The original documents are located in Box 5, folder “Self-Determination Act” of the Bradley H. Patterson Files at the Gerald R. Ford Presidential Library.

Copyright Notice
The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.
Title 25—Indians
CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR
SUBCHAPTER Y—INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT PROGRAMS
CHAPTER Y—INDIAN SELF-DETERMINATION
SUBCHAPTER Y—INDIAN SELF-DETERMINATION
PART 402—REGULATIONS
PART 403—REGULATIONS
PART 404—REGULATIONS
PART 405—REGULATIONS
PART 406—REGULATIONS
RULING AND REGULATIONS
2. Reorganisation

Part 401 through 407 is being re-designated upon the request of the office of the Federal Register because these Parts were incorrectly numbered when published as proposed regulations. The redesignation and redesignation, assigned only Parts 1 through 299 to the Bureau of Indian Affairs. The redesignation as parts of Federal Registers which may be issued by the Bureau of Indian Affairs. These Parts beginning with Part 300 are assigned to other chapters and other offices. Since the Bureau cannot use Parts 401 through 407, these Parts are redesignated as follows:

A. Part 401 is redesignated as Part 271. Sections 401.1 through 401.28 are redesignated as § 271.1 through 271.28. Section 401.27.5 is redesignated as § 271.27.5 through 271.31.

B. Part 402 is redesignated as Part 272. Sections 402.1 through 402.33 are redesignated as § 272.1 through 272.33. Section 402.1 is redesignated as § 272.1. Section 402.11 is redesignated as § 272.11. Section 402.12 is redesignated as § 272.12. Section 402.21 is redesignated as § 272.21. Section 402.22 is redesignated as § 272.22. Section 402.3 is redesignated as § 272.3.

C. Part 403 is redesignated as Part 273. Sections 403.1 through 403.64 are redesignated as § 273.1 through 273.64. Section 403.18 is redesignated as § 273.18. Section 403.24 is redesignated as § 273.24. Section 403.35 is redesignated as § 273.35. Section 403.4 is redesignated as § 273.4. Section 403.43 is redesignated as § 273.43. Section 403.64 is redesignated as § 273.64.

D. Part 404 is redesignated as Part 274. Sections 404.1 through 404.64 are redesignated as § 274.1 through 274.64.

E. Part 405 is redesignated as Part 275. Sections 405.1 through 405.4 are redesignated as § 275.1 through 275.4.

F. Part 406 is redesignated as Part 276. Sections 406.1 through 406.16 is redesignated as § 276.1 through 276.16.

The purpose of the regulations is to implement the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638, 88 Stat. 202). Part 271 (formerly Part 401) contains regulations under which tribal organizations, upon the request of an Indian tribe or a tribe’s governing body, may receive grants for strengthening tribal government; planning, training, evaluation, or other activities to improve a tribe’s capacity to contract; acquiring land for those purposes; and planning, designing, monitoring, and evaluating Federal programs serving the tribe or an Alaska Native group.

Under Part 273 (formerly Part 403), a State, school district, or Indian corporation may contract for supplemental programs or operational support for education under Part 271 upon the request of an Indian tribe.

Part 404 (formerly Part 404) contains regulations under which tribal organizations may receive contracts or services for school construction for private schools that are controlled or managed by an Indian tribe or an Indian organization.

Part 273 (formerly Part 403) informs those programs, or operational support for education under Part 271 the request of an Indian tribe.

Part 274 (formerly Part 404) contains the regulation of the Federal Register for the operation of all or parts of and the Bureau can make decisions in accordance with criteria set by the Act. Unlike the regular relationship between the government and a prospective contractor, under this regulation the burden of proof is on the Bureau to show that the contract should not be entered into. Both the statute and the regulations stipulate, unless substantial evidence in support of a specific declination criteria, the Bureau will enter into the proposed contract.

The public was given until October 4, 1975, to submit written comments, suggestions, or objections regarding the proposed amendments. All comments received with respect to the proposed amendment were given due consideration.

II. Changes Made Due to Comments

As a result of comments received, the following changes in the regulations are made in addition to language changes for clarification:

A. PART 271:

I. The phrase "Revolving Funds for Lenders, Indian Loan Guarantee and

B. PART 272:

II. The phrase "Revolving Funds for Lenders, Indian Loan Guarantee and

C. PART 273:

III. The phrase "Revolving Funds for Lenders, Indian Loan Guarantee and

D. PART 274:

IV. The phrase "Revolving Funds for Lenders, Indian Loan Guarantee and

E. PART 275:

V. The phrase "Revolving Funds for Lenders, Indian Loan Guarantee and

F. PART 276:

VI. The phrase "Revolving Funds for Lenders, Indian Loan Guarantee and

G. PART 277:

VII. The phrase "Revolving Funds for Lenders, Indian Loan Guarantee and

H. PART 278:

VIII. The phrase "Revolving Funds for Lenders, Indian Loan Guarantee and

I. PART 279:

IX. The phrase "Revolving Funds for Lenders, Indian Loan Guarantee and

J. PART 280:

X. The phrase "Revolving Funds for Lenders, Indian Loan Guarantee and

K. PART 281:

XI. The phrase "Revolving Funds for Lenders, Indian Loan Guarantee and

L. PART 282:

XII. The phrase "Revolving Funds for Lenders, Indian Loan Guarantee and

M. PART 283:

XIII. The phrase "Revolving Funds for Lenders, Indian Loan Guarantee and

N. PART 284:

XIV. The phrase "Revolving Funds for Lenders, Indian Loan Guarantee and
19. Several changes are made in § 271.39 to permit reacquiring a contract for this purpose. The changes are intended to clarify that a tribal governing body is required to make the determination of whether or not to reacquire a contract under the regulations. The changes also clarify that the determination of whether or not to reacquire a contract is based on the best interests of the tribe, taking into account the tribe's economic needs and the potential impact of reacquiring the contract.

20. An additional paragraph (k)(1) is added to § 271.40 to permit the Secretary to request additional information about a tribe's decision to reacquire a contract. The additional paragraph provides that the Secretary may request additional information from a tribe if the Secretary determines that the tribe's decision to reacquire a contract is not in the best interests of the tribe or the tribe's community. This additional paragraph is intended to ensure that the decision to reacquire a contract is made in the best interests of the tribe and the tribe's community.

21. Section 271.51(a) is revised to clarify when a contract is subject to the regulations. The revised section provides that a contract is subject to the regulations if the contract is entered into by a tribe or an Indian organization and the contract is for the purpose of carrying out the tribe's or Indian organization's governmental functions.

22. Section 271.51(b) is revised to clarify the circumstances in which a contract is subject to the regulations. The revised section provides that a contract is subject to the regulations if the contract is entered into by a tribe or an Indian organization and the contract is for the purpose of carrying out the tribe's or Indian organization's governmental functions and the contract is entered into by a tribe or an Indian organization for the purpose of carrying out the tribe's or Indian organization's governmental functions.
1. The definition of "tribal government" and "tribal governing body" has been revised to conform to the definitions in Part 271.

2. A new definition of "early childhood" is also deleted in §273.12 and the phrase "age 3 years" is substituted to establish a base age. The term "except those who are enrolled in Bureau or sectarian operated schools" is added after "gradual 12" to denote that these educational facilities are not included as eligible applicants.

3. A change is made in §273.13(b)(1)(iv) to correct, due to a misprint, the last sentence of this paragraph, referring to the §25% eligible Indian enrollment, is deleted as the Commissioner has the discretion authority to waive any part(s) of these regulations.

4. A change is made in §273.13(b)(2) by deleting (v), (vi), and (vii) to strengthen the basis for contractor accountability.

5. Sections 273.14(a), 273.16(e) and 273.17(d) are deleted. The deleted paragraphs related to the matter of establishing Indian Education Cost Reimbursement Trust where majority Indian school boards are not eligible. The Indian Education Reimbursement Trust Board is to be continued in the regulations. Majority Indian school boards may make provisions for such partial involvement.

6. Section 273.24(a)(4) is changed by inserting "Commissioner through the" before the word "appropriate" and by inserting or suspension after the word "cancellation." This change is made to permit suspension of a program as an alternative to cancellation under certain circumstances.

7. Section 273.18(c) which requires that the education plan and special programs which are or will be operated and describes examples of such programs, is deleted and will be considered for inclusion in the program guidelines to be developed. Subsequent paragraphs are revised to conform to the new definition in §273.18(c).

8. Section 273.18(g) which requires certain written information be provided as part of the education plan, is revised to emphasize that the material is to be provided as part of the plan.

9. The term "February 1" is substituted in §271.21 in place of "January 15" to conform to the change in the section.

10. The term "early childhood" is also deleted in §273.12 and the phrase "age 3 years" is substituted to establish a base age. The term "except those who are enrolled in Bureau or sectarian operated schools" is added after "gradual 12" to denote that these educational facilities are not included as eligible applicants.
RULES AND REGULATIONS

1. The definition of "tribal government," "tribal governing body," and "tribal council" in paragraph (1) of § 277.5 is changed to include "tribal governing body" to comply with the definition in Part 277.

2. The definitions of "Indian tribe" and "tribal organization" in paragraphs (f) and (k) are revised to be consistent with the definitions in Part 277.

3. In § 273.5 (a)(3) (formerly § 409.3 (a)), the word "shall" is changed to "may" in the second sentence to make it clear that the agreement is optional and not required.

4. The paragraph in § 273.3 re-designed because the requirements in paragraph (c)(3) relate to more than agreements under the 1894 Act.

5. Section 273.1 (b) (formerly § 409.5 (c)(4)), is revised to clarify that the contracts referred to are contracts under Part 271 and that the application must be submitted, instead of notifying the Area Director, at least 120 days in advance.

6. The definition of "Indian tribe" and "tribal organization" in paragraphs (h) and (i) of § 273.5 are revised to be consistent with the definitions in Part 277.

7. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to conform to the definition in Part 277.

8. New paragraphs (d) and (e) are added to § 277.4 to conform to 28 CFR 271.5.

9. Section 271.11(a) is amended by deleting the term "Indian Education Committee" and that portion of the sentence after the word "Indian." These changes are in conformity with the current regulations for Pub. L. 91-818 issued by the Department of Health, Education, and Welfare.

10. In § 271.12(a), the term "Indian Education Committee" is substituted for the term "public school officials," as stated in the Act. Further, in § 271.12(c), the term "Indian Education Committee" is inserted after the word "officials" to maintain consistency with § 271.14 of that section.

11. The word "Regional" is deleted in § 271.12(a) in consultation with the Department of Health, Education, and Welfare as by the phrase in § 277.14(b)(1) (3) after the word "purposes.

12. Deletions are made in § 277.22(c). The term "local education agency" is substituted for the phrase "tribe to obtain its approval." Also deleted is the phrase after the word "adequacy". These changes are in conformity with Pub. L. 91-818 regulations issued by the Department of Health, Education, and Welfare.

13. Section 277.21 is revised to add paragraph (b), which sets forth the procedures for Indian reservations to file complaints with the Department of Health, Education, and Welfare.

14. The last sentence of § 277.21(a) is deleted and replaced with Indian reservations' rights to file complaints with the Department of Health, Education, and Welfare.

15. The conditions in § 277.22 are deleted in § 277.22, and Indian reservations' rights to file complaints with the Department of Health, Education, and Welfare are included.

16. The definition of "Indian tribe" in § 277.3(a) (formerly § 409.3(a)) is revised to conform to the same definition in Part 277.

A. Definition of "tribal government," "tribal governing body," and "tribal council" as defined in § 277.5 is changed to reflect the definition in Part 277.

B. The definition of "Indian tribal organization" in paragraph (a) of § 277.5 is changed to reflect the definition in Part 277.

C. The definition of "Indian tribe" in § 277.3(a) is revised to conform to the same definition in Part 277.

D. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

E. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

F. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

G. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

H. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

I. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

J. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

K. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

L. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

M. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

N. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

O. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

P. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

Q. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

R. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

S. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

T. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

U. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

V. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

W. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

X. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

Y. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

Z. The definition of "Indian tribe," "tribal governing body," and "tribal council" in § 277.5 is changed to reflect the definition in Part 277.

FEDERAL REGISTER, VOL. 40, NO. 213—TUESDAY, NOVEMBER 6, 1975
RULES AND REGULATIONS

PART B. PART 275:

1. Several comments were received regarding the requirement of Indian status for eligibility to apply for Part 276 Uniform Administrative Requirements for Grads. With the exception of changes to 276.15 and 276.16, no significant changes were made in Part 276. This is because the standards and requirements contained in Part 276 apply, including Appendices A and B, consistent with Federal Management Circular 450-4, "Uniform administrative requirements for grantees-in-aid to State and local governments.", These administrative standards and requirements are minimal and are in use government-wide, including grant programs provided to Indians by Federal, State, and local governments.

C. PART 277:

1. Several comments were received regarding the language directly affecting either Pub. L. 81-815 or its regulations. The Bureau of Indian Affairs takes the position that the regulations for Pub. L. 81-815 affecting public schools construction, i.e. Part 277, in no way modify the procedures, criteria, and regulatory mechanisms inherent in Pub. L. 81-815 as administered by the Department of Health, Education, and Welfare.

H. GENERAL COMMENTS APPLICABLE TO ALL PARTS:

1. Several comments were received suggesting that the regulations issued by the Bureau of Indian Affairs, Department of Interior, and by the Indian Health Service, Department of Health, Education, and Welfare, to implement Pub. L. 81-815 be the same. Since the planning phases of the regulations, Bureau of Indian Affairs and Indian Health Service staffs have consulted continually on making both sets of regulations as consistent as possible. We will work further with the Indian Health Service and other Department of Health, Education, and Welfare representatives on possible revisions and amendments to the regulations to achieve greater uniformity and consistency. No amendments will be made without appropriate Indian consultation or which would detract from the legislative intent or statutory provisions of the Act.

Accordingly, Chapter I of Title 25 of the Code of Federal Regulations is amended by revising Part 273 under Subchapter E and by adding new Parts 271 through 277 under a new Subchapter Y as set forth below.

IV. EFFECTS ON OTHER DOCUMENTS

A. On the effective date of these regulations, the tribal contracting guidelines published beginning on page 6377 of the Federal Register, February 11, 1975, Federal Register, (40 FR 6779) are hereby revoked. These guidelines are no longer needed since all contracting with tribal organizations for the operation of all parts of Bureau programs will be done in accordance with 21 CFR Parts 271 and 41 CFR Part 146-70.

B. On the effective date of these regulations, the All Purpose Tribal Contract issued by Memorandum dated May 7, 1974 is hereby revoked.

C. Part 20 of the Bureau of Indian Affairs Manual on Indian involvement programs will be revoked by a release memorandum to be issued in the near future. The revocation will be made effective on the effective date of these regulations.

D. Except for Parts 140-50, Chapter 14I of Title 41 of the Code of Federal Regulations which contains the Bureau of Indian Affairs procurement regulations will be revised as soon as possible after the effective date of the regulations in 21 CFR Parts 271 through 277.

E. Effective date. The revocation of Part 20 and the addition of Parts 271 through 277 will be made June 1, 1975.

FEDERAL REGISTER, VOL. 40, NO. 213—TUESDAY, NOVEMBER 4, 1975

113286

8. Some concern was expressed over the regulations dealing with appeals. The Bureau is giving this matter further consideration and will utilize the comments submitted in its consideration.

