/or conflicts of interest.
- (10) Existence of any inappropriate influence on the Approving Official and/or Awarding Official.
- (11) Compliance with other applicable special approval and clearance requirements.
- (12) Adequacy of training and staffing.
- (13) Response and follow-up to audit findings.
- (14) Workload of the Awarding Official.
- (15) Tribal assessment of the Agency's performance of the delegated authority.

2.5 Technical Assistance. The Regional Director shall be responsible for providing requested or recommended technical assistance to the Agency.

2.6 Service Benefits. The Agency Superintendent shall conduct an annual survey of services performed and benefits associated with the implementation of the delegated authority and report findings to the Regional Director in accordance with the Regional Office specific implementation plan.

2.7 Effective Date. This procedures manual shall be effective on the date signed by the Agency Superintendent and the Regional Director. Its provisions shall remain in effect until it is amended, superseded, or revoked by the Agency Superintendent and the Regional Director.

**BUREAU OF INDIAN AFFAIRS
OFFICE OF INDIAN SERVICES**

INDIAN SELF-DETERMINATION

**“Delegation of Signature Authority”
Handbook**

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1. GENERAL

1.1 Purpose. The purpose of this Handbook is to establish procedural requirements to implement the delegation of self-determination contract signature authority within the Bureau of Indian Affairs. This includes the delegation of authority to Bureau of Indian Affairs line officers as Approving Officials to approve or decline self-determination contract proposals. It also includes delegation of authority to specific employees as Awarding Officials to award, modify, and perform all other functions in the administration of contracts, including construction contracts, and to make determinations and findings in respect thereto, under Public Law 93-638, the Indian Self-Determination and Education Assistance Act of 1975 (25 USC §450, et seq; 88 Stat. 2203), as amended (Act). This delegation includes the authority to approve, award, modify, and perform all other functions in the administration of self-determination grants. This Handbook does not address Self-Governance Compacts under Title IV, Tribal Self-Governance (Department of the Interior) or Titles V and VI, Tribal Self-Governance (Department of Health and Human Services) of the Act.

1.2 Policy.

A. Federal Policy. The self-determination policy inherent in the Act is to end Federal Government domination of Indian programs and services whereby Indian tribes may assume control over federal programs and services by contract. This does not mean Indian tribes will be forced into contracting. In the final analysis, the decision must rest with Indian tribes. The policy is also based on the premise that Indian participation in the design of federal programs and services will make those programs and services more responsive to the wants, needs, and desires of the Indian people. The essence of the self-determination policy is that Indian actions and Indian decisions shall determine the Indian future.

B. Bureau Policy. It is the policy of the Bureau of Indian Affairs to provide for maximum delegation of authority to the service delivery level while ensuring full compliance with all applicable laws, regulations, and policies to ensure sound management control and business decisions.

1.3 Scope.

A. This Handbook shall be used to implement the authorities delegated in 3 IAM and its related bulletins.

B. Prior to implementing this authority each Regional Office shall prepare an "Implementation Plan" in accordance with Section 2.2A and B of this Handbook.

1.4 Authority. Public Law 93-638, the Indian Self-Determination and Education Assistance Act of 1975, dated December 4, 1975 (25 U.S.C. §450, 88 Stat. 2203), as amended by Public Law 100-472, the Indian Self-Determination and Education Assistance Act Amendments of 1988, dated October 5, 1988 (102 Stat. 2285), Public Law 101-644, Title II, the Indian Self-Determination and Education Assistance Act Amendments of 1990, dated November 29, 1990 (104 Stat. 4662), Public Law 103-413, the Indian Self-Determination Act Amendments of 1994, dated October 25, 1994 (108 Stat. 4250), and Public Law 106-260, Tribal Self-Governance Act of 2000, dated August 18, 2000 (114 Stat. 713 - 732). The Act, as amended, is composed of the following titles:

- 1) Title I - The Indian Self-Determination Act;
- 2) Title II - The Indian Education Assistance Act;
- 3) Title III - Tribal Self-Governance Demonstration Project; and, (Repealed)
- 4) Title IV - Tribal Self-Governance (DOI).
- 5) Title V - Tribal Self-Governance (DHHS).
- 6) Title VI - Tribal Self-Governance (DHHS).

