

**BUREAU OF INDIAN AFFAIRS  
EASTERN OKLAHOMA REGION**



**REGIONAL INDIAN  
SELF-DETERMINATION  
IMPLEMENTATION PLAN**

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

*Indian Affairs User  
December, 2014*

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**PROCEDURES FOR THE IMPLEMENTATION OF DELEGATED  
PUBLIC LAW 93-638 AUTHORITY  
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**1. GENERAL**

**1.1 Purpose.** The purpose of this manual is to establish procedural requirements to implement the delegation of authority to the Eastern Oklahoma Region to approve, decline, award, modify, and perform all other functions on the administration of non-procurement, non-construction and construction contracts, and to make determinations and findings in respect thereto, under Public Law 93-638, the Indian Self-Determination and Education Assistance Act, as amended. This manual does not pertain to Title IV-Tribal Self-Governance Program of the Act.

**1.2 Policy.** It is the Policy of the Eastern Oklahoma Region, Bureau of Indian Affairs to provide for the maximum service delivery in the processing of Public Law 93-638 contracts submitted by the following Tribes/Tribal Organizations who are within the Region's jurisdiction, while ensuring full compliance with all applicable laws, regulations, and policies to ensure sound management control and business decisions.

AAGG07901T	Alabama-Quassarte Tribal Town	AAGG08905T	*Cherokee Nation
AAGG07902T	Kialegee Tribal Town	AAGG03906T	*Chickasaw Nation
AAGG07903T	Thlopthlocco Tribal Town	AAGG09907T	*Choctaw Nation
AAGG04922T	Ottawa Tribe of Oklahoma	AAGG06930T	*Osage Tribe
AAGG04926T	Peoria Tribe of Indians	AAGG08904T	*United Keetoowah Band of Cherokee
AAGG08911T	Shawnee Tribe	AAGG04921T	*Eastern Shawnee Tribe
AAGG04920T	*Quapaw Tribe of Indians	AAGG04923T	*Seneca-Cayuga Tribe
AAGG08825T	Delaware Tribe of Indians	AAGG04925T	*Miami Tribe
AAGG10909T	Seminole Nation of Oklahoma	AAGG04927T	*Modoc Tribe
AAGG07908T	*Muscogee (Creek) Nation	AAGG04924T	*Wyandotte Nation

\*Although these Tribes compact all BIA TPA programs under Title IV-Tribal Self Governance, in certain instances they may have funds provided to them through a Self Determination contract.

**1.3 Scope.** This manual shall be used to implement the authorities delegated in 10 BIAM and its related Eastern Oklahoma Regional Office Addenda. The procedures contained herein satisfy the requirements of the Eastern Oklahoma Regional Office Implementation Plan developed in accordance with 13 BIAM Supplement 2 Release No. 122 issued August 10, 2006.

**1.4 Authority.** Public Law 93-638, the Indian Self-Determination and Education Assistance Act, as amended, and promulgated regulations cited in 25 CFR Part 900. Funds are appropriated pursuant to the Snyder Act of November 2, 1921, (25 U.S.C. 13), and Acts subsequent thereto.

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**1.5 Effective Date.** This procedures manual shall be effective on the date signed by the Regional Director and the Bureau of Indian Affairs Director. Its provisions shall remain in effect until it is amended, superseded, or revoked by the Regional Director and the Bureau of Indian Affairs Director.

APPROVED:  Date: 2/12/15  
BIA Director

APPROVED:  Date: 2/4/15  
Regional Director – Eastern Oklahoma Region

## 2. PROCESSES AND PROCEDURES

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

**A. Approving Official.** The Approving Official shall be the Regional Director, or Agency Superintendents (for Tribes assigned under their management), or Line Officer for Office of Justice Services. The responsibilities and duties of the Approving Official include, but are not limited to:

- (1) Ensure that within two days of the receipt of a proposal, the applicant is notified in writing that the proposal has been received.
- (2) Review and ensure contractibility of the program.
- (3) Ensure that within 15 days the applicant is notified in writing of any missing items required by 25 CFR Part 900, Subpart C – 900.8 or 900.12 and request that the items be submitted within 15 days of receipt of the notification.
- (4) Review and determine whether or not declination issues exist and provide technical assistance in accordance with the Act.
- (5) 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. Maintain a 90 proposal log to ensure compliance with section 102 of the Act and subpart E.

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- (6) Approve the contract application in accordance with the Act.
- (7) Decline the application in accordance with the Act.
- (8) Ensure fund availability by:
  - (a) Ensuring the Financial Business Management System FBMS Entry Document (FED) indicates that funds are available and signed by Budget Official certifying funds availability. The FED or Combined Funding document is attached to the Purchase Requisition (PR)
  - (b) Ensures requisition is prepared with correct funding information and submitted to a Requisitioner for document entry into FBMS.
  - (c) Ensures the requisition is approved and certified by the Certifying Funds Approver and Certifying Funds Supervisor (can be same individual).
  - (d) Ensures the requisition is expedited to the Awarding Official for obligation into contract or grant award or modification or amendment.
- (9) Ensure compliance with appropriation law and use of appropriated funds.
- (10) Ensure timely and effective transfer of Federal Government responsibilities in the event of retrocession and reassumption.