10. Several commentators raised issues regarding the internal operation of tribal governing bodies relating to such matters as the Bureau’s position that such bodies are self-determining. The Bureau believes that the regulations as written permit the basic authority and responsibility of tribal governing bodies for tribal business affairs Tribal governing bodies may, of course, submit or undertake with tribal organizations as per § 272.26.

2. Other comments recommended that authority for the approval, execution and administration of grants be extended to the Agency or Superintendent level as provided by Title VII of the Civil Rights Act. The Bureau does not believe that the comments made in support of this position are so clear as to require a change in the regulations at this time. Censored has, however, been sought and the results will be considered when received.

1. Many comments pertained to “tribal organizations” and recommended that “tribal organizations” be permitted to apply for or request grants on the same basis as tribal governing bodies as per 21272.13 and 272.14. The Bureau’s position in this regard is that a tribal governing body should be the prime grant seeking and administering body in the area. However, the Bureau believes that “tribal organizations” should not have equal status with tribal governing bodies in the procedure and that the regulations as written reflect the basic authority and responsibility of tribal governing bodies for tribal business affairs, Tribal governing bodies may, of course, submit or undertake with tribal organizations as per § 272.26.

9. The Bureau notes that in the statement of findings included in regulations in accordance with 10 U.S.C. 1679(a), the Bureaus agree that input at the Agency or Superintendent level is not necessary. The Bureau agrees that input at the Indian Education Committee. The Bureau takes the position that operational support taken off the top will be phased-out, as stated in § 273.31, over a three year period. The allocation of funds for supplementary programs or operational support will be determined so as to assure an equitable distribution for eligible Indian students with the program that each State in FY 1977 will receive no less than 75 percent of its FY 1976 supplementary program assistance.

4. Some commentators raised issues regarding the internal operation of tribal governing bodies relating to such matters as the Bureau believes that the regulations as written permit the basic authority and responsibility of tribal governing bodies for tribal business affairs. Tribal governing bodies may, of course, submit or undertake with tribal organizations as per § 272.26.

1. Several comments were received regarding the requirement of Indian status in the tribe or in the United States in order to qualify for construction monies. The Bureau of Indian Affairs deems this requirement is a policy decision to protect the integrity and expediency of Federal funds.

2. Some commentators raised questions related to the minimum or projected enrollment figure of 25 pupils in elementary grades. The Bureau believes that the enrollment figure lower than this number would not prove economically feasible in construction.

1. Several comments were received regarding the requirement of being a tribal governing body in the tribe or in the United States in order to qualify for construction monies. The Bureau of Indian Affairs deems this requirement is a policy decision to protect the integrity and expediency of Federal funds.

2. Some commentators raised questions related to the minimum or projected enrollment figure of 25 pupils in elementary grades. The Bureau believes that the enrollment figure lower than this number would not prove economically feasible in construction.

2. Several comments were received regarding the requirement of tribal governing bodies in the tribe or in the United States in order to qualify for construction monies. The Bureau of Indian Affairs deems this requirement is a policy decision to protect the integrity and expediency of Federal funds.

2. Some commentators raised questions related to the minimum or projected enrollment figure of 25 pupils in elementary grades. The Bureau believes that the enrollment figure lower than this number would not prove economically feasible in construction.

B. PART 274:

1. Several comments were received regarding the requirement of being a tribal governing body in the tribe or in the United States in order to qualify for construction monies. The Bureau of Indian Affairs deems this requirement is a policy decision to protect the integrity and expediency of Federal funds.

2. Some commentators raised questions related to the minimum or projected enrollment figure of 25 pupils in elementary grades. The Bureau believes that the enrollment figure lower than this number would not prove economically feasible in construction.

2. Several comments were received regarding the requirement of being a tribal governing body in the tribe or in the United States in order to qualify for construction monies. The Bureau of Indian Affairs deems this requirement is a policy decision to protect the integrity and expediency of Federal funds.

2. Some commentators raised questions related to the minimum or projected enrollment figure of 25 pupils in elementary grades. The Bureau believes that the enrollment figure lower than this number would not prove economically feasible in construction.

2. Several comments were received regarding the requirement of being a tribal governing body in the tribe or in the United States in order to qualify for construction monies. The Bureau of Indian Affairs deems this requirement is a policy decision to protect the integrity and expediency of Federal funds.

2. Some commentators raised questions related to the minimum or projected enrollment figure of 25 pupils in elementary grades. The Bureau believes that the enrollment figure lower than this number would not prove economically feasible in construction.

2. Several comments were received regarding the requirement of being a tribal governing body in the tribe or in the United States in order to qualify for construction monies. The Bureau of Indian Affairs deems this requirement is a policy decision to protect the integrity and expediency of Federal funds.

2. Some commentators raised questions related to the minimum or projected enrollment figure of 25 pupils in elementary grades. The Bureau believes that the enrollment figure lower than this number would not prove economically feasible in construction.

2. Several comments were received regarding the requirement of being a tribal governing body in the tribe or in the United States in order to qualify for construction monies. The Bureau of Indian Affairs deems this requirement is a policy decision to protect the integrity and expediency of Federal funds.

2. Some commentators raised questions related to the minimum or projected enrollment figure of 25 pupils in elementary grades. The Bureau believes that the enrollment figure lower than this number would not prove economically feasible in construction.

2. Several comments were received regarding the requirement of being a tribal governing body in the tribe or in the United States in order to qualify for construction monies. The Bureau of Indian Affairs deems this requirement is a policy decision to protect the integrity and expediency of Federal funds.

2. Some commentators raised questions related to the minimum or projected enrollment figure of 25 pupils in elementary grades. The Bureau believes that the enrollment figure lower than this number would not prove economically feasible in construction.

2. Several comments were received regarding the requirement of being a tribal governing body in the tribe or in the United States in order to qualify for construction monies. The Bureau of Indian Affairs deems this requirement is a policy decision to protect the integrity and expediency of Federal funds.

2. Some commentators raised questions related to the minimum or projected enrollment figure of 25 pupils in elementary grades. The Bureau believes that the enrollment figure lower than this number would not prove economically feasible in construction.

2. Several comments were received regarding the requirement of being a tribal governing body in the tribe or in the United States in order to qualify for construction monies. The Bureau of Indian Affairs deems this requirement is a policy decision to protect the integrity and expediency of Federal funds.

2. Some commentators raised questions related to the minimum or projected enrollment figure of 25 pupils in elementary grades. The Bureau believes that the enrollment figure lower than this number would not prove economically feasible in construction.

2. Several comments were received regarding the requirement of being a tribal governing body in the tribe or in the United States in order to qualify for construction monies. The Bureau of Indian Affairs deems this requirement is a policy decision to protect the integrity and expediency of Federal funds.

2. Some commentators raised questions related to the minimum or projected enrollment figure of 25 pupils in elementary grades. The Bureau believes that the enrollment figure lower than this number would not prove economically feasible in construction.
Subpart B—General Provisions
§ 271.1 Purpose and scope.
(a) The purpose of the regulations in this part is to give the application and approval process for non-profit contracts with Bureau under section 105 of Title I of the Indian Self-Determination and Education Assistance Act (Public Law 92-325, 92 Stat. 2221). Title I is known as the Indian Self-Determination Act. Contracts under the Act include “tribal governmental functions” as defined in § 271.2(q), “business related functions” as defined in § 271.2(n), and certain contractable trust resources programs or parts of programs as set forth in § 271.2(l). The nature of contracts with Indian entities which do not fall within the purview of the Act, including contracts which may provide for profit, and the conditions for entering into such contracts, are set forth in the regulations implementing the Act of June 25, 1910 (38 Stat. 581, 25 U.S.C. 47), commonly referred to as the “Buy Indian Act.”
(b) Section 104 of Title I of the Act provides authority for making grants for certain purposes. It is in the Bureau’s policy to make grants for the purpose specified in Section 104 of the Act in lieu of contracts. Part 271 of this chapter gives the procedures and requirements for obtaining grants under section 104 of the Act. (c) Nothing in these regulations shall be construed as
1. Affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suits enjoyed by an Indian tribe or any other Indian entity.
2. Authorizing or requiring the termination of any trust responsibility of the United States with respect to the Indian people
3. Permitting or requiring that trust responsibilities be transferred to any Indian tribe or the United States.
4. Nothing in these regulations shall be construed to mandate a tribe to apply for a contract or contract with the Bureau to plan, conduct, and administer all or parts of any Bureau program. Such applications under these regulations are strictly voluntary.
5. As used in this part: ‘‘Act’’ means the Indian Self-Determination and Education Assistance Act (Public Law 92-325, 92 Stat. 2221).
6. ‘‘Secretary’’ means the official in charge of a Bureau of Indian Affairs area office.
7. ‘‘Bureau’’ means the Bureau of Indian Affairs.
8. ‘‘Business related function’’ means a program authorized to be administered by the Bureau for the benefit of Indians enumerated as line items in the Bureau’s annual budget request under the Activities of Education and Indian Service, the Subactivities of Tribal Employment and Road Maintenance, and those programs related to Irrigation and Power Operation and Maintenance identified as a part of the subjectivity minerals, mining, irrigation and power under the Activity of Tribal Resources Development.
9. ‘‘Tribal organization’’ means the recognized governing body of any

FEDERAL REGISTER, VOL. 48, NO. 212—TUESDAY, NOVEMBER 4, 1973
ian tribe; or any legally established organization of Indian tribes which is controlled, supervised, or chartered by a government body or bodies or which is de facto elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities.

(b) The Congress has declared the commitment to the maintenance of the Federal Government's unique and continuing relationship with and responsibilities to the Indian people through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from Federal domination of programs and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services.

(c) It is the policy of the Bureau to facilitate the efforts of Indian tribes to plan, conduct, and administer programs, or portions thereof, through their councils, which the Bureau is authorized to administer for the benefit of Indians and to facilitate the coordination of all Federal and other programs on Indian reservations.

(d) It is the policy of the Bureau to continually encourage Indian tribes to become increasingly knowledgeable about Bureau programs and the opportunities Indian tribes have to participate in them; however, it is the policy of the Bureau to leave to Indian tribes the initiative in making requests for contracts and to regard self-determination as including the decision of an Indian tribe not to request contracts.

(e) The regulations of the Department of the Interior, Office of the Secretary, set forth the policies and standards governing the conduct of all Bureau programs and services. The regulations of the Bureau implement the foregoing policies.

Subpart B—Applicability

§ 271.11 Eligible applicants.

Any tribal organization is eligible to apply for a contract or contracts with the Bureau to plan, conduct, and administrate all or parts of Bureau programs under section 105 of the Act. However, before a contract with a tribal organization is made, it shall be necessary to have a request to be so served by the Indian tribe.

§ 271.12 Contractable Bureau programs.

Tribal organizations are entitled to contract with the Bureau to plan, conduct, and administer all or parts of Bureau programs which the Bureau is authorized to administer for the benefit of Indians. All or parts of any program include:

(a) Any part of a Bureau program which is divisible from the remainder of the program so long as the contract does not significantly reduce benefits to Indians served by the non-contracted portion of the program. However, to the extent that it is within the Bureau's existing authority and the program or part thereof involves only one tribe and one Bureau Agency or Office, the benefits provided to Indians by the non-contracted portion of the program may be reduced at the request of the tribe. When the program or part thereof serves more than one tribe, the benefits provided by the non-contracted portion of the program may be reduced when all of the tribes served consent to a reduction.

(b) A single employee position only when the functions to be performed provide a direct service to Indians and meets the criteria in paragraph (a) of this section.

(c) Programs or parts of programs or services that are authorized but not currently operated or provided by the Bureau.

(d) Operation of, or services provided by, previously private schools.

(e) All of the foregoing paragraphs of this section apply to trust resources programs or portions thereof. Additional criteria for contractable trust resources programs, or portions thereof, are given in § 271.22.
The tribal organization may submit a written agreement to establish a bookkeeping and accounting system that meets the standards of subpart Q of this chapter and to have the bookkeeping and accounting system certified before the Bureau disburses any funds under a contract awarded as a result of the application. When a certification has been submitted in connection with a previous application, the applicant may state this fact instead of submitting a new certification.

The proposed system for managing property and keeping records or agreement to establish within 90 days of contract execution, a satisfactory system for managing property and keeping records.

The service to be provided shall be satisfactory if the contract application indicates that the tribal organization provides a lead in the delivery of satisfactory services to the Bureau or Indian people unless it can be established by the Bureau by substantial evidence that the program objectives which will be detrimental to the welfare of the Indian people to be served.

The service to be provided shall be satisfactory if the contract application indicates that the applicant can meet the standards of the proposed contract. The standards include eligibility criteria for a tribal member to receive services, documentation adequate to verify the fairness and uniformity of services in case of formal complaint, an adequate procedure available to all Indian individuals affected, and those rights the individual will retain following the complaint.

The proposed project or function to be contracted cannot be properly completed or maintained by the proposed contractor.

The application is not within the scope of § 271.11(a).

In arriving at his finding, the Commissioner shall consider whether the tribal organization would be deficient in performance under the contract with respect to the factors listed in this paragraph.

No higher standards with regard to buildings, facilities, or equipment shall be applied to tribal organizations than have previously been applied to the Bureau. As provided in § 271.42, the Bureau shall make available the use of all equipment which has been allocated to the operation of the program by the Bureau in the past, unless the Bureau proves the provision of the equipment will seriously interfere with the Bureau's ability to provide services to Indian people in the noncontracted programs. Where equipment is shared by the programs to be contracted and other non-contracted programs, equipment-sharing or other similar arrangements shall be stated in the contract.

Bookkeeping and accounting procedures must be clearly demonstrated by the Bureau that the tribal organization which will undertake the contract, does not have or cannot act in place, the contract funds, an accounting and bookkeeping system which will be adequate.

The substantive knowledge of the program to be contracted.

Where the tribal organization proposing to contract is the tribal government body and the program or function to be contracted is a tribal governmental function, there shall be an absolute presumption that the tribal governing body has substantive knowledge of the program or function to be contracted.

Where the tribal organization proposing to contract is not the tribal governing body or the program or function to be contracted is not a tribal governmental function, the tribal organization shall be presumed to have substantive knowledge of the program if the tribal organization meets or more of the following conditions:

(a) The tribal organization has adequately managed a similar program before through grant or contract.

(b) The tribal organization which is to manage the project possesses by virtue of its knowledge and/or experience substantive knowledge of the program to be contracted.

(c) The tribal organization has been a consumer of such services in the past, and thus has developed an understanding of the issues involved with the program, sufficient to enable it to effectively carry out the contract operation; and, the tribal organization can secure through the resources of the contract, Bureau, and other resources, the training in the particular subject area which will develop its substantive knowledge of the program.

Community support. Before the Bureau can enter into a contract there must be a request made in accordance with § 271.18. The tribal governing body's resolution under § 271.18 shall be presumed to demonstrate that there is community support for the proposed contract. Unless it can be demonstrated by substantial evidence that there is a lack of community support for

The proposed project or function to be contracted cannot be properly completed or maintained by the proposed contractor.

The application is not within the scope of § 271.11(a).