Funds are appropriated pursuant to the Snyder Act of November 2, 1921 (25 U.S.C.A. §13), and Acts subsequent thereto and regulations promulgated to implement Pub. Law 93-638, as amended, cited in 25 CFR, Chapter I, Subchapter M, Parts 273, 275 and 276, and 25 CFR, Chapter V, Part 900, Subparts A - P.

2. PROCESSES AND PROCEDURES

2.1 Definitions. Unless otherwise provided, the following terms shall mean:

A. "Act" means Public Law 93-638, the Indian Self-Determination and Education Assistance Act of 1975, as amended (25 USC §450, et seq.; 88 Stat. 2203).

B. "Approving Official" means Bureau of Indian Affairs line officers (i.e. Regional Directors, Regional Education Program Administrators, Agency Superintendents, Agency Superintendents for Education, or other officials with delegated line authority).

C. "Awarding Official" means contracting officer and shall be any person in the self-determination career field, who has been certified under the Awarding Official Certification System as an Awarding Official, who has the authority to award, modify and administer all contracts as defined in 25 U.S.C.A. Section 450b(j), as amended, including where applicable construction contracts as defined in 25 U.S.C.A. Section 450b(m), as amended, and shall make decisions and issue determinations and findings with respect thereto. The Awarding Official may be other than a Warranted Contracting Officer but may include persons who are or have been Warranted Contracting Officers if they meet the training and experience requirements in self-determination subject matters and if they are in a position in the self-determination career-field, GS-1101. The awarding official shall also have the authority to award, modify and administer all self-determination grants.

D. "Awarding Official's Technical Representative" (AOTR) or the "Subordinate AOTR" (SAOTR) means authorized representative(s) of the awarding official. The AOTR or SAOTR are designated by memorandum from the awarding official which prescribes their authorities, duties, and responsibilities. The AOTR or SAOTR may be selected from regional office personnel, with concurrence of the regional line officer.

E. "Contract" means a self-determination contract, including a self-determination construction contract, (or grant or cooperative agreement utilized in lieu of a contract under Section 9 of the Act) entered into under Title I of the Act between a tribal organization and the Secretary of the Interior for the planning, conduct, and administration of programs, functions, services, or activities (or portions thereof), which are otherwise provided to Indian tribes and their members pursuant to Federal law. Provided, that no contract entered into pursuant to the Act shall be construed to be a procurement contract.

F. "Line Officer" means the federal official responsible for oversight and direction of the operation of a program, including planning, controlling, and accounting for the achievement of goals and objectives. Line officers have direct operational responsibility for accomplishing assigned missions and ensuring that activities under their authority are being performed in accordance with established laws, regulations, and policies. Line officers include, but are not limited to, regional directors, agency superintendents, regional education programs administrators, and agency superintendents for education.

G. "Tribe" means any Indian tribe, band, nation, or other organized group 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 recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

H. "Tribal Organization" means the recognized governing body of any 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.

2.2 Implementation Plan. In preparation to assume this delegation of authority, each regional office shall prepare a Regional Implementation Plan which shall provide for the following:

A. Separation of Duties. The organizational structure shall be such that it provides for distinct separation of key duties and responsibilities in authorizing, processing, recording, and reviewing transactions between the officials to be involved in the contract approval and award processes as follows:

(1) Approving Official. Approving Official designation shall be specific by position, and not to an individual. The approving official shall be the line officer. The responsibilities and duties of the approving official include, but are not limited to:

- (a) Review and ensure contractibility of the program.
- (b) Approve the contract application in accordance with the Act.
- (c) Review and determine whether or not declination issues exist and provide technical assistance in accordance with the Act.
- (d) Decline the application in accordance with the Act.
- (e) Ensure fund availability.
- (f) Ensure compliance with appropriation law and use of appropriated funds.
- (g) Ensure timely and effective transfer of Federal Government responsibilities in the event of retrocession and reassumption.

(2) Awarding Official. Means Contracting Officer and shall be any person in the self-determination career field, who has been certified under the Awarding Official Certification System (AOCS) as an Awarding Official, who has the authority to award,

modify, and administer all self-determination contracts as defined in the 25 U.S.C.A. Section 450b(j), including where applicable construction contracts as defined in 25 U.S.C.A. Section 450b(m), as amended. Awarding official designation shall be specific to an individual, and not by position. An awarding official shall be appointed by the Deputy Bureau Director, Indian services. An individual recommended for appointment as an awarding official must be certified under the Awarding Official Certification System (AOCS). The delegated authority is limited to contracts, including construction contracts, entered under the Act, and all self-determination grants.

