

INDIAN INVOLVEMENT PROGRAMS
Table of Contents

1. Self-Determination and Education Assistance Act, P.L. 93-638 (General Provisions)

- .1 Purpose
- .2 Policy
- .3 Authority
- .4 Responsibility
- .5 Grants
- .6 Contracts
- .7 Training
- .8 Technical Assistance

2. Buy Indian Act

- .1 Policy
 - A. Indian
 - B. Indian Contractor
 - C. Normal Competitive Area
- .2 Authority
- .3 Responsibility
 - A. Central Office
 - B. Contracting Officer

3. Contracts and Grants Administrative Provisions

- .1 Grants Administrative Provisions
 - A. Authority
 - B. Responsibility
- .2 Contract Administrative Provisions
 - A. Policy
 - B. Authority
 - C. Responsibility

Supplements to 20 BIAM

<u>No.</u>	<u>Title</u>
1.	Grants
2.	Buy Indian Act (Reserved)
3.	Contracts (P.L. 93-638) (Reserved - To be issued at a later date)

INDIAN INVOLVEMENT PROGRAMS

Self-Determination and Education Assistance Act

1. SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT
- 1.1 Purpose. Self-Determination Services is a program function to further Indian Self-Determination, and to provide for an orderly transition from federal domination of programs to effective and meaningful participation by Indians in the planning, conduct, and administration of federal programs and services for their benefit. The goal is to make programs and services more responsive to the needs and desires of the Indian people.
- 1.2 Policy. It is the policy of the Bureau of Indian Affairs to make Self-Determination grants under the provisions of Section 104 (A) and (C) of the Indian Self-Determination and Education Assistance Act (Public Law 93-638), and general procedures and administrative requirements contained in 25 CFR 272 and 276. It is the policy of the Bureau of Indian Affairs to provide training and technical assistance services to tribes in the exercise of their options under the Act (P.L. 93-638) and to facilitate tribal contracting initiatives.
- 1.3 Authority. The Indian Self-Determination and Education Assistance Act (P.L. 93-638) Regulations became effective on December 4, 1975. The Act is composed of two (2) Parts: Title I -- The Indian Self-Determination Act, and Title II -- The Indian Education Assistance Act. Funds are appropriated pursuant to the Snyder Act (25 U.S.C.A. § 13) of November 2, 1921 and Acts subsequent thereto.
- 1.4 Responsibility. It is the responsibility of the Bureau to provide training and technical assistance any time a tribal organization requests such assistance to the extent that resources are available, and to insure that the intent of the Act is fulfilled. Title I of the Act provides no new funds beyond what is presently appropriated to enable tribes to expand or improve programs when they contract. Furthermore, the Act does not provide funding for the creation of new programs.
- 1.5 Grants. The intent of the grant program is to (1) assist tribes in improving their governmental capabilities; (2) enhance the ability of tribes to effectively administer federally funded programs which are under contract or grant; and (3) enable tribes to provide direction to federal programs serving them in the planning, monitoring and evaluation processes.
- 1.6 Contracts. The Act (P.L. 93-638) provides tribes with the option to contract for the operation and control of programs currently being operated and administered by the Bureau of Indian Affairs. The Act gives Indian tribes and Alaskan Natives broad latitude and flexibility as to the kinds of programs they contract. It includes all existing programs and certain trust programs. An Indian tribe may operate the contracted program under the plan and policy the Bureau had used previously, or it can redesign the program to better meet tribal needs.

INDIAN INVOLVEMENT PROGRAMS
Self-Determination and Education Assistance Act

1.7 Training. The Act (P.L. 93-638) and regulations found in 25 CFR § 271-277 provide the basis for program interpretation and delineation of effort with regard to training. Regulations do not address training specifically, but the Bureau has received appropriations for this purpose to respond to tribal requests. Training and the need for training is identified by the tribe or tribal organization rather than by the Bureau. However, the Bureau may identify and assist in meeting training needs which are necessary to achieve the most benefit from technical assistance. The Bureau will continue to provide specialized training and orientation to program staff. The Bureau of Indian Affairs will assist tribes in obtaining assistance from training sources ((i.e. (1) BIA Technical Assistance; (2) Program Contract; (3) Use of 104 (a) grants; and (4) other federal agencies, i.e., Office of Personnel Management)).