In arriving at his finding, the Commissioner shall consider whether the tribal organization would be deficient in performance under the contract with respect to the factors listed in this paragraph.

No higher standards with regard to buildings, facilities, or equipment shall be applied to tribal organizations than have previously been applied to the Bureau. As provided in § 271.42, the Bureau shall make available the use of all equipment which has been allocated to the operation of the program by the Bureau in the past, unless the Bureau proves the provision of the equipment will seriously interfere with the Bureau's ability to provide services to Indian people in the noncontracted programs. Where equipment is shared by the programs to be contracted and other non-contracted programs, equipment-sharing or other similar arrangements shall be stated in the contract.

Bookkeeping and accounting procedures must be clearly demonstrated by the Bureau that the tribal organization which will undertake the contract, does not have or cannot act in place, the contract funds, an accounting and bookkeeping system which will be adequate.

The substantive knowledge of the program to be contracted.

Where the tribal organization proposing to contract is the tribal government body and the program or function to be contracted is a tribal governmental function, there shall be an absolute presumption that the tribal governing body has substantive knowledge of the program or function to be contracted.

Where the tribal organization proposing to contract is not the tribal governing body or the program or function to be contracted is not a tribal governmental function, the tribal organization shall be presumed to have substantive knowledge of the program if the tribal organization meets or more of the following conditions:

(a) The tribal organization has adequately managed a similar program before through grant or contract.

(b) The tribal organization which is to manage the project possesses by virtue of its knowledge and/or experience substantive knowledge of the program to be contracted.

(c) The tribal organization has been a consumer of such services in the past, and thus has developed an understanding of the issues involved with the program, sufficient to enable it to effectively carry out the contract operation; and, the tribal organization can secure through the resources of the contract, Bureau, and other resources, the training in the particular subject area which will develop its substantive knowledge of the program.

Community support. Before the Bureau can enter into a contract there must be a request made in accordance with § 271.18. The tribal governing body's resolution under § 271.18 shall be presumed to demonstrate that there is community support for the proposed contract. Unless it can be demonstrated by substantial evidence that there is a lack of community support for

The proposed project or function to be contracted cannot be properly completed or maintained by the proposed contractor.

The application is not within the scope of § 271.11(a).

In arriving at his finding, the Commissioner shall consider whether the tribal organization would be deficient in performance under the contract with respect to the factors listed in this paragraph.

No higher standards with regard to buildings, facilities, or equipment shall be applied to tribal organizations than have previously been applied to the Bureau. As provided in § 271.42, the Bureau shall make available the use of all equipment which has been allocated to the operation of the program by the Bureau in the past, unless the Bureau proves the provision of the equipment will seriously interfere with the Bureau's ability to provide services to Indian people in the noncontracted programs. Where equipment is shared by the programs to be contracted and other non-contracted programs, equipment-sharing or other similar arrangements shall be stated in the contract.

Bookkeeping and accounting procedures must be clearly demonstrated by the Bureau that the tribal organization which will undertake the contract, does not have or cannot act in place, the contract funds, an accounting and bookkeeping system which will be adequate.

The substantive knowledge of the program to be contracted.

Where the tribal organization proposing to contract is the tribal government body and the program or function to be contracted is a tribal governmental function, there shall be an absolute presumption that the tribal governing body has substantive knowledge of the program or function to be contracted.

Where the tribal organization proposing to contract is not the tribal governing body or the program or function to be contracted is not a tribal governmental function, the tribal organization shall be presumed to have substantive knowledge of the program if the tribal organization meets or more of the following conditions:

(a) The tribal organization has adequately managed a similar program before through grant or contract.

(b) The tribal organization which is to manage the project possesses by virtue of its knowledge and/or experience substantive knowledge of the program to be contracted.

(c) The tribal organization has been a consumer of such services in the past, and thus has developed an understanding of the issues involved with the program, sufficient to enable it to effectively carry out the contract operation; and, the tribal organization can secure through the resources of the contract, Bureau, and other resources, the training in the particular subject area which will develop its substantive knowledge of the program.

Community support. Before the Bureau can enter into a contract there must be a request made in accordance with § 271.18. The tribal governing body's resolution under § 271.18 shall be presumed to demonstrate that there is community support for the proposed contract. Unless it can be demonstrated by substantial evidence that there is a lack of community support for

The proposed project or function to be contracted cannot be properly completed or maintained by the proposed contractor.

The application is not within the scope of § 271.11(a).

In arriving at his finding, the Commissioner shall consider whether the tribal organization would be deficient in performance under the contract with respect to the factors listed in this paragraph.

No higher standards with regard to buildings, facilities, or equipment shall be applied to tribal organizations than have previously been applied to the Bureau. As provided in § 271.42, the Bureau shall make available the use of all equipment which has been allocated to the operation of the program by the Bureau in the past, unless the Bureau proves the provision of the equipment will seriously interfere with the Bureau's ability to provide services to Indian people in the noncontracted programs. Where equipment is shared by the programs to be contracted and other non-contracted programs, equipment-sharing or other similar arrangements shall be stated in the contract.

Bookkeeping and accounting procedures must be clearly demonstrated by the Bureau that the tribal organization which will undertake the contract, does not have or cannot act in place, the contract funds, an accounting and bookkeeping system which will be adequate.

The substantive knowledge of the program to be contracted.

Where the tribal organization proposing to contract is the tribal government body and the program or function to be contracted is a tribal governmental function, there shall be an absolute presumption that the tribal governing body has substantive knowledge of the program or function to be contracted.

Where the tribal organization proposing to contract is not the tribal governing body or the program or function to be contracted is not a tribal governmental function, the tribal organization shall be presumed to have substantive knowledge of the program if the tribal organization meets or more of the following conditions:

(a) The tribal organization has adequately managed a similar program before through grant or contract.

(b) The tribal organization which is to manage the project possesses by virtue of its knowledge and/or experience substantive knowledge of the program to be contracted.

(c) The tribal organization has been a consumer of such services in the past, and thus has developed an understanding of the issues involved with the program, sufficient to enable it to effectively carry out the contract operation; and, the tribal organization can secure through the resources of the contract, Bureau, and other resources, the training in the particular subject area which will develop its substantive knowledge of the program.

Community support. Before the Bureau can enter into a contract there must be a request made in accordance with § 271.18. The tribal governing body's resolution under § 271.18 shall be presumed to demonstrate that there is community support for the proposed contract. Unless it can be demonstrated by substantial evidence that there is a lack of community support for

The proposed project or function to be contracted cannot be properly completed or maintained by the proposed contractor.

The application is not within the scope of § 271.11(a).

In arriving at his finding, the Commissioner shall consider whether the tribal organization would be deficient in performance under the contract with respect to the factors listed in this paragraph.

No higher standards with regard to buildings, facilities, or equipment shall be applied to tribal organizations than have previously been applied to the Bureau. As provided in § 271.42, the Bureau shall make available the use of all equipment which has been allocated to the operation of the program by the Bureau in the past, unless the Bureau proves the provision of the equipment will seriously interfere with the Bureau's ability to provide services to Indian people in the noncontracted programs. Where equipment is shared by the programs to be contracted and other non-contracted programs, equipment-sharing or other similar arrangements shall be stated in the contract.

Bookkeeping and accounting procedures must be clearly demonstrated by the Bureau that the tribal organization which will undertake the contract, does not have or cannot act in place, the contract funds, an accounting and bookkeeping system which will be adequate.
CHAPTER 1290

the contract and the lack of support will result in unsatisfactory services, inadequate protection of tribal resources or inadequate enforcement of tribal governing body's resolution shall be deemed conclusive. Those asserting that there is an absence of community support for a proposed contract must demonstrate that the Bureau has exhausted all tribal remedies before the matter is considered by the Bureau. In any event, should the Bureau conclude that a lack of community support would result in deaths to performance under the contract until those asserting it have exhausted all their tribal remedies.

(3) Adequacy of trained personnel. The adequacy of trained personnel available to the tribal organization to carry out the proposed contract will be presumed if:

(a) If the tribal organization has a personnel system that prescribes minimum occupational qualifications standards, procedures for the selection of personnel on the basis of such standards, and the personnel to be used under the proposed contract are to be employed under the personnel system.

(b) If there is no tribal personnel system, it will be assumed that the personnel to be employed under the proposed contract are adequately trained if the tribal organization has established position descriptions for key personnel to be employed under the contract and agrees to establish a personnel system similar to the one described in paragraph (a) of this section.

(4) Other necessary components of contract performance.

(a) All other necessary components of contract performance, which cannot be met unless a tribal organization involves itself in the provision of such services, do not agree to develop and maintain a personnel system that provide access to all qualified tribal members.

(b) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members. Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(c) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(d) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(e) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(f) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(g) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(h) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(i) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(j) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(k) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(l) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(m) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(n) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(o) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(p) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(q) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(r) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(s) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(t) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(u) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(v) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(w) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(x) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(y) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(z) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(RULES AND REGULATIONS)

the contract and the lack of support will result in unsatisfactory services, inadequate protection of tribal resources or inadequate enforcement of tribal governing body's resolution shall be deemed conclusive. Those asserting that there is an absence of community support for a proposed contract must demonstrate that the Bureau has exhausted all tribal remedies before the matter is considered by the Bureau. In any event, should the Bureau conclude that a lack of community support would result in deaths to performance under the contract until those asserting it have exhausted all their tribal remedies.

(3) Adequacy of trained personnel. The adequacy of trained personnel available to the tribal organization to carry out the proposed contract will be presumed if:

(a) If the tribal organization has a personnel system that prescribes minimum occupational qualifications standards, procedures for the selection of personnel on the basis of such standards, and the personnel to be used under the proposed contract are to be employed under the personnel system.

(b) If there is no tribal personnel system, it will be assumed that the personnel to be employed under the proposed contract are adequately trained if the tribal organization has established position descriptions for key personnel to be employed under the contract and agrees to establish a personnel system similar to the one described in paragraph (a) of this section.

(4) Other necessary components of contract performance.

(a) All other necessary components of contract performance, which cannot be met unless a tribal organization involves itself in the provision of such services, do not agree to develop and maintain a personnel system that provides access to all qualified tribal members.

(b) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(c) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(d) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(e) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(f) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(g) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(h) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(i) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(j) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(k) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(l) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(m) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(n) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(o) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(p) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(q) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(r) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(s) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(t) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(u) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(v) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(w) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(x) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(y) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(z) Any person who is to be employed under the contract is to be employed under the contract and agrees to develop a personnel system that provides access to all qualified tribal members.

(FEDERAL REGISTER VOl. 40, NO. 213—TUESDAY, NOVEMBER 4, 1975)
(c) The name of the tribal organization.

(b) A brief statement of the contract scope.

(iii) The extent and procedure for review by the tribal governing body of the contract and any amendments thereto prior to execution by the tribal organization.

(2) The tribal office or official to which the Bureau should send copies of contract documents and correspondence.

(3) The proposed term of the contract.

(4) The proposed date for contract commencement.

(5) Any limitations on authorities granted the tribal organization, including authorities granted to or vested in the tribal organization and tribal governing body in regard to:

(a) Access to Bureau records under § 271.16.

(b) Reconstructing records under § 271.30.

(c) Appeals of a decision of the Commissioner under § 271.58.

(d) Requests to review or amend a contract under §§ 271.61 and 271.63.

(e) Requests for contract reclassification under §§ 271.71 and 271.72.

(f) Right to appeal under §§ 271.82 or 271.84.

(6) Any procedure to be followed in this section concerning the manner in which a tribal governing body opens a tribal resolution shall apply except where inconsistent with the tribal's organic document or in the absence of such organic documents the tribal practice.

§ 271.19 Status of contracts in effect before effective date of regulations.

(a) Contracts between the Bureau and the tribal organization, or between the Bureau and the tribal government, which were entered into before the effective date of these regulations and are still in effect on September 30, 1980, shall not be considered to be contracts for purposes of these regulations for purposes of paragraph (a) of § 271.18 unless the contract shall be subject to the provisions of § 271.18.

(b) Upon completion of contracts in effect before the effective date of these regulations, one of the following will occur:

(1) Where the tribal organization was authorized to enter into the contract, it shall be reauthorized to enter into the same contract before the contract was renewed, the contract shall be reauthorized to enter into the contract with the same terms and conditions as provided in § 271.18 and submitting application as provided in § 271.20.

(2) Where the tribal organization did not have a tribal resolution authorizing it to enter into the contract, the contract shall not be authorized to proceed, but must obtain a tribal resolution as provided in § 271.18 and submitting application as provided in § 271.20.

§ 271.20 Reauthorization.

The Bureau will reauthorize the same or new contracts as the written request of the tribal or Indians to be served by the contract are within the jurisdiction of the Agency office.

(a) The Commissioner when the tribal or Indians to be served by the contract are within the jurisdiction of the Area Office.

(b) The Area Director when the tribal or Indians to be served by the contract are within the jurisdiction of the Bureau Office in the Area Office.

(c) The Commissioner when the tribal or Indians to be served by the contract are within the jurisdiction of the Bureau Office.

An application for a contract for which this paragraph (c) is applicable may be submitted at any time. However, when the proposed contract may exist in the deployment of Bureau personnel, the application must be submitted to the appropriate Bureau official at least 120 days before the contract's proposed starting date so the Bureau can comply with all Civil Service Commission requirements which apply to separation and reemployment after Federal employees.

§ 271.22 Review and action by Superintendents.

The Superintendent shall take the following actions after receiving the contract application:

(i) Within five days of receipt, the Superintendent shall notify the applicant and the tribal governing body, if different from the applicant, that the application was received.

(ii) Within 10 days of receipt, the Superintendent shall review the application for completeness and request any additional information from the applicant or the tribal governing body which is needed to satisfy the requirements of § 271.14.

(iii) Within 30 days of receipt, the Superintendent shall make recommendations in writing to the applicant and the tribal governing body which are needed to avoid possible declination and shall indicate the technical assistance available from the Agency Office to correct any deficiencies.

(iv) The Superintendent shall provide the technical assistance offered in the written recommendation as requested by the tribal organization and the tribal governing body.

(v) The Superintendent shall forward the application to the Area Office with his comments and recommendations as follows:

(a) Within 30 days after receiving the application when the Superintendent has made recommendations to make to the applicant.

(b) Within 10 days after making written recommendations, the Superintendent shall forward the application to the appropriate Area Office for immediate action.

(vi) Upon receipt of the contract application, the Area Director will review the application and the Superintendent's recommendations or, where the application was submitted directly to the Area Director, as provided for in § 271.21, obtain the appropriate Superintendent's recommendations within 10 days and then proceed as follows:

(a) Notify the applicant and the tribal governing body that if different from the applicant it was within five days of receipt.

(b) By 20 days, review the contract application, the recommendations of the Superintendent, any responses from the contract applicant or the tribal governing body and the criteria for declination set forth in § 271.19 to determine if there are any declination issues that must be addressed and the completion of the review, take one of the following actions as appropriate:

(1) If there are no declination issues, the Area Director will notify the contract...
applicant in writing of this fact, and shall simulate and award the contract within 30 days of notifying the applicant. Notice a later date is required by the applicant, and furnish a copy of any documents to be used by the Bureau during negotiations.