(a) Responsibilities. The responsibilities of the Awarding Official include, but are not limited to:

- (1) Ensure compliance with all appropriate laws, rules, regulations, policies, and procedures.
- (2) Execute the obligation of the contract or grant action.
- (3) Ensure the transactions are properly documented by maintaining the official contract or grant file.
- (4) Complement the technical knowledge of program officials with expertise in business and other administrative areas, such as adequacy of the tribal organization's plans to accomplish contract or grant objectives and to comply with program requirements, evaluation of the quality of tribal organization's performance and availability of funds.

(b) Duties. The awarding official shall function in a similar manner as a warranted contracting officer or a grants management officer. However, designation as a warranted contracting officer or grants management officer is not necessary for award of contracts, including construction contracts, under the Act and grants. The duties of an awarding official include, but are not limited to, the following:

- (1) Negotiates and awards contracts/grants and contract/grant modifications or amendments.
- (2) Issues correspondence involving business management aspects of contracts.
- (3) Exercises contracting authority as otherwise established in law, regulations, manuals, and this Handbook.
- (4) Implements applicable policies and procedures.
- (5) Provides assistance, consultation, and training to program officials and tribal organizations.

(6) Represents the Federal Government on contract/grant management matters before the public, in litigation, and in administrative appeals.

(7) Reviews and evaluates business management aspects of applications to assure compliance with applicable regulations and policies.

(8) Negotiates cost schedule, Federal Government oversight and review, and administration of fiscal terms and awards.

(9) Prepares, issues, and tracks awards, certifies that all legal, regulatory, and policy requirements are met, and certifies that award amounts are accurate and appropriate.

(10) Tracks, reviews, and analyzes post award actions, identifies and resolves management and administrative problems that arise during performance.

(11) Acts as consultant to the tribal organization on management and administrative matters through site visits and other management assistance services; and initiates formal action to protect the Federal Government's interests.

(12) Initiates independent audits, as warranted.

(13) Ensures timely resolution of audits under the Single Audit Act and ensures follow-up actions are taken.

(14) Serves as accountable property officer (both real and personal property) ensuring proper certification of annual inventories, utilization and disposal procedures for excess real and personal property according to applicable laws and regulations. Certification of Federal Government furnished property for tribal organization use and donation of excess property in the performance of the contract.

(15) Conducts final reviews of completed contracts/grants, makes adjustments or appropriate disallowances; ensures proper disposition of property; and formal closeout of contracts/grants.

(16) Prepares and executes determination and findings.

(17) Issues reassumption letter and is responsible for accomplishment of all actions necessary to effect reassumption of a contracted program, service, function or activity.

(18) Designates a representative(s) to serve as the awarding official's technical representative (AOTR) or the subordinate awarding official's technical representative (SAOTR).

(3) Awarding Official's Technical Representative (AOTR). Duties and responsibilities of the AOTR or SAOTR shall include, but are not limited to, the following:

(a) Become thoroughly familiar with the terms and conditions of the contract/grant.

(b) Prepare a plan for monitoring the contract/grant and submit it to the awarding official within 45 calendar days of receipt of the designation memorandum.

(c) Recommend resolution of questions of fact with regard to quality and acceptability of work performed when determining compliance with the terms and provisions of the contract/grant.

(d) Advise the tribal organization of any violation of the contract/grant terms and provisions and promptly bring the matter to the attention of the awarding official if the tribal organization fails or is unable to correct or stop the violation.

(e) Review any proposed modifications initiated by the tribal organization and furnish recommendations regarding their cost, need, and etc.

(f) Maintain a working contract/grant file.

(g) Recommend approval or disapproval, and monitor P-638 Automated Clearing House (ACH) and other payment requests, ensure contract/grant funds are used for the purpose intended, ensure cash on hand is not excessive, ensure that accounting and appropriation data are correct and that all disbursements are drawn on the Treasury of the United States by authorized officers and that all disbursements are properly supported prior to payment by contracts, purchase orders, invoices, receiving reports and/or inspection reports.

(h) Submit quarterly monitoring reports for term contracts and grants and semi-annual monitoring reports for mature contracts and grants.

(i) Review contract/grant progress reports and recommend approval or disapproval to the awarding official.