1.8 Technical Assistance. The Indian Self-Determination and Education Assistance Act requires the Bureau of Indian Affairs to offer technical assistance only when declination issues are present. The Bureau policy is to offer technical assistance to tribal organizations throughout the contracting process. Training and technical assistance funds are used to assist tribes to overcome declination issues, to assist in resolving contract or grant initiation problems, including negotiations with Bureau staff, and also to overcome contract or grant performance difficulties. In addition, training and technical assistance funds are used to supplement or complement self-determination grants in tribal self capacity building activities.

INDIAN INVOLVEMENT PROGRAMS

Buy Indian Act

2. BUY INDIAN ACT

2.1 Policy. It is the Bureau's policy that all purchases or contracts be made or entered into with eligible Indian Economic Enterprises to the maximum extent practicable and to contact non-Indian contractors only after it has been determined that there are no eligible Indian Economic Enterprises within the normal competitive area that can fill and are interested in filling the procurement requirement.

Under this policy, the following words or phrases have the meaning shown.

A. Eligible. Eligible means that the majority owner of an Indian economic enterprise meets both the definitions of "Indian" and of "Indian economic enterprise".

B. Indian. Indian means a person who is a member of an Indian tribe or an Alaska Native who is 1/4 degree or more Alaska Native blood and either on, or descended from someone on, the roll of Alaska Natives prepared pursuant to the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601 et seq.).

C. Indian Economic Enterprise. Indian Economic Enterprise means any business entity (whether organized for profit or not) which:

(1) is at least 51 percent owned by one or more Indian(s) or (an) Indian Tribe(s); and

(2) for non-tribal ownership, has one or more of its Indian owners involved in daily business management of the economic enterprise; and

(3) has the majority of its earnings accrue to such Indian person(s), if organized for profit; or, the majority of the board of directors (or other controlling body) must be Indian persons for not-for-profit enterprises.

D. Indian tribe. Indian tribe means any Indian tribe, band, nation, rancheria, pueblo, colony, or community which is recognized by the U.S. Government through the Secretary as eligible for the special programs and services provided by the Secretary to Indians because of their status as Indians.

E. Normal Competitive Area. Normal competitive area means the geographic area within which competition is usually solicited to fill a procurement requirement.

INDIAN INVOLVEMENT PROGRAMS
Buy Indian Act

2.2 Authority. The Bureau's authority for this policy is the Act of June 25, 1910 (25 U.S.C. 47), which is commonly referred to as the Buy Indian Act, and 41 U.S.C. 253(c)(5) which permits negotiation of contracts when authorized or required by statute.

2.3 Responsibility.

A. Central Office. The Division of Contracting and Grants Administration is responsible for issuing policies and procedures to implement 20 BIAM 2 and for review of Bureau contracting offices' implementation of the policies and procedures.

B. Contracting Officer. The Contracting Officer is responsible for making sure the procurement requirement is handled in accordance with existing regulations, policies, and guidelines. In carrying out this responsibility, the Contracting Officer shall:

- (1) Determine, before contracting, that the prospective contractor is eligible to receive a contract under the "Buy Indian" Act. (Advice from the Solicitor's Office should be obtained if considered necessary.)
- (2) Obtain competition between Indian contractors when there is more than one that can fill the procurement requirement.
- (3) Adhere to all applicable requirements in the Federal and Interior Acquisition Regulations (48 CFR 1 and 48 CFR 14 respectively.)
- (4) Maintain a list of eligible Indian contractors.
- (5) Include in the contract the percentage of work the contractor must perform with its own employees, when appropriate.
- (6) Make sure the contract price is fair and reasonable and not make an award if a fair and reasonable price is not established. In this regard, familiarity with market trends is essential.