(3) If it is determined that there are declaration issues that must be resolved, the Area Director will notify the applicant and/or tribal governing body of this fact in writing. The notice shall include a list of the declaration issues identified by the Area Director, the reason(s) for such identification, a copy of any documents used in arriving at the issues, recommending for resolving the issues and the technical assistance available for that purpose. The notice shall also require a meeting with the applicant and/or tribal governing body to discuss the issue and seek agreement on a course of action to resolve them. The meeting shall be held within 15 days of the applicant's receipt of the notice or at a time and place mutually agreed to by the parties.

(1) If the applicant accepts the technical assistance, it shall be provided in accordance with the applicant's request. At such time as the issues are resolved, the Area Director will notify the applicant and offer to enter into negotiations within 15 days of resolution or at the applicant's convenience.

(ii) If the applicant declines the Area Director's offer of technical assistance and the matter is not otherwise resolved, the Area Director shall proceed in accordance with § 271.24.

(iii) If the applicant does not respond within 30 days of receipt of the Area Director's recommendations and offer of technical assistance, and does not request additional time in which to respond, the Area Director shall proceed in accordance with § 271.24.

(iv) If the application does not agree with the Area Director's recommendations and the matter is not resolved within 30 days of the Area Director's receipt of the applicant's response to the Area Director's recommendations, the Area Director shall proceed in accordance with § 271.24.

§ 271.24 Area Director's recommendation.

(a) If the Area Director, the applicant and the tribal governing body fail to resolve any issues, the Area Director shall prepare a written recommendation to the Commissioner, the tribal governing body(s) and the applicant.

(b) This recommendation shall contain:

(1) Identification of specific objections, categorized under one or more of the declaration criteria set forth in § 271.16.

(2) Specific recommendations on actions required by the applicant or tribal governing body to overcome objections.

(3) Description of the nature, scope, and source of the technical assistance which the Area Director has determined is needed.

(4) Copies of all correspondence between the Agency, Area and applicant tribe(s), and all responses thereto, including any reports of meetings between the parties relative to the application.

§ 271.25 Review and action by Commissioner.

(a) Within five days after receiving a contract application submitted directly under § 271.21 or a contract application and the Area Director's recommendations to decline, the Commissioner shall notify the applicant and the tribal governing body(s) in writing of the receipt of the application.

(b) Within 30 days after an application and/or recommendations received by the Commissioner under § 271.21, the Commissioner shall furnish written recommendations to the Commissioner, the tribal governing body(s) and the applicant.

(c) Within 15 days after receiving the Area Director's recommendations, the Commissioner shall review the application and the Area Directors' recommendations, and the declaration criteria in § 271.15.

(d) Within 15 days after receiving the Area Directors' recommendations, the Commissioner shall notify the applicant, the appropriate tribal governing body, and the Area Director(s) of one of the following:

(1) When the Commissioner does not accept the Area Director's recommendations to decline, notice shall be given that those recommendations are not accepted and that the Bureau shall negotiate and award the contract within 45 days, unless the applicant requests additional time.

(2) When the Commissioner accepts the Area Director's recommendations and believes that the Bureau should not contract as requested, notice shall be given that the Commissioner plans to issue a declination notice and that the applicant has the following rights:

(i) The applicant may submit a rebuttal to the Commissioner's plan to issue a declination notice.

(ii) Upon a request, the applicant may request a meeting with the Commissioner or his designee to represent his interests under paragraph (c) of this section.

(iii) The applicant must use these rights within 30 days after receiving the notice required in paragraph (d)(2) of this section.

(c) If the applicant requests a meeting with the Commissioner under paragraph (d)(2) of this section, the Commissioner shall:

(i) Select a date for a meeting between the applicant and the Commissioner or his representative from the Bureau's headquarters.

(ii) Authorize payment of transportation costs and per diem under terms he may make to allow adequate representation of the applicant and the appropriate tribe(s), if the meeting is more than 50 miles from the office of the applicant.

(iii) Notify the applicant and the appropriate tribe(s) of the time, location and other terms of the meetings.

(d) Hold the meeting within 30 days of the request, unless the applicant requests a later date.

(e) If the Commissioner determines the application should be declined, the declination notice shall be issued as follows:

(i) Within 15 days after receiving the applicant's rebuttal submitted under paragraph (d)(2) of this section or

(ii) After the conclusion of the meeting under paragraph (e) of this section.

(f) Within 45 days after notifying the applicant under paragraph (d)(2) of this section when the applicant has not used the rights under paragraph (d)(2) of this section.

(g) The declination notice shall be in writing and shall contain:

(1) Identification of specific objections, categorized under one or more of the declaration criteria set forth in § 271.13.

(2) Specific recommendations on actions required by the applicant to overcome objections and a description of the nature, scope, and source of the technical assistance which will be available to overcome declaration objections.

(h) Copies of all correspondence between the Bureau, applicant and/or tribe(s), and all responses thereto, including any reports of meetings between the parties relative to the application.

(i) Copy of original application.

§ 271.26 Appeals of Commissioner's decision to decline.

The tribal organization and/or the tribal governing body shall have 60 days to appeal to the Board of Indian Appeals, Department of Interior, Washington, D.C., the decision by the Commissioner to decline to contract. Provided, that the tribal organization is authorized by the tribal governing body in the request under § 271.18(c) (2) or subsequent resolution to make such an appeal. The appeal shall be made as provided in § 271.27.

§ 271.27 Technical assistance after denial.

If the Commissioner's decision to decline to contract is not appealed or is
on appeal, the Commissioner shall immediately offer technical assistance to the tribal governing body for the purpose of overcoming the decision. Within 30 days of the tribal governing body's acceptance of this offer, the Commissioner will make technical assistance available to the tribal governing body for the development of a plan for overcoming the objections that resulted in the decision to decline.

§ 271.56 Failure of Bureau Official to Act.

Whenever a Bureau Agency or Area Office official fails to take action on a contract application within the time limits established in this Part, the tribal official that failed to act shall immediately forward the application and all materials portions thereof to the official to whom the request for action was made.

Subpart C—Additional Requirements for Trust Responsibilities

§ 271.322 Contractable functions or programs.

Contractable trust resources programs, or functions which are related to advance payments.

§ 271.323 Content of application.

The following content shall be included in an advance payment application when a trust resource or responsibility is involved: a statement of the impact of proposed activity on trust resources related to:

(a) Maintenance of inventory levels and values of timber and to individuals;

(b) Use of trust funds or function to a lesser standard of the forest conservation, fire prevention, and control; and

(c) Advance payments may be made at times and in amounts determined necessary to ensure availability of funds for timely payment of the tribal contractor's obligations and to minimize the time between withdrawal from the Treasury and expenditure. Requests for advance payments shall be made by check made payable to the tribal contractor and handled as follows:

(2) Any request for advance payment by a tribal contractor shall specify the amount(s) required and the dates such advances will be required and shall be supported by a schedule of estimated expenditures.

(3) Advance payments shall be as follows:

(1) When the annual advance to a tribal contractor is expected to exceed $100,000 in the aggregate and the contract term is for at least one year, the letter-of-credit method normally shall be used. The requirements contained in Chapter 2000 of the Treasury Fiscal Requirements Manual, as modified or supplemented, shall apply to making these advance payments.

(2) Except as provided in paragraph (a)(1) of this section, advance payments shall be made by check made payable to the tribal contractor and handled as follows:

(1) Advance payments may be made directly to the tribal contractor when the contractor is a non-profit Indian organization serving as a governmental instrumentality of an Indian tribe or reservation.

FEDERAL REGISTER, VOL. 49, NO. 213—TUESDAY, NOVEMBER 4, 1975

51238
Indian tribe or an intertribal council. However, when the contractor is not one of the above, the advance payment may be made directly if all of the following conditions exist:

(a) The advance payment does not exceed $2000.
(b) It is the only advance payment involved in the contract.
(c) The number of days is less than 90.

No advance payment shall be made for Indian tribes or intertribal councils unless the advance payment does not exceed 5% of the amount of the contract.

Checks for advance payments which cannot be made directly to the tribal contractor as given in paragraph (c) of this section, shall be made payable for deposit in a special bank account established for the contract. No part of the funds deposited in the special bank account shall be mingled with other funds of the tribal contractor before the funds are withdrawn to meet obligations under the contract.

(2) Tribal contractors shall not be held accountable for interest earned on funds advanced pending disbursement. However, bank balances must be maintained at the minimum level consistent with program requirements. Requests for advances shall be reviewed to insure that excess funds are not advanced.

(3) Sub-advances may be made when predetermined as a part of contracted programs or when specifically authorized in writing by the contracting officer. Sub-advances will not be made to individuals except for approved travel. In such cases, the sub-advances shall not exceed the minimum required for one trip and shall be settled by voucher or reimbursement within 30 days.

§ 271.42 Use of Government property.

(a) Carrying out a contract made under this Part 271, the Superintendent, Area Director or Commissioner shall, when possible, permit a tribal contractor to use existing buildings, facilities, and related equipment and other personal property owned by the Bureau within his jurisdiction. To the extent practicable, the Bureau will permit the use of Bureau property shall be for the use of the contractor under this Part 271. Requests for the use of Bureau property which arise after signing of the contract or on a basis other than that specified in such contract shall be subject to the approval of the Superintendent, Area Director or Commissioner. Requests for the use of Bureau property shall be subject to the approval of the Superintendent, Area Director, or Commissioner.

(b) Requests for the use of Bureau property which arise after signing of the contract or on a basis other than that specified in such contract shall be subject to the approval of the Superintendent, Area Director, or Commissioner; the Bureau shall not permit the use of Bureau property except in those cases where such use will not interfere with the administration of the Bureau program.

§ 271.43 Wage and labor standards.

(a) All laborers and employees employed by the contractor or subcontractors in the construction, alteration, repair, or building or other facilities in connection with contracts under this Part shall be paid wages not less than those prevailing on similar construction in the locality.

(b) The amounts and source of funds other than contract funds which may be included in the amount set forth as a part of the contract. Such amounts and source of funds shall be subject to the approval of the Bureau.

(c) Reflect the amounts and source of funds other than contract funds which may be included in the amount set forth as a part of the contract. Such amounts and source of funds shall be subject to the approval of the Bureau.

(d) Fully reflect all financial transactions involving the receipt and disbursement of funds provided under the contract.

§ 271.44 Indian preference.

(a) Any contract made by the Bureau with a tribal organization shall provide that the tribal contractor shall, in the performance of the contract, give preference in the award of subcontracts to Indian organizations and to Indian-owned economic enterprises.

(b) Any contract made by the Bureau with a tribal organization shall provide that the tribal contractor shall, in the performance of the contract, give preference in the award of subcontracts to Indian organizations and to Indian-owned economic enterprises.

(c) Any contract made by the Bureau with a tribal organization shall provide that the Tribal contractor shall, in the performance of the contract, give preference in the award of subcontracts to Indian organizations and to Indian-owned economic enterprises.

(d) Any contract made by the Bureau with a tribal organization shall provide that the tribal contractor shall, in the performance of the contract, give preference in the award of subcontracts to Indian organizations and to Indian-owned economic enterprises.

§ 271.45 Liability and motor vehicle insurance.

(a) Tribal organizations shall obtain public liability insurance under conditions specified in the contract or under the contract, for public liability insurance shall be maintained by the contractor for those record keeping requirements of the Bureau.

(b) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(c) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(d) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(e) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(f) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(g) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(h) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(i) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(j) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(k) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(l) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(m) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(n) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(o) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(p) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(q) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(r) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.

(s) The reports and records shall be maintained by the contractor for those record keeping requirements of the Bureau.
RULES AND REGULATIONS

51295

(a) Contracts with a tribal organization under this Part shall comply with the Bureau procurement regulations contained in 41 CFR Part 14F-70, except as provided in paragraph (b) of this section.

(b) The Commissioner may waive any Federal contracting laws, executive orders, regulations, rules and other administrative requirements which he determines are not appropriate for the purposes of the contract involved or are inconsistent with the Act, Regulations and clauses which are deemed inconsistent or inappropriate for inclusion in contracts entered into under the Act may be waived, modified or supplemented to 41 CFR Part 14F-70 of the Bureau's procurement regulations. Requests for waivers may be made as follows:

(1) Tribal organizations may submit written requests for a waiver or modification of contract regulations on specific contracts to the Commissioner through, or jointly with, the contracting officer. The contracting officer will promptly transmit the request and his recommendations on it to the Commissioner, who shall issue a ruling within 15 days after receipt of the request.

(2) When the waiver or modification requested is determined by the Commissioner to apply in general, it will be made a part of 41 CFR Part 14F-70. When the Commissioner determines that the request for modification or waiver should not apply in general but is warranted for the contract to which the request pertains, the tribal organization and the contracting officer will be so advised in writing.

(3) If the request for waiver or modification is determined by the Commissioner not to be appropriate, the tribal organization will be notified in writing.

(c) Contracts will be negotiated on a non-competitive basis without advertising when the contracts are requested by a tribal governing body, in accordance with 41 CFR Part 14F-70.

(d) A tribal organization is not required to furnish performance and payment bonds before entering into contract under this Part for the construction of public buildings or works required by the Miller Act of August 24, 1935 (49 Stat. 791), as amended. However, the tribal organization shall require each of its subcontractors to furnish both performance and payment bonds as follows:

(1) A performance bond with a surety or sureties satisfactory to the approving official, and in an amount to be determined, for the protection of the United States.

(2) A payment bond with a surety or sureties satisfactory to the approving official, and in an amount to be determined, for the protection of all persons supplying labor and material in carrying out the contract. Whenever the total amount payable by the terms of the contract is not more than $1,000,000, the payment bond shall be one-half the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract is more

FEDERAL REGISTER, VOL. 40, NO. 213—TUESDAY, NOVEMBER 4, 1975
To make such benefit of the Indians...

Upon the changes that the Bureau but must be agreed to by...®m---•-...

(2) The terms of contracts under this Part shall not exceed one year except that contracts may be made for a longer term up to three years, subject to the availability of funds under the following circumstances:

(a) The services provided under the contract can reasonably be expected to be continued in nature and, as a result, a longer contract term would be advantageous.

(b) The Indian tribe(s) shall be served by the contract request that the term be more than one year. The tribal organization will indicate the desired term of the contract on the application form. When the Indian tribe(s) request that the contract be approved as provided in $271.18, that will also be deemed a request for the longer term indicated in the application.

(6) Costs made for a term of more than one year may be renegotiated annually to reflect factors, including, but not limited to, cost increases beyond the control of the tribal contractor. Proposed changes in the services provided under the contract which reflect changes in program emphasis may be considered during the annual renegotiation if the changes fall within the general scope of the contract. Changes may be initiated by either the tribal contractor or the Bureau, but must be agreed to by both.

§ 271.22 Performance personal services.

(6) Any contract made under this Part may include provisions for the performance of personal services, which would otherwise be performed by Federal employees but are not limited to, performing the following functions in accordance with the contract and applicable rules and regulations:

(a) Determining the eligibility of applicants for assistance.

(b) Determining the extent or amount of assistance, benefits, or services to be provided.

(c) Determining the provisions of such assistance, benefits, or services.

§ 271.23 Tribal organization.

The tribal organization shall be entitled to the funds and direct costs under the contract as follows:

(a) Direct costs under contracts for operations of programs or parts operated by the Bureau before contract operations shall not be less than funds that are programmed and available for the program or part as of the time of the contract application, except as limited in paragraphs (a) of this section.