(j) Ensure that all accountable real and personal property purchased with contract funds or provided as Federal Government furnished property are accounted for, tagged and inventoried annually, and ensures that laws, regulations, departmental and Bureau directives are followed in the excess and disposal processes.

(k) The AOTR or SAOTR shall not:

(1) Enter into supplemental agreements.

- (2) Suspend work, or issue change orders.
- (3) Grant extensions of time.
- (4) Modify the terms or conditions of the contract/grant.
- (5) Commit the Federal Government in any manner.
- (6) Redelegate their duties and responsibilities.
- (7) Make a final decision that is subject to appeal under the disputes clause of the contract.

(4) Budget Official. An independent budget official shall be responsible for ensuring the validity of the funding authority and the availability of funding to prevent deficiency as defined by the Anti-Deficiency Act, 31 U.S.C. Section 1341, and to assure separation of duties.

(5) Finance Official. An independent finance official shall be responsible for ensuring the accuracy of the accounting data, the appropriate encoding to record the obligation into the Federal Finance System (FFS) and separation of duties.

(6) Program Official. A program official shall be responsible for conducting a technical review of the contract proposal and shall make appropriate recommendations to the approving official to ensure sound decisions are made.

B. Internal Controls.

(1) Management Controls. Line officers shall ensure that appropriate management controls are in place to protect against fraud, waste, mismanagement, or misappropriation. Control systems shall provide for adequate:

(a) Documentation. Internal control systems and all transactions and other significant events are to be clearly documented and the documentation is to be readily available for examination.

(b) Recording of transactions and events. Transactions and other significant events are to be promptly recorded and properly classified.

(c) Execution of transactions and events. Transactions and other significant events are to be authorized and executed only by persons acting within the scope of their authority.

(d) Separation of duties. Key duties and responsibilities in authorizing, processing, recording, and reviewing transactions should be separated among individuals.

(e) Supervision. Qualified and continuous supervision is to be provided to ensure that internal control objectives are achieved.

(f) Access To and Accountability for Resources. Access to resources and records is to be limited to authorized individuals, and accountability for the custody and use of resources is to be assigned and maintained. Periodic comparison shall be made of the resources with the recorded accountability to determine whether the two agree. The frequency of the comparison shall be a function of the vulnerability of the asset.

(2) Compliance. Line officers shall ensure compliance with:

(a) Applicable OMB Circulars.

(b) General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Revised Title 2, Appendix II, Internal Control Standards, dated November 14, 1984.

(c) 25 CFR Parts 273, 275, and 276.

(d) 25 CFR, Chapter V, Part 900, Subparts A - P.

(e) Subsequent applicable laws, regulations, policies, directives, and manuals.

(3) Assurance of Organizational Independence. The Director, Bureau of Indian Affairs shall conduct an annual management review to ascertain the adequacy of separation of duties and responsibilities of the agency to assure the independence of agency level officials to make sound business decisions. This review shall be concurrent with Section 2.4 of this Handbook.

(4) Assessment of Workload. Workload of agencies will be evaluated through area office assessments. Assignment of workload to staff shall be made in a manner to assure full compliance with assigned duties and responsibilities, compliance with all laws, regulations, policies, and directives to assure timely delivery of services to tribal organizations and to protect the interests of the Federal government. Other factors to be considered are:

(a) Having requisite experienced and knowledgeable staff.

(b) Minimal restructuring requirements.

(c) Degree of tribal and area office support.

(5) Projection of Costs.

(a) The agency line officer shall develop and submit, to the regional line officer, cost estimates for implementing delegated authority. This shall include, but not be limited to:

- (1) Training and technical assistance requirements.
- (2) Real and personal property.
- (3) Staffing requirements.
- (4) Supply and service requirements.
- (5) Travel requirements.
- (6) Other related expenses.

(b) The regional line officer shall provide to the Director, Bureau of Indian Affairs a report on the needs of those agencies requiring additional resources in order to implement the delegation of authority.

(6) Assessment. Evaluation of agencies capabilities for assumption of this delegated authority is the responsibility of the Director, Bureau of Indian Affairs, and shall be conducted through review and evaluation of the foregoing information, under the following conditions:

(a) Expansion of this authority to additional agencies shall be predicated upon a detailed assessment which addresses their capabilities, staffing, resources, equipment, space, training, experience, and other applicable factors and successful completion of the prescribed core training curriculum.

(b) The regional line officer and the agency line officer shall develop an action plan to meet the identified needs of an agency being considered for delegated authority.