**B. Awarding Official.** A person who has been certified under the Awarding Official Certification Systems as an Awarding Official, who has the authority to award, modify, and administer all self-determination contracts as defined in 25 U.S.C. Section 450 b(j), including where applicable construction contracts as defined in 25 U.S.C. 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 Director, Indian Services upon recommendation for appointment by the Regional Director. The delegated authority is limited to contracts, including construction contract, entered under the Act, and all self-determination grants. In the Eastern Oklahoma Region, all Awarding Official functions are carried out at the Regional Office.

**Responsibilities:**

- (1) Ensure compliance with all appropriate laws, rules, regulations, policies, and procedures. Assists the Approving Official in the approval/declination process.
- (2) Execute the obligation of the contract or grant action by:

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- (a) Ensures the Purchase Requisition is expedited to the Awarding Official or Financial Assistance Grants Specialist in PRISM.
  - (b) Receives a copy of the Purchase Requisition document generated in FBMS and FBMS Entry document or Combined Funding document, in order to include in the official contract file.
  - (c) Releases the award or modification or amendment in PRISM upon receipt of the signed SF 26, or SF 30 or Grant Agreements form.
  - (d) Ensures funds are available for payment. Ensures those P.L. 93-638 contracts/grants designated as high risk, are set on Agency Review
- (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.

**Duties:**

- (1) Negotiates and awards contracts/grants and contract/grant modifications and amendments.
- (2) Issues correspondence involving business management aspects of contracts.
- (3) Exercises contracting authority as otherwise established in law, regulations, and manuals.
- (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.

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- (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; Initiate formal action to protect the Federal Government's interest.
- (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 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; ensure proper disposition of property; 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).

**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

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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.
- (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.
- (6) Maintains a working contract file.
- (7) Ensure contract/grant funds are used for the purpose intended.
- (8) Submits semi-annual monitoring reports for term contracts and grants and annual monitoring reports for mature contracts and grants.
- (9) Reviews contract progress reports and recommends approval or disapproval to the Awarding Official.
- (10) 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 AOTR OR SAOTR shall not:
  - (a) Enter into supplemental agreements.
  - (b) Suspend work or issue change orders (modifications).

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- (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.
- (f) Redefine their duties and responsibilities.
- (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 Regional Review and Approval of Contract Proposals.** The Regional Director or Agency Superintendent or Line Official for Office of Justice Service (OJS) has 90 days after receipt of proposal to review and approve the proposal and award the contract or decline the proposal in compliance with Section 102 of the Act and 25 CFR Part 900, Subpart E. At any time during the review period, the Regional Director Agency Superintendent or Line Official for OJS may approve the proposal and notify the Awarding Official to award the requested contract. Upon the approval, 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.

**2.3 Internal Controls.** The Regional Director or Agency Superintendent or Line Official for OJS, the key officials designated pursuant to Section 2.1, 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.



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

**2.4 Evaluation of Regional Performance.**

**A. Responsibility.**

- (1) The Director, BIA and shall notify the Eastern Oklahoma Regional Director 30 days in advance prior to conducting a review to ascertain the adequacy of separation of duties and responsibilities of the agency to assure the independence of agency level official to make sound business decisions.
- (2) Regional Director. The Regional Director shall be responsible for preparing and implementing a corrective action plan to ensure correction of deficiencies identified in the administrative management review, if warranted.

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

- (1) The application review and award process in compliance with 25 CFR Part 900.
- (2) A random sample of contracts and actions for proper budget certification and fund authority.
- (3) A random sample of personal property inventory for accountability.
- (4) Proper separation of duties, internal controls, and independence of decision making.
- (5) Compliance with the designated duties and responsibilities by key officials, including budget finance officials.
- (6) Compliance by the tribal organization with the terms and conditions of the contracts awarded.
- (7) Maintenance of contract files in accordance with 19 BIAM, Supplement 14 as well as 16 BIAM.
- (8) A review of the determination and findings of the Awarding Officials.
- (9) Any matter which may pertain to waste, fraud, or abuse; and/or conflicts of interest.

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- (10) Existence of any inappropriate influence on the Approving Official and/or Awarding Official.
- (11) Compliance with other applicable special approval and clearance requirements.
- (12) Adequacy of training and staffing.
- (13) Response and follow-up to audit findings.
- (14) Workload of the Awarding Official.
- (15) Tribal assessment of the Region's performance of the delegated authority.

**2.5 Technical Assistance.** The BIA Director shall be responsible for providing requested or recommended technical assistance to the Region.

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

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