(b) Direct costs under contracts for the operation of programs or parts authorized to be operated by the Bureau, but not operated by the Bureau, for the benefit of the Indians to be served under the contract shall be determined by mutual agreement based on a comparison of similar programs operated by the applicant, the requesting tribe, other tribes, the Bureau, other governmental, public or private organizations.

(c) Direct costs under contracts for programs or parts to be contracted at the Agency Office level shall be based on funds available at that level.

(d) Allowability of costs under contracts shall be determined under Appendix A of Part 218 of this chapter.

(e) Funds provided under contract for direct or indirect costs shall not cause a reduction in funds provided for other programs or parts not under contract, except as agreed to by the affected tribes and within the existing authorities of the Bureau.

§ 271.25 Savings under contract.

(a) It becomes apparent during the contract term that the estimated amount of savings under this Part will be in excess of actual expenditures under the contract, the identified savings shall be used to provide additional services or benefits to the contract.

(b) When both the tribal contractor and Bureau agree that it is not practicable to spend the savings during the contract term and the contract funds were appropriated pursuant to the Act of February 2, 1971 (43 Stat. 567), the savings may be carried over into the succeeding fiscal year contract, except as otherwise specifically provided in appropriate acts. Savings carried over into a succeeding fiscal year shall be added to the contract amount for that fiscal year. The savings shall not reduce the amount that would have been made available if there had been no savings.

(c) If there are savings under a contract that is retroactive as provided in $271.21, the savings shall be used by the Bureau to operate the program or part of a program covered by the retroactive contract. The savings shall be carried over and used for such operations during the succeeding fiscal year, except as otherwise specifically provided in appropriate acts.

§ 271.26 Privacy Act requirements.

(a) When a tribal contractor operates a system of records to accomplish a Bureau function, the contractor shall comply with Subpart D of 45 CFR Part 3 which implements the Privacy Act of U.S.C. 552a). Examples of the tribal contractor's responsibilities are:

(1) To continue maintaining those systems of records declared by the Bureau to be subject to the Privacy Act as published in the Federal Register.

(2) To make such records available to individuals involved.

(3) To disclose an individual's record to third parties only after receiving permission from the individual to whom the record pertains. 43 CFR 2.56 except in the following procedures.

(4) To establish a procedure to account for access, disclosures, denials, and amendments to records.

(5) To provide safeguards for the protection of the records.

(b) The tribal contractor may not:

(1) Disclose or alter any established systems of records without prior approval of the appropriate Bureau systems manager.

(2) Approve or deny requests for amendments of records without prior approval of the appropriate Bureau systems manager.

(3) Establish a new system of records without prior approval of the Department of Interior and the Office of Management and Budget.

(4) Collect information about an individual unless it is relevant or necessary to accomplish a purpose of the Bureau as required by statute or Executive Order.

(c) The tribal contractor is subject to the penalties provided in subsection (b) of 5 U.S.C. 552a.

Subpart E—Contract Revision or Amendment

§ 271.61 Requesting revision or amendment.

(a) Any contract made under this Part may be revised or amended as deemed necessary to carry out the purposes of the program, project, or function being contracted.

(b) The contractor shall submit proposed revisions and amendments to the Bureau as follows:

(1) To the contracting officer in the Area Office when the tribe(s) or Indian(s) served by the contract are within the jurisdiction of that Area Office.

(2) To the contracting officer in the Bureau's headquarters in Washington, D.C. when the tribe(s) or Indian(s) served are within the jurisdiction of more than one Area Office.

(c) The contractor shall send copies of all requests for revisions or amendments to the designated representative of the tribal governing body at the same time as they are sent to the appropriate contracting officer.

§ 271.62 Review and action by contracting officer.

Upon receipt of the proposed revision or amendment from the contractor, the contracting officer shall, unless the tribal resolution under §271.18(c)(2) or any
51297

subsequent amendment restricts such action, proceed as follows:

(3) Within five days, notify in writing the contractor and the tribal governing body(s) if a receiving or amendment by the contractor or the tribal governing body(s) has been provided or offered by the Bureau to settle the contractor and the tribal governing body(s) to overcome the declination objections.

(4) Copies of all correspondence between the contractor and the contractor and the contractor's representatives shall be issued after the contractor and the tribal governing body(s) to overcome the declination objections.

(5) Within 30 days after the notice, the contractor or the tribal governing body(s) serve the notice of this fact and the object of the issues, recommend a course of action to resolve the issues and offer technical assistance to resolve the issues within 30 days after the notice.

(6) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(7) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations and offer technical assistance and do not request additional time to resolve the issues, the contractor or the tribal governing body(s) shall proceed in accordance with paragraphs (b) or (c).

(8) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations and the contractor and the tribal governing body(s) to overcome the declination objections, the contractor or the tribal governing body(s) shall proceed in accordance with §271.63.

§271.63 Contracting officer's recommendation.

(a) If the contracting officer, the contractor, and the tribal governing body fail to resolve the declination objections, the contracting officer shall prepare a written recommendation to decline.

(b) This recommendation shall contain, as a minimum, the following information:

(1) Identification of specific objectives, categorized under one or more of the declination criteria set forth in §271.15.

(2) Specific recommendations on actions required by the contractor or the tribal governing body(s) to overcome the declination objections.

(3) Description of the nature, scope, and source of the technical assistance which has been provided or offered by the Bureau to settle the contractor and the tribal governing body(s) to overcome the declination objections.

(4) Copies of all correspondence between the contractor and the contractor and the contractor's representatives shall be issued after the contractor and the tribal governing body(s) to overcome the declination objections.

(5) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(6) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(7) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(8) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(9) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(10) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(11) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(12) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(13) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(14) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(15) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(16) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(17) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(18) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(19) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(20) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(21) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(22) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(23) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(24) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(25) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(26) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(27) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(28) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(29) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(30) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.

(31) If the contractor or the tribal governing body(s) do not agree with the contractor's recommendations, the contractor and the tribal governing body(s) shall proceed in accordance with §271.63.
§ 271.63 Appeal of Area Director's or Commissioner's decision to decline.
(a) The contractor and/or the tribal governing body will have 60 days to appeal the decision by the Area Director or Commissioner to decline to amend the contract.
(b) An appeal from an Area Director's decision to decline to amend the contract shall be made to the Commissioner as provided in § 271.62.
(c) An appeal from the Commissioner's decision to decline to amend the contract shall be made to Director, Office of Hearings and Appeals, Department of Interior, Washington, D.C., as provided in § 271.62.

§ 271.66 Revisions of amendments proposed by Bureau.
(a) Where the Bureau proposes a revision or amendment to a specific contract, it shall notify the contractor and the tribal governing body in writing of the following:

1. The specific revision or amendment which is proposed.
2. The rationale for the proposal.
3. That all amendments proposed by the Bureau must be agreed to, in writing, by the contractor, the tribal governing body and the Bureau, if such agreement cannot be obtained, the proposed amendment shall not be adopted by the Bureau.

Subpart—Retrocession and Reassumption

§ 271.71 Retrocession and Reassumption.
(a) Tribal governing bodies not only have a right to contract for Bureau programs or projects, they also have the right to request the opportunity to operate a contract program or portion thereof. However, the Bureau will not appropriate retrocession specifically recognized in the contract.
(b) Where a tribal organization expends funds for Bureau programs and is performing services more than one Indian tribe, all or any of the tribes may request a retrocession. The existing contractor is notified in writing of the contract and informs the tribes requesting retrocession of the level of service that will be available to them upon retrocession. The fact that these services were not identified as a reduced level will not constitute cause to cease the existing contract providing services to the tribe(s) not retroceding. The existing contractor will be modified as appropriate to reflect this nonparticipation of tribes. The Bureau will, however, provide sufficient resources to the existing levels of service for the contract to the tribes that do not request retrocession.
(c) Within 15 days after receipt by the Commissioner or Area Director of a request for retrocession, representatives of the Tribe(s) requesting retrocession and the Tribal Organization, who is the contractor, shall meet to discuss and mutually agree on a plan for operating the contract, if retrocession is granted.
(d) Within 30 days after receipt by the Commissioner or Area Director of a request for retrocession, representatives of the Tribe(s) requesting retrocession and the Tribe(s) not requesting retrocession shall meet to discuss and mutually agree on a plan for operating the contract, if retrocession is granted.

§ 271.72 Full retrocession procedures.
(a) Whenever an Indian tribe requests retrocession of a contract, retrocession shall be effective upon a date specified by the Commissioner or Area Director as appropriate but no later than 120 days after the date of the request from the tribe(s), except when the tribe(s) and the Commissioner mutually agree on a later date.
(b) When the contract is with a tribal organization other than the tribal governing body and the tribe(s) request retrocession under § 271.18(c)(2) does not apply.
(c) When the contract is with a tribal organization other than the tribal governing body, the tribal governing body shall consult with the tribal organization and, if so requested, offer it an opportunity to be heard in accordance with tribal procedures before requesting retrocession of the contract.
(d) When the contract is with a tribal organization which is performing services benefiting more than one Indian tribe, all or any of the tribes may request, and whenever comes first, in each case the Bureau shall assess its available resources and capabilities to provide such services independently of and in addition to that being provided under the contract to the tribe(s) that do not request retrocession.
(e) Within 60 days after receipt by the Commissioner or Area Director of a request for retrocession, representatives of the Tribe(s) requesting retrocession and the Tribe(s) not requesting retrocession shall meet to discuss and mutually agree on a plan for operating the contract, if retrocession is granted.
(f) Within 60 days after retrocession, the Bureau will inspect and prepare a final report to the Commissioner outlining the reasons why retrocession was requested.

§ 271.73 Tribal assumption of retroceded services.
Where an Indian tribe chooses to retrocede a contract operated by a tribal organization other than the tribal governing body, the tribal governing body shall submit a contract application pursuant to § 271.14. Provided, that the tribal governing body may submit the contract application directly to the Area Director or Commissioner, as appropriate.

§ 271.74 Reassumption.
(a) A contract made under this Part may be terminated, and control or operation of the program or function assumed by the Commissioner or Area Director as appropriate, in whole or in part, when the Commissioner or Area Director determines that the tribal organization's performance under the contract involves:
1. The violation of the rights of any persons or of any person's interests or those of a group of persons as a pattern of practice.
2. The endangerment of the health, safety, or welfare of any person, or
3. Gross negligence or mismanagement of the handling of moneys provided under the contract.
(b) If the Commissioner or Area Director as appropriate finds there is an immediate threat to safety, he may, upon written notice to the tribal organization, immediately suspend the contract and assume control or operation of the program. In such an event, the Commissioner or Area Director will hold a hearing within 10 days. The hearing shall be conducted as provided in § 271.81. The decision issued pursuant to § 271.81(c) shall include a statement of the corrective action needed to be taken by the tribal organization before it can assume operation of the contract.

§ 271.75 Construction of Part.
(a) If there is no immediate threat to safety, the Commissioner or Area Director as appropriate shall provide written notice to the tribal organization of its intent to terminate the contract. The notice shall give the reason for the proposed termination, the corrective measures necessary, and a reasonable time period in which corrective action must be taken. The Commissioner or Area Director shall also hold a hearing in accordance with § 271.81 within 10 days of issuance of the notice.
(b) If the decision resulting from the hearing held pursuant to § 271.81 is...
adverse to the tribal organization, the decision shall be a minimum that the corrective action that must be taken, but the technical assistance the Bureau will provide the tribal organization and give the tribal organization at least 30 days in which to take corrective action. Within 30 days of the tribal organization’s receipt of an Area Director’s decision, the area Director may request reconsideration of the decision to review the decision. If the Commissioner determines that the Area Director’s decision will not result in an immediate threat to safety, he may provide additional time for taking corrective action. If the Commissioner determines that the Area Director’s decision is not correct, he may advise the area Director to rescind the hearing decision.

(6) A decision to terminate the contract and resume control or operation may be appealed as provided in \$271.73 or \$271.74, as appropriate.

(a) The Commissioner may require the area Director, if he is satisfied that the conditions which caused the contract to be terminated have been corrected.

\$271.75 Cancellation of contract for cause

(a) Any contract with a tribal organization entered into under this Part may be cancelled for cause when the tribal organization fails to perform within the terms and conditions of the contract.

(b) Before cancellation of the contract, the area Director shall advise the tribal organization and the area Director of the basis for which the contract was cancelled from the tribal organization in writing of the cancellation.

(1) The reasons why the area Director or Commissioner is considering canceling the contract.

(2) The work, with its own forces or another contract, as appropriate. When the Bureau does not have sufficient forces on hand to immediately perform the work. If, for temporary periods of the shortest duration possible, contract with a contractor that is not a tribal organization. However, in such case, the notice of the tribal's intention to determine how they desire the services to be rendered.

(3) Excess costs resulting from a cancellation that are required to operate the program will be provided by the Bureau in the event that funds are available for that fiscal year. However, if current funds are not sufficient to maintain the program at its planned level, the program may be reduced until funds become available for the remainder of the fiscal year and the program will be resumed at its planned level.

(4) Any tribal organization that has a contract cancelled for cause must demonstrate that the causes which led to the cancellation have been cured before it will be considered for another contract. In addition, there must be a new resolution and a new request from the Indian tribe that will receive services or benefits under the contract.

\$271.76 Bureau operation of retired, reassigned, or cancelled for cause contracts

(a) The Bureau shall provide to the tribe(s) and Indians served by a contract which is retired, reassigned, or cancelled for cause not less than the same quantity and quality of service that would have been provided at the level intended by the contract or previously operated by the Bureau.

(b) The Bureau shall provide to the tribe(s) and Indians served by a contract which is retired, reassigned, or cancelled for cause not less than the same quantity and quality of permanent and temporary personnel that meet the U.S. Civil Service qualifications that would have been provided at the level intended by the contract or previously operated by the Bureau. The procedures in 1977 will be followed to obtain personnel to operate programs or parts of programs previously under contract with a tribal organization but reassigned or cancelled for operation by the Bureau because the contract was either reassigned, reassigned, or cancelled for cause.

(c) This section shall apply to all contracts for the operation of Bureau programs or parts of programs in effect at the time the effective date of these regulations entered into force as the authority of the Boy Indian Act (25 U.S.C. 47), and any contracts under this Part.

\$271.77 Authorized position and end-of-year ceiling for Bureau, operations of retired, reassigned, or cancelled contracts

(a) When authorized permanent and other positions and permanent and other end-of-year employment ceiling are not required for the operation of all or parts of a Bureau program because the program or parts of a program are under contract with a tribal organization, the positions and ceilings shall be reserved. The positions and ceilings reserved shall be available only for the same program or parts of a program at the same locations if the Bureau must operate the program or parts of a program because a tribe has reassigned the contract or because the Bureau has reassigned or cancelled the contract for cause.

(b) The Bureau shall establish a position and ceiling reserved for all contracts for the operation of all or parts of Bureau programs initially entered into on or after the effective date of these regulations.

Subpart G—Hearings and Appeals

\$271.81 Hearings

Hearings required by \$271.74 shall be conducted as follows:

(1) The tribal organization and the Indian tribe(s) shall be notified in writing of the hearing. The notice shall give
PART 272—GRANTS UNDER INDIAN SELF-DETERMINATION ACT

Subpart C—General Provisions

§ 272.1 Purpose and scope.