INDIAN INVOLVEMENT PROGRAMS
Contracts and Grants Administrative Provisions

3. Contracts and Grants Administrative Provisions

3.1 Grants Administrative Provisions. It is the policy of the Bureau of Indian Affairs that grants be administered consistent with pertinent statutes and regulations. Sound management principles shall be utilized by grant awarding units to facilitate achievement of the grant program.

A. Authority. Program authority for Bureau grants is contained in the Snyder Act of November 2, 1921, 42 Stat. 208, and in the Self-Determination and Education Assistance Act of January 5, 1975, 88 Stat. 2203.

Three Federal Executive Agencies have issued regulations governing administration of all grants, the Office of Management and Budget (OMB), the Department of Treasury, (Treasury), and the General Services Administration (GSA). Major applicable management circulars promulgated by those agencies are:

(1) OMB Circular A-95, Federal and Federally-assisted programs and projects; requires state notification of grant awards.

(2) OMB Circular A-102, Uniform Administrative Requirements for State and Local Governments; summarizes minimum administrative requirements for grants.

(3) OMB Circular A-111, Jointly funded assistance to State and Local Governments and to Non-Profit Organizations; describes procedures for joint funding of related projects.

(4) Treasury Circular 1075, Withdrawal of Cash from the Treasury for Advances under Federal Programs; describes procedures for advance funding under grants.

(5) Federal Management Circular 74-4, Cost Principles for State and Local Governments; defines costs eligible for reimbursement under grants.

Supplements to 20 BIAM shall provide appropriate guidance and procedures for administering grants in accordance with the management circulars.

B. Responsibility

(1) Central Office. The Contracting and Grants Administration Staff, Office of Administration, shall be responsible for issuing policies and procedures described in 3.2 and for reviewing Area Office implementation of those policies and procedures in administration of grant programs.

INDIAN INVOLVEMENT PROGRAMS

Contracts and Grants Administrative Provisions

(2) Area Director. Area Directors shall award and administer grants in accordance with policy and procedures published in supplements to 20 BIAM.

INDIAN INVOLVEMENT PROGRAMS
Contracts and Grants Administrative Provisions

3.2 Contract Administrative Provisions

A. Policy. It is Bureau policy that contracts be entered into and administered in accordance with pertinent statutes, regulations and executive issuances. Further, it is Bureau policy to contract whenever practicable with Indian entities.

B. Authority. Substantive authority to contract is contained in the Snyder Act (25 U.S.C. 13); the Johnson-O'Malley Act (25 U.S.C. 452) and the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450). Authority to contract with Indians to the exclusion of non-Indians is contained in the Act of June 25, 1910 (25 U.S.C. 47) which is commonly called the "Buy Indian" Act.

Regulations and other guidance which affect the contracting process are issued by such agencies as the Department of the Interior (DOI); the Office of Management and Budget (OMB); the Department of Labor (DOL); the Comptroller General (GAO); the Treasury Department (Treasury) and the General Services Administration (GSA). Some of the major pertinent issuances published by these agencies are:

- (1) The Federal Procurement Regulations (FPR), 41 CFR Chapter 1.
- (2) The Federal Property Management Regulations (FPMR), 41 CFR Chapter 101.
- (3) The Department of the Interior Procurement Regulations (IPR) 41 CFR Chapter 14.
- (4) Treasury Circular 1075, Withdrawal of Cash from the Treasury for Advances under Federal Programs.
- (5) Comptroller General Decisions (published and unpublished).

Supplements to 20 BIAM will provide appropriate guidance and procedures for contracting in accordance with applicable laws and regulations.

C. Responsibility.

(1) Central Office. The Contracting and Grants Administration Staff, Office of Administration, is responsible for issuing policies and procedures under 20 BIAM 3.2 and for assuring that the Bureau's Contracting Offices implement these policies and procedures.

INDIAN INVOLVEMENT PROGRAMS

Contracts and Grants Administrative Provisions

(2) Contracting Offices. Contracting Offices are responsible for the award and administration of contracts in accordance with applicable regulations, policies, and procedures published in the Code of Federal Regulations or as supplements to 20 BIAM.