(c) Agencies and regional offices that can meet the needs within existing resources shall be given priority. Regional offices and agencies requiring additional resources exceeding available resources will receive consideration only after the resource needs are resolved.

2.3 Selection, Appointment and Termination of Awarding Official.

A. Selection. In selecting awarding officials, the Deputy Bureau Director, Indian

services and regional line officers shall consider the candidate's experience, training, education, business acumen, judgment, character, and reputation. Selection criteria includes:

- (1) Experience with Public Law 93-638, as amended, contracts and administration.
- (2) Education and/or training in Public Law 93-638, as amended, contract administration, property management, accounting, or related fields.
- (3) Knowledge of Public Law 93-638, as amended, policies and procedures, including legislation, and regulations promulgated to implement the Act.
- (4) Satisfactory completion of Public Law 93-638 and other contract related training courses.

B. Appointment. The authority to appoint Awarding Officials rests with the Assistant Secretary - Indian Affairs. This authority has been delegated to the Director, Bureau of Indian Affairs based on the recommendation of the Deputy Bureau Director, Indian Services. Persons appointed as Awarding Officials must be certified following the procedures in the Awarding Official Certification System (AOCS) Handbook. The policies, procedures, and instructions in this Delegation of Signature Authority Handbook are in accordance with authority delegated to the Director, Bureau of Indian Affairs in 209 DM 8.1. Compliance with the provisions of this Handbook is mandatory and the requirements contained in this Handbook are to be observed by each Bureau contracting activity/location and apply to all personnel.

C. Termination of Awarding Official Authority. Termination of an awarding official appointment shall be by letter. Termination may be for reasons such as reassignment, termination of employment, or unsatisfactory performance. No termination shall operate retroactively.

2.4 Evaluation.

A. Responsibility.

(1) Regional Line Officer. The regional line officer shall be responsible for conducting management reviews of agency performance under the delegated authority and shall prepare a report outlining his findings and recommendations to the agency line officer. This review shall be conducted in accordance with the regional specific implementation plan. Upon completion of the management reviews, the regional director shall prepare a summary report to the Director, Bureau of Indian Affairs containing, at a minimum, a status of the implementation of the delegation of authority. Such report shall include evaluation methodology, tribal input, successes and problems. The Deputy Bureau Director, Indian services shall conduct an independent evaluation of the delegate

agencies. Such report shall include the above stated factors.

(2) Agency Line Officer. The agency line officer shall be responsible for preparing and implementing a corrective action plan to ensure correction of deficiencies identified in the administrative management review.

B. Factors. The scope of the management review shall include, but not be limited to, an evaluation of the following factors:

(1) The application review and award processes in compliance with 25 CFR Parts 273, 275 and 276; and 25 CFR, Chapter V, Part 900, Subparts A - P.

(2) A random sample of contracts and actions for proper budget certification and fund authority.

(3) A random sample of personal property inventory for accountability.

(4) Proper separation of duties, internal controls, and independence of decision making.

(5) Compliance with the designated duties and responsibilities by key officials, including budget, finance, and accounting officials.

(6) Compliance by the tribal organization with the terms and conditions of the contracts or grants.

(7) A review of the determination and findings of the awarding official.

(8) Any matter which may pertain to waste, fraud, or abuse; or conflicts of interest.

(9) Existence of any inappropriate influence on the approving and awarding officials.

(10) Compliance with other applicable special approval and clearance requirements.

(11) Adequacy of training and staffing.

(12) Response and follow-up to audit findings.

(13) Workload of awarding official.

(14) Tribal assessment of the agency's performance of the delegated authority.

2.5 Training. Indian services shall develop self-determination training criteria and curriculum for Bureau and tribal staff.

2.6 Technical Assistance. The regional line officer shall be responsible for providing requested or recommended technical assistance to the agencies having this delegated authority.

2.7 Cost Benefits. The agency line officer shall conduct an annual cost benefit analysis to measure the effectiveness of the delegated authority, and report findings to the regional line officer, in accordance with the regional specific plan.

2.8 Service Benefits. The agency line officer shall conduct an annual survey of services performed and benefits associated with the implementation of the delegated authority, and report findings to the regional line officer, in accordance with the regional specific plan.

2.9 Uniformity. Bureau line officers shall ensure that internal controls are consistent with the provisions prescribed in this Handbook.