§ 272.2 Definitions.

§ 272.3 Revocation of Indian self-determination act.

§ 272.4 Request for Indian self-determination act.

§ 272.5 Issuance and amendment of regulations.

§ 272.6 Indian Self-Determination Act.

§ 272.7 Application for grants.

§ 272.8 Application for grants.

§ 272.9 Application for grants.

§ 272.10 Application for grants.

§ 272.11 Application for grants.

§ 272.12 Application for grants.

§ 272.13 Application for grants.

§ 272.14 Application for grants.
in this part, the Secretary shall take the following actions:
(a) Conduct with Indian tribes and national and regional Indian organizations to the extent practicable the need for revision or amendment and consider their views in preparing the proposed revision or amendment.
(b) Present the proposed revision or amendment to the Committee on Interior and Insular Affairs of the United States Senate and House of Representatives.
(c) Publish any proposed revisions or amendments in the Federal Register as proposed rulemaking to provide adequate notice to, and receive comment from, all interested parties.
(d) After consideration of all comments received, publish the regulations in the Federal Register in final form not less than 30 days before the date they are made effective.
(e) Annually consult with Indian tribes and national and regional Indian organizations about the need for revision or amendment, and consider their views in preparing the revision or amendment.
(f) Nothing in this section shall preclude Indian tribes or national or regional organizations from initiating requests for revisions or amendments, subject to paragraphs (a), (b), (c) and (d) of this section.

§ 272.5 Statement of policy.
(a) The Indian Self-Determination and Education Assistance Act (Pub. L. 93-638) is intended to facilitate Indian tribes in improving their governmental functions to the extent practicable through self-determination for American Indians by providing a means through which they may plan, carry out, and administer programs and services to Indian tribes. In order to effectively administer programs under contract, these tribes are essential to those authorized by the Secretary of the interior under the Act. Amendments to the Act are proposed to accommodate the needs of tribes and regional and national officials with the views in paragraphs (a) and (b) of this section.
(b) The Secretary shall ensure that Indian tribes seek to provide effective administration of programs under contract, and that any policies established for that purpose shall be subject to public comment.
(c) The Secretary shall ensure that Indian tribes seek to provide effective administration of programs under contract, and that any policies established for that purpose shall be subject to public comment.
(d) The Secretary shall ensure that Indian tribes seek to provide effective administration of programs under contract, and that any policies established for that purpose shall be subject to public comment.

§ 272.11 Eligibility requirements.
(a) The governing body of any Indian tribe or tribes may apply for a grant under this part.
(b) Grants are for the purpose of:
(i) Strengthening and improving administration of tribal government. Examples in this specific regard are as follows:
(1) Program development, construction, or operation of tribal facilities or resources.
(2) Planning, training, evaluation, or other activities designed to improve the effectiveness of the Indian tribe to enter into a contract or enter into or assume the planning, development, construction, or operation of a program.
(3) Training of tribal officials and employees in areas relating to the planning, conduct, and administration of tribal programs.
(4) Training of tribal officials and employees in areas relating to the planning, conduct, and administration of tribal programs.
(5) Design and implementation of new tribal government operations.
(6) Training of tribal officials and employees in areas relating to the planning, conduct, and administration of tribal programs.
(7) Research, development, or other activities designed to improve the effectiveness of the Indian tribe to enter into a contract or enter into or assume the planning, development, construction, or operation of a program.
(8) Training of tribal officials and employees in areas relating to the planning, conduct, and administration of tribal programs.

§ 272.12 Purposes of grants.
(a) The purposes of grants are for the purpose of:
(i) Strengthening and improving administration of tribal government. Examples in this specific regard are as follows:
(1) Program development, construction, or operation of tribal facilities or resources.
(2) Planning, training, evaluation, or other activities designed to improve the effectiveness of the Indian tribe to enter into a contract or enter into or assume the planning, development, construction, or operation of a program.
(3) Training of tribal officials and employees in areas relating to the planning, conduct, and administration of tribal programs.
(4) Training of tribal officials and employees in areas relating to the planning, conduct, and administration of tribal programs.
(5) Design and implementation of new tribal government operations.
(6) Training of tribal officials and employees in areas relating to the planning, conduct, and administration of tribal programs.
(7) Research, development, or other activities designed to improve the effectiveness of the Indian tribe to enter into a contract or enter into or assume the planning, development, construction, or operation of a program.
(8) Training of tribal officials and employees in areas relating to the planning, conduct, and administration of tribal programs.

§ 272.13 Obtaining application instructions and materials.
(a) Application instructions and related application materials may be obtained from Superintendencies, Area Directors, and the Commissioner.

§ 272.14 Content of application.
(a) Application for a grant under this part shall include:
(i) Name and address of Indian tribe or Indians in the area served by the applicant.
(ii) Name and address of the Indian tribe or Indians in the area served by the applicant.
(iii) Name and address of the Indian tribe or Indians in the area served by the applicant.
(iv) Name and address of the Indian tribe or Indians in the area served by the applicant.
(v) Name and address of the Indian tribe or Indians in the area served by the applicant.
(vi) Name and address of the Indian tribe or Indians in the area served by the applicant.
(vii) Name and address of the Indian tribe or Indians in the area served by the applicant.
(viii) Name and address of the Indian tribe or Indians in the area served by the applicant.
(ix) Name and address of the Indian tribe or Indians in the area served by the applicant.
(x) Name and address of the Indian tribe or Indians in the area served by the applicant.
(xi) Name and address of the Indian tribe or Indians in the area served by the applicant.
(xii) Name and address of the Indian tribe or Indians in the area served by the applicant.
(xiii) Name and address of the Indian tribe or Indians in the area served by the applicant.
(xiv) Name and address of the Indian tribe or Indians in the area served by the applicant.
(xv) Name and address of the Indian tribe or Indians in the area served by the applicant.
(xvi) Name and address of the Indian tribe or Indians in the area served by the applicant.
(xvii) Name and address of the Indian tribe or Indians in the area served by the applicant.
(xviii) Name and address of the Indian tribe or Indians in the area served by the applicant.
(xix) Name and address of the Indian tribe or Indians in the area served by the applicant.
(xx) Name and address of the Indian tribe or Indians in the area served by the applicant.

Federal Register, Vol. 40, No. 213—Tuesday, November 4, 1975
§ 272.13 Submitting application to Agency Office. 

An application for a grant under this Part shall be initially submitted to the appropriate Superintendent for review and recommendation as prescribed in § 272.19. This does not include applications for initial planning grants to develop and complete larger grant applications. Such initial planning grant applications are submitted and acted upon as prescribed in § 272.19(b). 

§ 272.19 Agency Office review and recommendation. 

(a) Recommendation for approval or disapproval of a grant application under this Part shall be made by the Superintendent on the initial purpose and scope of the grant proposal pertinent to or involving an Indian tribe or tribes located within the Superintendent's administrative jurisdiction. 

(b) Upon receipt of an application for a grant under this Part, the Superintendent shall: 

(1) Acknowledge in writing receipt of the application within 10 days of its arrival at the Agency Office. 

(2) Review the application for completeness of information and promptly request any additional information which may be required to make a recommendation. 

(3) Assess the completed application for appropriateness of purpose as prescribed in § 272.12, and for overall feasibility. 

(4) Inform the applicant, in writing and with any final recommendation, of any special problems or impediments which may result in the recommendation for disapproval: offer any available technical assistance required to overcome such problems or impediments; and solicit the applicant's written response. 

(5) Recommend approval or disapproval following full assessment of the completed application and forward the Applicant's recommendation to the Commissioner for further action. 

(6) Promptly notify the applicant in writing as to the approval or disapproval of the application. If the application is disapproved, the Commissioner will include in the written notice the specific reasons therefor. 

§ 272.20 Deadline for Agency Office action. 

Within 30 days of receipt of an application for a grant under this Part, the Superintendent shall take action as prescribed in § 272.19. Extension of this deadline will require consultation with and written consent of the applicant. 

§ 272.21 Central Office review and action. 

(a) Grants approved pursuant to § 272.17(a) shall be executed and administered at the Central Office level. 

(b) Grants approved pursuant to § 272.17(b) shall be executed and administered at the Central Office level provided that the Commissioner may designate an Area Office to execute or administer such a grant. 

§ 272.22 Deadlines for Area Office action. 

Within 30 days of receipt of an application for a grant under this Part, the Area Director shall take action as prescribed in § 272.19. Extension of this deadline will require consultation with and written consent of the applicant. 

(a) Upon receipt of an application for a grant requiring Central Office approval, the Commissioner shall: 

(1) Review the application following the applicable review procedures prescribed in § 272.19. 

(2) Review the Superintendent's recommendation as pertains to the application. 

(3) Approve or disapprove the application. 

(b) In instances where a joint application is made by tribes representing more than one Area Office administrative jurisdiction, the Area Director shall add his recommendation for approval or disapproval to that of the Superintendent and shall forward the application and recommendations to the Commissioner for further action. 

(c) Upon taking action as prescribed in paragraph (a) or (b) of this section, the Area Director shall promptly notify the applicant in writing as to the action taken. If the action taken is disapproval or recommendation for disapproval of the application, the Area Director will include in the written notice the specific reasons therefor. 

§ 272.23 Central Office review and action. 

Within 30 days of receipt of a joint application for a grant under this Part the Commissioner shall: 

(a) Review the applicaton following the applicable review procedures prescribed in § 272.19. 

(b) Review Agency and Area Office recommendations as pertains to the application. 

(c) Approve or disapprove the application. 

(d) Promptly notify the applicant in writing as to the approval or disapproval of the application. If the application is disapproved, the Commissioner will include in the written notice the specific reasons therefor. 

§ 272.24 Deadline for Central Office action. 

Within 30 days of receipt of an application for a grant under this Part the Commissioner shall take action as prescribed in § 272.19. Extension of this deadline will require consultation with and written consent of the applicant. 

§ 272.25 Grant execution and administration. 

(a) Grants approved pursuant to § 272.17(a) shall be executed and administered at the Area Office level. 

(b) Grants approved pursuant to § 272.17(b) shall be executed and administered at the Central Office level provided that the Commissioner may designate an Area Office to execute or administer such a grant. 

§ 272.26 Subgrants and subcontracts. 

The grantees may make subgrants or subcontracts under this Part provided that...
that such subgrants or subcontracts are for the purpose for which the grant was made and that the grantee retains administrative and financial responsibility over the activity and the funds.

§ 272.27 Acceptance of tribal plans for the operation of Bureau programs.

Any Bureau program, excluding any tribal resource program, which is abandoned, declared, designed or redesignated under this part, or from any other reason, shall be treated as if requested by the tribe through resolution. However, before implementation the program shall meet the following requirements:

(a) Funding, staffing and other resources are available to implement the plan.

(b) The implementation of the plan would not cause a reduction in the quality or quantity of services available to Indian people.

(c) The plan meets the administrative planning requirements of the Bureau. However, the plan need not meet the planning requirements for the particular program.

(d) The plan provides a basis for the delivery of satisfactory services to Indian people, unless it can be demonstrated by the Bureau by substantial evidence that the plan will fail results which will deprivations to the welfare of the Indian people to be served.

(e) The Commissioner may waive any regulatory requirements given in subpart C of this part, or the Indian Tribal Code of Regulations, as may be inconsistent with law, inconsistent with the tribal plans and Bureau manual, guidelines, or other non-regulatory requirements of the Bureau or inconsistent with the tribal plans:

Subpart C—Grant Requirements

§ 272.31 Applicability.

The general requirements for grants administered by the Bureau to a tribe under a grant provided to that tribe shall be implemented by the Bureau through the appropriate procedures as defined in this subpart, except to the extent inconsistent with an applicable Federal statute or regulation.

§ 272.33 Matching share.

(a) Specific Federal laws notwithstanding, grants funded by grants not subject to this Part may be used as matching shares for any other Federal or non-Federal grant programs which contribute to the purposes specified in § 272.12.

(b) Superintendents, Area Directors, and their designees as required, shall coordinate all Federal grant agreements with matching fund programs and with, upon tribal request, assist tribes in obtaining information concerning other Federal/Indian projects which will be implemented by Federal employees.

§ 272.34 Perforning personal services.

Any grant provided under this Part shall include provisions for the performance of personal services which would otherwise be performed by Federal employees.

§ 272.35 Fair and uniform services.

Any grant provided under this Part shall include provisions to ensure the fair and uniform provision by the grantee of services and assistance to all Indians included within or affected by the intent, purpose, and scope of that grant.

§ 272.36 Penalties.

If any officer, director, agent, or employee of, or connected with, any recipient of a grant, subgrant, contract, or subcontract under this Part, embezzles, willfully misapplies, steals, or obtains by fraud any of the money, funds, assets, or property which are the subject of such a grant, subgrant, contract, or subcontract, he shall be subject to the following penalties:

(a) If the amount involved does not exceed $1,000, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(b) If the amount involved exceeds $1,000, he shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

Subpart D—Grant Revision, Cancellation, or Assumption

§ 272.41 Revisions or amendments of grants.

(a) Requests for budget revisions or amendments to grants awarded under this Part shall be made in accordance with this chapter.

(b) Any grant provided under this Part shall, on request of any recipient of a grant, be revised or amended to conform to the provisions of this chapter.

§ 272.42 Assumption.

(a) When the Bureau cancels a grant for cause as specified in § 272.18 of this chapter, the Bureau may assume control of the grant program, activity, or service. However, the bureau's control of a grant program, activity, or service shall not cause a grant program, activity, or service to be found inconsistent with Indian people.

(b) The Bureau may assume control of any grant program cancels for cause, the Bureau may decline to enter into a new grant agreement if at any time satisfied that the cause for cancellation has been corrected.

Subpart E—Hearings and Appeals

§ 272.51 Hearings.

Hearings referred to in § 272.18 of this chapter shall be conducted as follows:

(a) The grants and the Indian tribe(s) affected shall be notified, in writing, at least 10 days before the hearing. The notice should give the date, time, place, and purpose of the hearing.

(b) A hearing shall be made. The record shall include written statements submitted at the hearing or within 5 days following the hearing.

(c) The hearing shall be conducted as informal as possible.

§ 272.52 Appeals from decision or action by Superintendent.

(a) A grantee may appeal any decision made or action taken by a Superintendent under this Part. Such appeals shall be made to the Area Director as provided in Part 2 of this chapter.

(b) The appeal shall provide its own attorney or other advocates to represent it during the appeal process.

Subpart F—Appeals from decision or action by Area Director.

(a) A grantee may appeal any decision made or action taken by an Area Director under this Part. Such appeal shall be made to the Commissioner as provided in Part 2 of this chapter.

(b) The appeal shall provide its own attorney or other advocates to represent it during the appeal process.

§ 272.54 Appeals from decision by Commissioner.

(a) A grantee may appeal any decision made or action taken by the Commissioner under this Part only as provided in Part 2 of this chapter.

(b) The appeal shall provide its own attorney or other advocates to represent it during the appeal process.

§ 272.55 Failure of Agency or Area Office to act.


§ 272.56 Matching share.

