

**1.1 Purpose.** This chapter outlines the authorities that govern implementation of the Indian Self-Determination and Education Assistance Act of 1975, as amended (Act), and the procedural requirements for granting requests for waivers.

**1.2 Policy.** Indian Affairs supports and assists efforts of Indian tribes to plan, conduct and administer programs and services provided for the benefit of the Indian tribe or members of the Indian tribe.

**1.3 Scope.** The regulations in 25 CFR Chapter I, Subchapter M, and Chapter V, Part 900, contain significant procedural instructions. All Indian Affairs personnel should first refer to the regulations for primary instruction on procedures to use in the implementation of the provisions of the Act. This Part of the Manual supplements, but does not restate the regulations. If there are any conflicts between the provisions contained in this Manual Part and the regulations contained in 25 CFR Chapter I, Subchapter M, and Chapter V, Part 900, the regulations govern.

**1.4 Authority.**

**A. Statutes.**

- (1) 5 U.S.C. §504 and 28 U.S.C. §2412, Equal Access to Justice Act.
- (2) 5 U.S.C. §581 *et seq.*, Administrative Dispute Resolution Act.
- (3) 25 U.S.C. §§450 *et seq.*, Indian Self-Determination and Education Assistance Act of 1975, as amended (Act).
- (4) 28 U.S.C. §1346(b); §2401; §§2671-2680, Federal Tort Claims Act.
- (5) 31 U.S.C. §7501 *et seq.*, Single Audit Act Amendments of 1996.
- (6) 41 U.S.C. §§601- 613, Contract Disputes Act of 1978, as amended.

**B. Regulations.**

- (1) Title 25 CFR, Chapter V, Part 900, Contracts Under the Indian Self-Determination and Education Assistance Act.
- (2) Title 25 CFR, Chapter I, Subchapter M, Indian Self-Determination and Education Assistance Program.
- (3) Title 41 CFR, Subtitle C, Chapter 101, Federal Property Management.
- (4) Title 43 CFR, Part 12, Administrative and Audit Requirements and Cost Principals for Assistance Programs.
- (5) Title 43 CFR, Part 4, Subpart C, Special Rules of Practice Before the Interior Board of Contract Appeals, §§ 4.110-4.126.

(6) Title 43 CFR, Part 4, Subpart F, Implementation of the Equal Access to Justice Act in Agency Proceedings, §§ 4.601-4.629.

**C. Guidance.**

(1) Office of Management and Budget (OMB) Circular A-21, "Cost Principles for Educational Institutions."

(2) OMB Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments."

(3) OMB Circular A-102, "Grants and Cooperative Agreements with State and Local Governments."

(4) OMB Circular A-122, "Cost Principles for Non-Profit Organizations."

(5) OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

**1.5 Handbooks.**

**A.** "Internal Agency Procedures Handbook for Non-Construction Contracting under Title I of the Indian Self-Determination and Education Assistance Act." This Handbook sets out the procedures to guide the actions of all agencies of the Department of the Interior and the Department of Health and Human Services to facilitate and enhance contracting with Indian tribes and tribal organizations. The Handbook is available from the Director, Office of Tribal Services, Bureau of Indian Affairs, Mail Stop 4660 MIB, 1849 "C" Street, NW., Washington, D.C. 20240. Telephone number: (202) 208-3463.

**B.** "Awarding Official Certification System Handbook." This Handbook provides procedures to implement a certification system for those persons designated and delegated authority to function as Awarding Officials for contracts, including construction contracts, awarded under the authority of the Act and all grants, except for those grants awarded under the authority of the Tribally Controlled Schools Act of 1988, as amended (Pub. Law 100-297, 25 U.S.C. §§2501 - 2508 and 25 U.S.C. §2008a). The Handbook is available from the Director, Office of Tribal Services, Bureau of Indian Affairs, Mail Stop 4660 MIB, 1849 "C" Street, NW., Washington, D.C. 20240. Telephone number: (202) 208-3463.

**C.** "Delegation of Authority Handbook." This Handbook provides procedures to implement the delegation of authority to Indian Affairs line officers to approve, decline, award, modify, and perform all other functions in the administration of contracts, including construction contracts under the Act and all grants, except for those grants awarded under the authority of Pub. Law 100-297. The Handbook is available from the Director, Office of Tribal Services, Bureau of Indian Affairs, Mail Stop 4660 MIB, 1849 "C" Street, NW., Washington, D.C. 20240. Telephone number: (202) 208-3463.

**1.6 Waivers.**

**A.** Indian tribes and tribal organizations may submit written requests for waivers of any of the provisions of the regulations at 25 CFR Part 900 including any cost principals adopted by the regulations.

**B.** All waivers requested, whether included in a contract proposal or submitted separately, may only be approved or disapproved by the Assistant Secretary - Indian Affairs. The authority to approve or disapprove requests for waivers cannot be redelegated to any other Indian Affairs official.

**C.** Within 35 days of receipt within a Region, Regional Directors will forward waiver requests with their written recommendations to the Deputy Commissioner for submission to the Assistant Secretary-Indian Affairs.

**D.** The Assistant Secretary will approve or deny requests for waivers within 90 days of receipt by an Indian Affairs official. The decision will be in writing and, when appropriate, the Indian tribe or tribal organization will be advised of their appeal rights and will be offered technical assistance. If a decision is not made on the requests for a waiver within the 90 days, the request will be deemed approved.