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Assistant Secretary Washburn Finalizes Procedures for Indian Affairs to Implement the Buy Indian Act

Final guidance facilitates BIA, BIE and Indian Affairs to procure goods and services from eligible American Indian and Alaska Native small businesses, where possible

WASHINGTON – Assistant Secretary – Indian Affairs Kevin K. Washburn today announced that the Department of the Interior has a final rule for Indian Affairs to implement the Buy Indian Act of 1910 (25 U.S.C. 47, as amended), which authorizes the Secretary of the Interior to set aside procurement contracts for American Indian- and Alaska Native-owned and controlled small businesses. The final rule has been informed by public comment and consultation with tribes on the draft proposal, which was published in 2010.

“The publication of this final rule to implement the Buy Indian Act is a major accomplishment for the Administration and a win-win for both Indian Affairs and the American Indian and Alaska Native business community,” Washburn said. “The regulations will provide certainty for individually owned businesses, tribal enterprises, and Alaska Native corporations interested in selling their products to Indian Affairs. We expect this will help increase economic activity in tribal communities and provide greater employment opportunities where these businesses are located.”

The final rule describes uniform administrative procedures that Indian Affairs, including the Bureau of Indian Affairs and the Bureau of Indian Education, will use in all of its locations to encourage procurement of goods and services from eligible American Indian and Alaska Native small businesses as authorized under the Act. The rule applies to Indian Affairs and will take effect on July 8, 2013.

The rule benefits a broad range of businesses. It requires the Assistant Secretary – Indian Affairs to give preference to “Indian economic enterprises” – defined, in part, as any business entity that is at least 51 percent owned by one or more American Indian or Alaska Native individuals,

federally recognized American Indian tribes, or Alaska Native villages and regional or village corporations under the Alaska Native Claims Settlement Act. As a result, engaging in a strategic partnership with a minority non-Indian investor will not disqualify an otherwise eligible Indian business.

The rule supplements the Federal Acquisition Regulation and Department of the Interior Acquisition Regulation, and will be located at 48 C.F.R. Sections 1401.301-80, 1452-280 and 1480. It also responds to and incorporates the nuances of Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. Law 101-510, 10 U.S.C. 2301 note) that amended 25 U.S.C. 47 to allow American Indian firms to participate in the Department of Defense's Mentor-Protégé Program and yet maintain eligibility for contracts awarded under the authority of the Buy Indian Act.

Since 1965, the BIA had obtained services and supplies from American Indian sources through its Buy Indian Program and based on policy memoranda and acquisition. The Bureau had worked on developing Buy Indian Act regulations on an intermittent basis since the 1980s, but never published a final rule. In 2010, Indian Affairs distributed a new draft of a proposed rule and held three tribal consultation sessions on it. In August 2012, Indian Affairs held four tribal consultation sessions on a proposed rule published that same month which incorporated input from previously published proposed rules and associated tribal consultation sessions.

Indian economic enterprises interested in contracting with Indian Affairs should monitor the Federal Business Opportunities website www.FedBizOpps.gov to identify opportunities for which there is a Buy Indian set-aside under this rule.

The Assistant Secretary – Indian Affairs oversees the BIA, which is headed by a director who is responsible for managing day-to-day operations through four offices (Indian Services, Justice Services, Trust Services and Field Operations), – 12 regional offices and 85 agencies. This organizational structure administers or funds tribally based infrastructure, law enforcement, social services (including child welfare), tribal government services, natural and energy resources, and trust lands and assets management programs for the nation's federally recognized American Indian and Alaska Native tribes and villages. The Assistant Secretary – Indian Affairs also oversees the BIE, which is headed by a Director, who is responsible for the line direction and management of all education functions, including the formation of policies and procedures, the supervision of all program activities and the approval of the expenditure of funds appropriated for education functions.

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