(a) Specific Federal laws notwithstanding, grants funded by grants not subject to this Part may be used as matching shares for any other Federal or non-Federal grant programs which contribute to the purposes specified in § 272.12.

(b) Superintendents, Area Directors, and their designees as required, shall coordinate all Federal grant agreements with matching fund programs and with, upon tribal request, assist tribes in obtaining information concerning other Federal/Indian projects which will be implemented by Federal employees.

§ 272.57 Acceptance of tribal plans for the operation of Bureau programs.

Any Bureau program, excluding any tribal resource program, which is abandoned, declared, designed or redesignated under this part, or from any other reason, shall be treated as if requested by the tribe through resolution. However, before implementation the program shall meet the following requirements:

(a) Funding, staffing and other resources are available to implement the plan.

(b) The implementation of the plan would not cause a reduction in the quality or quantity of services available to Indian people.

(c) The plan meets the administrative planning requirements of the Bureau. However, the plan need not meet the planning requirements for the particular program.

(d) The plan provides a basis for the delivery of satisfactory services to Indian people, unless it can be demonstrated by the Bureau by substantial evidence that the plan will fail results which will deprivations to the welfare of the Indian people to be served.

(e) The Commissioner may waive any regulatory requirements given in subpart C of this part, or the Indian Tribal Code of Regulations, as may be inconsistent with law, inconsistent with the tribal plans and Bureau manual, guidelines, or other non-regulatory requirements of the Bureau or inconsistent with the tribal plans:
such support is necessary to maintain established State educational standards. (b) The application and approval process in this Part applies specifically to contracts with a State, school district, or Indian corporation. (c) Contracts with tribal organizations for supplemental and operational support will be entered into only upon the request of an Indian tribe, and shall be subject to the provisions of Part 271 of this chapter and 41 CFR Part 62-70, except as provided in § 273.11. (d) Nothing in these regulations shall be construed to:

1. Affecting, modifying, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian tribe.

2. Authorizing or requiring the termination of any existing trust relationship of the United States with respect to the Indian people or:

3. Permitting significant reduction in services to Indian people as a result of this Part.

4. Nothing in these regulations shall be construed to mandate an Indian tribe to request a contract or contracts. Such requests are strictly voluntary.

As used in this Part:

(a) "Area Director" means the official in charge of a Bureau of Indian Affairs Area Office.

(b) "Bureau" means the Bureau of Indian Affairs.

(c) "Commissioner" means the Commissioner of Indian Affairs.

(d) "Days" means calendar days.

(e) "Economic enterprise" means any commercial, industrial, agricultural, or business activity that is at least 51 percent Indian-owned, established or organized for the purpose of profit.

(f) "Education plan" means a comprehensive plan for the programmatic services and accountability of an educationally eligible Indian student under this Part.

(g) "Indian tribe" means any Indian tribe, band, nation, band or tribe, or Indian corporation.

(h) "Indian corporation" means any Indian tribe, band, nation, band or tribe, or Indian corporation established under Federal law.

(i) "Secretary" means the Secretary of the Interior.

(j) "State" means a State of the United States of America or any political subdivision of a State.

(k) "Supplemental programs" means those programs designed to meet the specialized and unique educational needs of eligible Indian students which may have resulted from socio-economic conditions of the past, from cultural or language differences or other factors, as provided in 273.2(i).

(l) "Tribal government," "tribal government body," and "tribal council" means the recognized governing body of an Indian tribe.

\[ \text{RULES AND REGULATIONS} \]

\[ \text{SUBJECT III—APPLICATION PROCESS} \]

\[ 273.15 \text{ Initial application.} \]

\[ 273.16 \text{ Program approval.} \]

\[ 273.17 \text{ Contract approval.} \]

\[ 273.18 \text{ Attestation requirements for educational plan.} \]

\[ 273.19 \text{ Application certification form.} \]

\[ 273.20 \text{ Content of application to include.} \]

\[ 273.21 \text{ Tribal request for contract.} \]

\[ 273.22 \text{ Approval of application.} \]

\[ 273.23 \text{ Submitting application to Area Office.} \]

\[ 273.24 \text{ Area Office review and decision.} \]

\[ 273.25 \text{ Decision for Area Office action.} \]

\[ 273.26 \text{ Receiving application to Area Office.} \]

\[ 273.27 \text{ Area Office review and decision.} \]

\[ 273.28 \text{ Decision for Central Office action.} \]

\[ 273.29 \text{ Negotiating the contract.} \]

\[ 273.30 \text{ General requirements for general conditions.} \]

\[ 273.31 \text{ Disclosure statement.} \]

\[ 273.32 \text{ Pro ra requirement.} \]

\[ 273.33 \text{ Use of funds for operational support.} \]

\[ 273.34 \text{ Use of other Federal, State and local funds.} \]

\[ 273.35 \text{ Capital outlay or debt retirement.} \]

\[ 273.36 \text{ Eligible subcontracts.} \]

\[ 273.37 \text{ Use of funds toward costs of schools.} \]

\[ 273.38 \text{ Use of funds for the community and state of education.} \]

\[ \text{Subpart D—General Contract Requirements} \]

\[ 273.41 \text{ Special program provisions to be included in contract.} \]

\[ 273.42 \text{ Civil rights Authority.} \]

\[ 273.43 \text{ Use and transfer of Government funds.} \]

\[ 273.44 \text{ Indian preference.} \]

\[ 273.45 \text{ Native Indian, vehicle-leasing.} \]

\[ 273.46 \text{ Indian and Tribal Enterprise.} \]

\[ 273.47 \text{ Audits and inspection.} \]

\[ 273.48 \text{ Financial management and reporting.} \]

\[ 273.49 \text{ Indian participation.} \]

\[ 273.50 \text{ Planning and program.} \]

\[ 273.51 \text{ Program and contract amendments.} \]

\[ 273.52 \text{ Applicable procurement regulations.} \]

\[ 273.53 \text{ Compliance requirements.} \]

\[ \text{Subpart E—Contract Revision or Amendment} \]

\[ 273.61 \text{ Contract revision or amendment.} \]

\[ 273.62 \text{ Indian participation.} \]

\[ \text{Subpart F—Appeals} \]

\[ 273.71 \text{ Contract appeal.} \]

\[ 273.72 \text{ Contract appeal.} \]

\[ 273.73 \text{ Appeal from decision to cancel contract.} \]

\[ 273.74 \text{ Appeal from decision for cause.} \]

\[ 273.75 \text{ Other appeals.} \]

\[ \text{Appendix A} \]

\[ 273.85 \text{ U.S.C. 455-456, sec. 306.} \]

\[ 273.86 \text{ Pub. L. 83-439, 65 Stat. 902, unless otherwise noted.} \]

\[ \text{Appendix B} \]

\[ 273.87 \text{ General provisions.} \]

\[ \text{§ 273.1 Purpose and scope.} \]

(a) The purpose and regulations in this Part is to set forth the application and approval process for educational contracts under the Johnson-O’Malley Act. Such contracts shall be for the purpose of financially assisting those efforts designed to meet the specialized and unique educational needs of eligible Indian students, including programs supplementing educational programs and school operational support, where

\[ \text{FEDERAL REGISTER, VOL. 40, NO. 213—TUESDAY, NOVEMBER 4, 1975} \]
§ 273.3 Revision or amendment of regulations.

In order to make any substantive revision or amendment to the provisions of this part, the Secretary shall take the following actions:

(a) Consult with Indian tribes and national and regional Indian organizations to the extent practicable about the need for revision or amendment and consider their views in preparing the proposed revisions or amendments.

(b) Publish the proposed revisions or amendments in the Federal Register as proposed rulemaking to provide adequate notice to, and receive comments from, all interested parties.

(c) After consideration of all comments received, publish the regulations in the Federal Register in final form not later than 30 days before they are made effective.

(d) Annually consult with Indian tribes and national and regional Indian organizations about the need for revision or amendment, and consider their views in preparing the revision or amendments.

(e) Nothing in this section shall preclude Indian tribes or national or regional Indian organizations from initiating request for revisions or amendments subject to paragraphs (a), (b), (c), and (d) of this section.

§ 273.4 Policy of maximum Indian participation.

The meaningful participation in all aspects of educational program development and implementation by those affected by such programs is an essential requirement of any program support which does not enhance program responsiveness to the needs of those served, but also provides them with the opportunity for goal setting, decision-making, and evaluation of educational achievement and satisfaction in decisions made and services provided. Consistent with this concept, the following terms shall be defined and used in the development, approval and implementation of contracts or agreements made pursuant to this Part.

Subpart B—Application Process

§ 273.11 Eligible applicants.

(a) Any State, school district, tribal organization or Indian corporation is eligible to apply for contracts for supplemental or operational support programs. For the purposes of this part, any previously private schools as defined in § 273.3 are considered tribal organizations.

(b) The States, school districts, or Indian corporations shall apply for contracts for support of educational programs as required in this Part.

(c) Indian corporations must comply with the following requirements to obtain contracts for educational programs or operational support:

(1) The application submitted by the tribal organization shall meet the requirements contained in § 273.10 in addition to those in § 273.14 of this chapter.

(2) The requirements in §§ 273.20, 273.27, 273.41 through 273.50, 273.54, 273.61 through 273.64, and 273.81 shall apply in such contracts with tribal organizations.

(3) The provisions in §§ 273.71 through 273.77 of this chapter concerning retrofitting and rehabilitation of programs do not apply to a tribal organization retrofitted a contract for supplemental programs or operational support as the Bureau has not operated education programs authorized to be contracted under the Johnson-O’Malley Act. However, the tribal organization shall elect a contract and the Bureau will then contract with a State, school district, or Indian corporation under this Part for the supplemental or operational support under this Part.

(4) The requirements in §§ 273.12 through 273.18, 273.20, 273.31, 273.32 through 273.35, 273.41, 273.51 and 273.52 shall apply to such contracts with tribal organizations.

(5) The provisions in 41 CFR Part 1420-70 shall apply to such contracts with tribal organizations.

§ 273.12 Eligible students.

Indian students, from age 3 years through grade 12, except those who are enrolled in Bureau or sectarian operated schools, shall be eligible for benefits provided by a contract pursuant to this Part if they are in or more degrees Indian blood and recognized by the Secretary as being eligible for Bureau service. Priority shall be given to students on or near reservations and (b) students of such Indian students shall be members of the tribal student enrollment (as defined in § 273.21).

§ 273.13 Proposals eligible for contracts.

Indian proposals to contract for funding a program which meets the definition and requirements of this Part shall be considered an eligible proposal for purposes of this Part.

(a) To contract for operational support, a public school district shall be required to establish as part of the proposal:

(1) It cannot meet the applicable minimum educational standards or requirements without funds.

(b) Indian organizations without regard to contract funds pursuant to this part.

(c) It shall not be a project (or a project) by which contract funds pursuant to this Part.

§ 273.15 Establishment of Indian Education Committee.

(a) When a school district to be affected by a contract(s) for the education of Indians pursuant to this Part has a local school board not composed of a majority of Indians, the tribal governing body(s) of the Indian students affected by the contract(s) under this Part shall specify one or the following entities to serve as the Indian Education Committee for the purpose of this Part:

(1) An Indian Education Committee to be served from among the parents, students, teachers, and school administrators, or citizens or eligible Indian students enrolled in the school(s) affected by a contract(s) under this Part; or

(b) A local Indian Education Committee established pursuant to section 305(b)(2)(B) and (B) of the Act of January 23, 1972 (86 Stat. 94) and existing prior to January 4, 1975;

(c) An Indian advisory school board or Indian Education Committee established pursuant to the Johnson-O’Malley Act and existing prior to January 4, 1975.

(d) When the local school board is not composed of a majority of Indians and the tribal governing body(s) of the Indian students affected by a contract(s) under this Part determine which of the entities provided for in paragraph (a) of this section is to serve as the Indian Education Committee for the purpose of this Part, it shall notify the Area Director of
an application for a contract under this Part shall be in writing and shall contain the following:
(a) Name, address, and telephone number of the proposed contractor.
(b) Name, address, and telephone number of the tribe to be served by the contract.
(c) Descriptive narrative of the contract proposal.
(d) The education plan required by § 273.14.
§ 273.21 Tribal request for contract.
(a) An Indian tribe governing body, or a contractor(s) entered into with a tribal organization must be notified of an application received for operational support and/or supplemental programs, by any means, to facilitate accountability.
(b) If the tribal governing body's notice is not received by the date given in paragraph (a) of this section, the Area Director or contractor(s) shall be notified.
§ 273.22 Application approved officials.
(a) Each Area Director is authorized to accept applications for contracts(s) submitted by the State, school district, or Indian corporation under this Part.
(b) When a proposed contract(s) will provide services to Indian children within the jurisdiction of more than one Area Office, the contract must be approved by the Commissioner.
§ 273.23 Submitting application to Area Office.
When services under the proposed contract(s) will be provided to Indian children within the jurisdiction of a single Area Office, the application shall be submitted to the Area Director of that Area Office.

§ 273.24 Area Office review and decision.
(a) Upon receiving a contract application, the Area Director shall:
(b) Review the application for completeness and request within 20 days any additional information from the applicant which will be needed to reach a decision.
(c) Upon receiving an application for operational support, make formal written determination and findings supporting the need for such funds. In arriving at such a determination, the Area Director must be assured that such funds will facilitate the computing State and local contributions without regard to funds requested pursuant to this Part.
(d) Assess the completed application to determine if the contract proposal is feasible and if the proposal and the application comply with the appropriate requirements of the Johnson-O'Malley Act and of the regulations in this Part.
(e) Approve or disapprove the application after fully reviewing and assessing the application and any additional information submitted by the applicant.

§ 273.25 Deadline for Area Office action.
(a) The Area Director shall approve or disapprove an application for a contract within sixty (60) days after the Area Office receives the application and any additional information requested in § 273.24(c). The sixty (60) day deadline can be extended after obtaining the written consent of the applicant.
(b) An application under this Part cannot be approved before January 1 preceding the school year for which the contract will be let.

§ 273.26 Submitting application to Central Office.
A contract service under the proposed contract will be provided to Indian children with the assistance of two or more Area Offices, the completed application shall be submitted to the Commissioner through the respective Area Office.

§ 273.27 Central office review and decision.
Upon receiving a contract application, the Commissioner shall:
(a) Notify the applicant in writing that the application has been received. This notice shall be made within fourteen (14) days after the Area Office receives the application.
(b) Review the application for completeness and request within 20 days any additional information from the applicant which will be needed to reach a decision.

§ 273.28 Final determination.
On receiving an application for operational support, make formal written determination and findings supporting the need for such funds. In arriving at such a determination, the Commissioner must be assured that such funds will facilitate the computing State and local contributions without regard to funds requested pursuant to this Part.

§ 273.29 Negotiating the contract.
After the proposal for a contract has been approved by the Area Director or Commissioner as provided in § 273.25, the sixty (60) day deadline can be extended after obtaining the written consent of the applicant.

