

# INDIAN AFFAIRS DIRECTIVES TRANSMITTAL SHEET

(modified DI -416)

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FOR FURTHER INFORMATION Chief, Division of Human Services, Office of Indian Services		DATE <b>MAY 12 2014</b>

### EXPLANATION OF MATERIAL TRANSMITTED:

The mission of Human Services is to promote the safety, financial security, and social health of Indian communities and individual Indian people. Human Services fulfills its mission by providing services in the areas of direct funding and activities related to Financial Assistance; Social Services, including supervision of Individual Indian Money (IIM) accounts; implementation of the Indian Child Welfare Act (ICWA); and the Housing Improvement Program (HIP).

The following policies were established to ensure appropriate guidance is in place for the following areas: Human Services Overview (70 IAM 1); Financial Assistance Social Service Report (FASSR) (70 IAM 3); Supervised Individual Indian Money (IIM) Accounts (70 IAM 5); Indian Child Welfare Act (ICWA) (70 IAM 6); and the Housing Improvement Program (HIP) (70 IAM 7).

  
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Michael Black  
Director, Bureau of Indian Affairs

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### FILING INSTRUCTIONS:

Remove: None

Insert: 70 IAM 1 (New), 70 IAM 3 (New), 70 IAM 5 (New),  
70 IAM 6 (New), 70 IAM 7 (New)

# INDIAN AFFAIRS MANUAL

- 1.1 Purpose.** This chapter establishes Indian Affairs (IA) policy for the Division of Human Services' (DHS) responsibilities under the Indian Child Welfare Act (ICWA), 25 U.S.C. §§ 1901-1963.
- 1.2 Scope.** This policy applies to all programs and offices under the authority of the Assistant Secretary - Indian Affairs (AS-IA), including AS-IA offices and the Bureau of Indian Affairs (BIA).
- 1.3 Policy.** Congress's overriding purpose in passing the ICWA was to "protect the best interests of Indian children and to promote the stability and security of Indian tribes and families" (25 U.S.C. § 1902). ICWA established federal requirements that apply to state child custody proceedings involving an Indian child who is a member of or eligible for membership in a federally recognized tribe. The BIA has responsibility for implementing the ICWA. These responsibilities are specifically enumerated in 25 CFR Part 23.

ICWA authorizes the BIA to provide grants to Indian tribes to intervene in state child custody proceedings, including responding to notices on potential ICWA cases. Tribes provide services once a child is identified as an Indian child under ICWA. Direct oversight of ICWA grants is the responsibility of the Regional Offices.

## 1.4 Authority.

### A. Statutes and Regulations.

- 1) P.L. 95-608, Indian Child Welfare Act of 1978
- 2) 25 CFR Part 23, Indian Child Welfare Act

### B. Guidance and Handbooks.

- 1) Guidelines for State Courts; Indian Child Custody Proceedings, 67584 Federal Register, Volume 44, No. 228, November 26, 1979
- 2) Office of Management and Budget (OMB) Circular A-123 Revised, Management Accountability and Control
- 3) Child Protection Handbook: Protecting American Indian and Alaska Native Children, June 2006

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## 1.5 Responsibilities.

- A. **Deputy Bureau Director and Associate Deputy Bureau Director, Office of Indian Services (OIS), BIA** are responsible for ensuring that ICWA processes and resources are in place to facilitate the full implementation of the ICWA.
- B. **Chief, DHS, OIS** is responsible for program oversight and the development of the ICWA processes and procedures. This includes coordination of ICWA related services with BIA Regional Offices, agencies, tribes, and other federal agencies.
- C. **Central Office DHS** is responsible for the administration of the ICWA notification process, publishing the Designation of Agent Notice list in the Federal Register, maintenance of adoption records, and serves as an expert providing technical assistance and guidance to staff regarding ICWA.

**Regional DHS** is responsible for administering the ICWA grant process within their region and provides direct oversight over agency and tribal ICWA programs. Responsibilities in this area include: provision of available technical assistance as requested; review of existing programs; responding to ICWA notices and final decrees of adoption; and compiling and submitting the ICWA Annual and Quarterly Reports. Additionally, the human services worker must provide a written response to state, county or courts within 15 calendar days, with a list of designated agents of notice or tribal ICWA contacts. The human services worker also conducts and coordinates ICWA training sessions for tribal councils, tribal employees, and other local, state and federal agencies and tribal courts, and participates in regular meetings on ICWA referrals.

- E. **BIA Agency Human Services Staff** provides oversight and serves as the Awarding Official's Technical Representative (AOTR) as well as forwards ICWA notices to the tribe for official response.
- F. **Tribal Human Services Staff** responds to ICWA notices within 15 days, and upon request has an additional 20 days to prepare for proceedings. Staff forwards quarterly ICWA reports (OMB1076-0131) to the region; provides services to children referred through ICWA; identifies if the child is enrolled or eligible for enrollment; attends court proceedings when the tribe intervenes in the custody proceeding; and participates in coordinating committees for transfers of cases. Tribes are encouraged to use the Interstate Compact to establish responsibility for payment of transportation costs by the sending state.

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## **1.6 Definitions.**

Definitions applicable to this chapter can be found in 25 CFR Part 23, Subpart A, 23.2.

## **1.7 Appointment of Counsel.**

Payment of appointed counsel in state Indian child custody proceedings is authorized by Section 102(b) of the ICWA (25 U.S.C. 1912; 25 CFR 23.13) subject to available annual funding. The Regional Office provides oversight for payment of appointed counsel.

## **1.8 Confidentiality of Records.**

BIA employees are required to adhere to the provisions of the Privacy Act and the Freedom of Information Act. Employees will safeguard confidential information concerning their clients and shall not disclose information concerning their clients or cases unless requested by the Bureau or as required by law.

## **1.9 Reports and Forms.**

Tribes receiving ICWA grants must complete the ICWA Quarterly and Annual Report (OMB1076-0131). Additionally, a quarterly Indian Affairs Performance Management System (IA-PMS) report is required which documents the status of the Government Performance and Results Act (GPRA) related measure(s).