

# INDIAN AFFAIRS MANUAL

- 1.1 Purpose.** The purpose of this policy is to ensure compliance with the Buy Indian Act (25 U.S.C § 47), and to ensure that the acquisition actions made to Indian Economic Enterprises (IEEs) are maximized to the fullest extent allowed by the Act. Increasing the number of acquisition actions awarded to IEEs will strengthen Indian Affairs' (IA) commitment to enhance the quality of life, to promote economic opportunity, and to carry out the responsibility to protect and improve the trust assets of American Indians, Indian Tribes, and Alaska Natives.
- 1.2 Scope.** This policy applies to all acquisitions, including simplified acquisitions and those below the micro-purchase threshold, made by IA, which includes the Bureau of Indian Affairs (BIA), Bureau of Indian Education (BIE), and the offices of the Assistant Secretary – Indian Affairs (AS-IA).
- 1.3 Policy.** All acquisitions made by IA must be made under the Buy Indian Act authority whenever the use of that authority is authorized and practicable. Acquisitions include supplies, services, and covered construction (as defined in 48 CFR 1480.201).
- 1.4 Authority.**
- A. Statutes and Regulations.**
- 1) 25 U.S.C. § 47, Buy Indian Act
  - 2) 48 CFR 1401-1452 – Department of the Interior Acquisition Regulation (DIAR)
  - 3) 48 CFR 1480 – Acquisitions under the Buy Indian Act
  - 4) Federal Acquisition Regulation (FAR) Part 8 – Required Sources of Supplies and Services
  - 5) FAR, Part 19 – Small Business Programs
  - 6) Department of the Interior Acquisition, Assistance, and Asset Policy (DOI-AAAP) 0011, Supporting Economic Development in Indian Country (Buy Indian Set Aside), March 9, 2016
- 1.5 Responsibilities.**
- A. Deputy Assistant Secretary – Indian Affairs (Management) (DAS-M)** oversees the acquisition management program and ensures it is implemented in compliance with all applicable laws, regulations, policies, and procedures. DAS-M ensures that acquisition management has the applicable resources, procedures, and tools necessary to fulfill the duties assigned.

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- B. Chief Financial Officer (CFO), IA** is responsible for the implementation of the Buy Indian Act and is also the Head of Contracting Agency (HCA).
- C. Bureau Procurement Chief (BPC)** is the Chief Contracting Officer for IA, BIA, and BIE and is responsible for issuing acquisition guidance and ensuring that reviews are conducted annually. The BPC is also responsible for signing and approving deviations over \$11.5 million up to \$57 million.
- D. Supervisory Contracting Officer** is the Chief Contracting Officer in the Region and is responsible for ensuring that acquisition personnel adhere to this policy, and for issuing the quarterly deviation/challenges reports by the due date.
- E. Contracting Officer (CO)** is responsible for adherence and application of this policy. The CO must also communicate this policy and its implications to the programs they support.
- F. Competition Advocate** is responsible for signing and approving deviations over \$550,001 up to \$11.5 million.
- G. DOI Senior Procurement Executive** is responsible for signing and approving deviations above \$57 million.

## 1.6 Definitions.

- A. Indian Economic Enterprise (IEE)/Indian Small Business Economic Enterprise (ISBEE)** means any business activity owned by one or more Indians or Indian Tribes that is established for the purpose of profit, provided that (1) the combined Indian or Indian Tribe ownership must constitute not less than 51 percent of the enterprise; (2) the Indians or Indian Tribes must, together, receive at least a majority of the earnings from the contract; and (3) the management and daily business operations of an enterprise must be controlled by one or more individuals who are Indians. These conditions must exist: (a) at the time an offer is made in response to a written solicitation; (b) at the time of contract award; and (c) during the full term of the contract.

## 1.7 Deviations.

Any deviation from this policy *must* be approved by an authorized official and documented in the contract file, except for purchase card transactions.

For purchase card transactions, signature authorization is *not* required, but documentation should be created that identifies the rationale/substantiation for deviating from this policy.

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Documentation should be made using the “Memorandum – Deviation from the Buy Indian Act,” which is located on the IA Online Forms webpage here:

<http://www.bia.gov/WhoWeAre/AS-IA/ORM/OnlineIAForms/index.htm>

For all other deviations, authorized documentation is required and must be supported by verifiable evidence (e.g., market research, determinations and findings).

The following officials may authorize a deviation for an IA acquisition:

- Contracting Officer/Specialist: Up to \$25,000, excluding micro-purchase card transactions.
- Supervisory Contracting Officer (Chief Contracting Officer): \$25,001 to \$550,000.
- Competition Advocate: \$550,001 to \$11.5 million.
- BPC: \$11.5 million to \$57 million.
- DOI Senior Procurement Executive: Above \$57 million.

Approval and signature(s) authorization must be obtained by the official next-in-line *before* submission to the authorized official for approval. For example, a deviation for an acquisition above \$57 million must first be approved by the Supervisory Contracting Officer, Competition Advocate, and BPC before obtaining approval from the Department’s Senior Procurement Executive. The authorization template, “Memorandum – Approved Deviation from the Buy Indian Act” is located on the IA Online Forms webpage here:

<http://www.bia.gov/WhoWeAre/AS-IA/ORM/OnlineIAForms/index.htm>

If a deviation for an IA acquisition is approved, the acquisition must prioritize sources of supplies and services in accordance with FAR Part 8.

### **1.8 Reporting and Review Requirements.**

#### **A. Quarterly Reporting of Deviations and Challenges**

Tracking and reporting of deviations and challenges will facilitate IA efforts to monitor compliance with the Buy Indian Act. Supervisory Contracting Officers must track and report the number of deviations and challenges at the Regional/local level to the BPC on a quarterly basis.

The deviation report should include, at a minimum, the name of the Contracting Officer and Contractor, North American Industry Classification System (NAICS), date of award, dollar amount awarded, and a reason why the Buy Indian Act couldn’t be applied.

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Any challenges by an IEE requesting that IA authenticate another IEEs' categorization/credentials as an IEE, needs to be tracked and reported to the BPC each quarter.

Both the deviation and challenges reports must be submitted to the BPC *no later than 15 calendar days after the end of each quarter* and will be compiled annually and presented to the DAS-M at calendar year-end.

## **B. Annual Review for Compliance with the Buy Indian Act**

IA will incorporate the Buy Indian Act into DOI's mandated annual testing of internal controls. For each acquisition case file tested for internal controls, there will also be a documented review for compliance with the Buy Indian Act using the "Buy Indian Act Compliance Review" checklist. The checklist is located on the IA Online Forms webpage here: <http://www.bia.gov/WhoWeAre/AS-IA/ORM/OnlineIAForms/index.htm>

Any findings from the review will be discussed with the Supervisory Contracting Officer, along with the Regional Director/Supervisor of that office. A compilation of the findings for the year will be reported to the Director, BIA.

## **Approval**

  
James N. Burckman

Acting Deputy Assistant Secretary – Indian Affairs (Management)

  
Date