Subject C—Funding Provisions
§ 273.31 Distribution formula.
(a) Funds for both supplemental programs and operational support shall be apportioned among the States on a statistically equal basis, based upon the number of eligible Indian students for whom funds are sought, with allowances being made for the actual cost of delivering educational services in each State; except that, any State or contractor who meets criteria in this Part and receives operational support in FY 1975 may continue to receive such funds in FY 1977 and FY 1978 in addition to those described above. However, the amount of such assistance each year will be equal to that State or contractor's prior year operational support allocation reduced by one-third of its FY 1976 operational support allocation. Further, in FY 1977 to States shall receive less than 75% of the supplemental program assistance they received in FY 1975.
(b) Except as described in paragraph (a) of this section, all other funds shall

FEDERAL REGISTER, VOL. 40, NO. 210—TUESDAY, NOVEMBER 4, 1975

52207
be distributed among the contractors within each State so that each contractor will receive approximately the same amount for each eligible Indian student to be served under the contract.

(c) The Commissioner may make exceptions to the provisions of paragraphs (a) and (b) of this section based upon federal tribal, educational, social, or economic needs of the communities involved, including the actual cost of education in the community.

§ 273.32 Para. requirement.

All monies provided by a contract pursuant to this Part shall be expended only for the benefit of eligible Indian students. Where students other than eligible Indian students participate in programs contracted under this part, money expended under such contract shall be prorated to cover the participation of only the eligible Indian students, except where the participation of non-eligible students is incidental as to be de minimis. Such prorated participation must be approved by the Indian Education Committee.

§ 273.33 Use of funds for operational support.

All funds for school operational support shall be used to meet established State educational standards or State-wide requirements.

§ 273.34 Use of other Federal, State and local funds.

(a) Contract funds under this part shall supplement, and not supplant, Federal, State and local funds. Each contract shall provide that the use of contract funds will not result in a decrease in Federal, State or local funds which would be made available for Indian education under this Part if there were no funds under this Part.

(b) Any local and other Federal funds must be used to provide comparable services for non-eligible Indian students prior to the use of Johnson-O'Malley funds for the provision of supplementary school programs to Indian children.

(c) Funds for operational support shall be used only as described in § 273.35.

§ 273.35 Capital outlay or depreciable assets.

In no instance shall contract funds provided under this part be used as payments for capital outlay or depreciable assets; except that, such costs are allowable if they are considered to be a part of the full per capita cost of education. In no instance shall funds be expended in Federal boarding facilities for the purpose of attending public schools.

§ 273.36 Eligible subcontracts.

No contract funds under the Johnson-O'Malley Act may be made available to the Bureau directly to other than tribal organizations within school districts and Indian corporations. However, tribal organizations, States, school districts, and Indian corporations receiving funds under the Johnson-O'Malley Act may enter into subcontracts for necessary services with any appropriate individual, organization or corporation.

§ 273.37 Use of funds outside of schools.

Nothing in these regulations shall prevent the Commissioner from contracting with Indian corporations who will expend the Johnson-O'Malley funds in accordance with the provisions of § 273.33 Equal quality and standard of education.

Contracts with State education agencies or school districts receiving funds under the provisions of this part shall provide educational opportunities to all eligible Indian children within those schools as described in § 273.33 Equal quality and standard of education.

Education programs approved by the Indian Education Committee under this Part shall be implemented by the activities of the Federal and State tribal education agencies, the State education agencies, and the local education agencies.

§ 273.41 Special procedures to be followed in contracts.

All contracts under this Part shall contain the following:

(a) The education plan required by §§ 273.14 and 273.18 and, as part of the education plan, the education programs approved by the Indian Education Committee under § 273.17.

(b) Any formal written determination of frauds made by the Area Director or Commissioner supporting the need for operational support as required by §§ 273.24(c) and 273.27(c).

(c) The provisions that State, local and other Federal funds shall be used to provide supplemental program services to non-Indian and Indian students prior to the use of Johnson-O'Malley funds for the provision of supplemental program services to eligible children, as required in § 273.34(b).

§ 273.42 Civil Rights Act violations.

No contract shall be awarded to an Indian corporation which, in its implementation of Title VI of the Civil Rights Act of 1964, has engaged in any activity which violates Title VI of the Civil Rights Act of 1964.

§ 273.43 Payments.

Advance payments to States, school districts and Indian corporations will be made in accordance with the applicable provisions of 41 CFR 7 and 41 CFR 14H except 41 CFR Part 14H-10.

§ 273.44 Use and transfer of Government property.

(a) The use of Government-owned facilities for school purposes may be authorized when not needed for Government activities. Transfer of title to such facilities except land may be authorized under the Act of June 4, 1953 (67 Stat. 159), subject to the approval of the tribal government if such property is located on a reservation.

(b) In carrying out a contract made under this Part, the Area Director or Commissioner may, with the approval of the tribal government, require a contractor to use existing buildings, facilities, and related real and personal property owned by the Indian corporation in accordance with terms and conditions agreed upon for their use and maintenance.

The property at the time of transfer must conform to the minimum standards established by the Occupational Safety and Health Act of 1970 and the Federal fire, health, and safety laws. Use of Government property is subject to the following conditions:

1) When nonresidential Government property is turned over to public school authorities or Indian corporations under a use permit, the permittee shall insure such property against damage by flood, fire, rain, windstorm, vandalism, snow, and tornado in amounts and with comparable satisfactory to the Federal officer in charge of the property. In case of damage or destruction of the property by flood, fire, rain, windstorm, vandalism, snow or tornado, the Insurance money collected shall be expended only for replacement of property.
RULES AND REGULATIONS

[Text of the regulations related to public school authorities and their responsibilities for maintaining contracts and records, including provisions on privacy, records management, and access to information.]
RULES AND REGULATIONS

right of the contractor to appeal under Subpart C of 43 CFR Part 4.

right of the contractor to appeal under Subpart C of 43 CFR Part 4.

right of the contractor to appeal under Subpart C of 43 CFR Part 4.

right of the contractor to appeal under Subpart C of 43 CFR Part 4.

right of the contractor to appeal under Subpart C of 43 CFR Part 4.

right of the contractor to appeal under Subpart C of 43 CFR Part 4.

right of the contractor to appeal under Subpart C of 43 CFR Part 4.

right of the contractor to appeal under Subpart C of 43 CFR Part 4.
The Act authorizes the expenditure of funds appropriated under Part B of the Act to contract with or arrange with an Indian tribe for the performance of any of the services referred to in section 202, to the extent necessary to assure such services are provided to the Indian tribes.

(b) "Economic enterprise" means any commercial, industrial, agricultural, or business activity that is at least 51 percent Indian-owned, established or organized for the purpose of profit.

(1) "Existing school facilities" means all facilities constructed as school buildings and used continuously for classroom purposes. Included are classroom rooms, hallways, and other space, the use of which for school purposes (as determined by the Secretary) seriously restricts the educational objective, or has impaired or will impair the health or safety of the school children.

(2) "Indian tribe" means any Indian tribe, band, nation, banderia, pueblo, colony or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (83 Stat. 868) which is federally recognized as eligible for the benefits of the United States Government through the Secretary of the Interior for the special programs and services provided by the Secretary to Indians because of their status as Indians.

(3) "Indians" means a person who is a member of an Indian tribe.

(4) "Initial equipment" means any movable equipment necessary and appropriate to equip minimum school facilities, such term does not include equipment purchased to replace any equipment which is obsolete or worn out and which was purchased with funds under the Act.

(5) "Minimum school facilities" means classroom and auxiliary rooms and initial equipment necessary to operate the educational programs for the membership of the school at core elementary capacity in accordance with criteria established by the Bureau.

(6) "Previously private school" means a school (other than a Federal school) formerly operated by the Bureau, that is, a school established primarily for Indian students of grade 12 and which at the time of application is not controlled, sanctioned, or chartered by an Indian tribe.

(7) "Secretary" means the Secretary of the Interior.

(8) "Supplemental" means the official in charge of a Bureau of Indian Affairs Area Office.

(9) "Tribal government", "tribal governing body", and "tribal council" means the recognized governing body of an Indian tribe.

(10) "Tribal organization" means the recognized governing body of any Indian organization or any legally established organization of Indians of Indian tribes which is certified, sanctioned, or chartered by the Bureau and which is normally served by said tribal organization.

(a) "Indian-owned corporation" means a corporation of or for the benefit of the membership of an Indian tribe which is organized and conducted as a private economic enterprise and which has been certified, sanctioned, or chartered by the Bureau.

(b) "Applicable procurement and procedures" means any Indian-owned corporation.
RULES AND REGULATIONS

5133

Intend having jurisdiction over the tribe(s) requesting the contract or services.

(b) When the contract or services requested in the application will benefit
more than one tribe under the jurisdiction of more than one Agency Office
within the Area, the application and documentation of the tribal requests
shall be delivered or mailed to the Area

274.17 When to submit application.

A-1

Applications may be submitted by a tribal organization to the Office or Director involved.

§ 274.18 Agency Office review and action.

(a) The Superintendent has 30 days after receipt of an application to notify
the applicant in writing of the receipt, review the application for completeness,
and request any needed information from the applicant.

(b) When the Superintendent has determined that the application is complete,
he will forward the completed application with documentation of the
tribal requests to the Area Director having jurisdiction over that Agency
Office with a written statement that the application is complete.

§ 274.19 Area Office review and action.

Within 30 days after receiving an application for preconstruction and
preparation of the project's priority ranking on the Bureauwide list.

274.20 Priorities for fundin«...
§ 274.33 Selecting initial equipment.

Equipment procured with payments under this Part must be approved by the Commissioner before invitations for bids or requests for proposals as to the acquisition of such equipment are issued. In order to obtain such approval, a list of equipment to be procured (indicating quantities, costs, and specifications) shall be provided to the Commissioner for prior approval.

§ 274.35 Payment to contractors.

(a) At the request of a contractor, the Bureau contracting officer may make advance payments under contracts made payable in advance for costs incurred in connection with the construction of school facilities. Where such services will provide assistance with periodic inspection of construction progress and determine the propriety of making partial payments in construction progress.

(b) Any request for advance payment by a contractor shall be based upon an itemized statement of work completed, the amount (s) required, and the dates such advances will be required and shall be supported by a schedule of estimated expenditures.

(c) An advance shall be limited to the amount of estimated expenditures for a period of time required to effect a payment in accordance with the construction schedule and the locality. The initial advance shall be made in amounts which will be needed suitable to the minimum essential needs of the contractor.

(d) Later advances shall be made at times and in amounts determined necessary to insure availability of funds for timely payment of the contractor's obligations. The Bureau contracting officer will make the time between withdrawal from the Treasury and the expenditure of the advance an initial advance shall be accompanied and supported by a statement of expenditures to date and the amount of funds on hand.

§ 273.36 Use and transfer of Government-owned property.

(a) The use of Government-owned facilities for tribal purposes may be authorized when needed for construction and operation activities. Transfer of title to such facilities may be arranged under the provisions of the Act of June 4, 1933 (47 Stat. 41), subject to the approval of the tribal government if property is located on a reservation.

(b) In carrying out a contract made under this Part, the Commissioner may, with the approval of the tribal government, permit a contractor to use existing buildings, facilities, and related equipment and other personal property owned by the Bureau within the jurisdiction under terms and conditions agreed upon for their use and maintenance. The property at the time of transfer must conform to the minimum standards established by the Occupational Safety and Health Act of 1970 (29 Stat. 5631), as amended (39 U.S.C. 616).

(c) If the Commissioner is authorized when not needed for Government purposes.

§ 274.37 Wage and labor standards.

(a) All laborers and mechanics employed by contractors or subcontractors in connection with constructing, altering, or repairing buildings or other facilities in connection with contracts under this Part shall be paid wages not less than those on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act of March 2, 1931 (46 Stat. 1458), as amended. However, this requirement does not apply where the contractor is the recognized governing body of the tribe and the construction, alteration, or repair work is being performed by the tribal organization or the tribe itself.

(b) The Commissioner will provide, upon request, technical supervision and services to the contractor in connection with the construction of school facilities. Where such services will provide assistance with periodic inspection of construction progress and determine the propriety of making partial payments in construction progress.

(c) Any contract made by the Bureau with a tribal organization shall provide that the contractor shall, to the greatest extent feasible, give preference in and opportunities for employment and training to Indians.

(d) Any contract made by the Bureau with a tribal organization shall provide that the contractor shall, to the greatest extent feasible, give preference in the award of subcontracts to Indian organizations and Indian-owned economic enterprises.

(e) All subcontractors employed by the contractor shall, to the extent possible, give preference to Indians for employment and training and shall be required to include in their bid submission a plan to achieve maximum use of Indian personnel.

§ 273.39 Liability and motor vehicle insurance.

(a) Liability organizations shall obtain public liability insurance under contracts entered into with the Bureau under this Part. However, where the Bureau contracting officer determines that the risk of death, personal injury or property damage under the contract is small and shall the time and cost of procuring the insurance is great in relation to the risk, the contract may be exempted from this requirement.

(b) Notwithstanding paragraph (a) of this section, any contract which requires or authorizes, either expressly or by implication, the use of motor vehicles must contain a provision requiring the tribal organization to provide liability insurance, regardless of how small the risk.

§ 274.40 Recordkeeping.

A contractor shall be required to develop and maintain a record-keeping system which shall:

(a) Fully reflect all financial transactions involving the receipt and expenditure of funds provided under the contract, in a manner which will provide accurate, current and complete disclosure of financial status, correlation with budget or allowable cost schedules; and clear audit facilitating data.
RULES AND REGULATIONS

(4) Where a large volume of records such as those of the tribes or other facilities in connection with contracts under this Part shall be paid wages not less than those on similar construction in the locality as determined by the Commissioner. However, this requirement does not apply where the contractor is the recognized governing body of the tribe and the construction, alteration or repair work is being performed by the tribal organization or the tribe with its own employees.

§ 274.35 Indian preference.

(a) Any contract made by the Bureau with a tribal organization shall provide that the contractor shall, to the greatest extent feasible, give preference in and opportunities for employment and training to Indians.

(b) Any contract made by the Bureau with a tribal organization shall provide that the contractor shall, to the greatest extent feasible, give preference in the award of subcontracts to Indian organizations and Indian-owned economic enterprises.

(c) All subcontractors employed by the contractor shall, to the extent possible, give preference to Indians for employment and training and shall be required to include in their bid submission a plan to achieve maximum use of Indian personnel.

§ 274.39 Liability and motor vehicle insurance.

(a) Tribal organizations shall obtain public liability insurance under contracts entered into with the Bureau under this Part. However, the Bureau contracting officer determines that the risk of death, personal injury or property damage under the contract is small and that the time and cost of procuring the insurance is great in relation to the risk, the contract may be exempted from this requirement.

(b) Notwithstanding paragraph (a) of this section, any contract which requires or authorizes, either expressly or by implication, the use of motor vehicles must contain a provision requiring the tribal organization to provide liability insurance, regardless of how small the risk.

§ 274.40 Recordkeeping.

A contractor will be required to develop and maintain a record-keeping system which will:

(a) Fully reflect all financial transactions involving the receipt and expenditure of funds provided under the contract in a manner which will provide accurate, current and complete disclosure of financial status; correlation with budget or allowable cost schedules; and clear audit facilitating data.
The contractor will be responsible for maintaining all documents such as invoices, purchase orders, cancelled checks, balance statements, and all records relating to financial transactions in a manner which will facilitate auditing. The contractor will be responsible for maintaining files of correspondence and other documents relating to the administration of the program under the contract properly segregated from general records or cross-referenced, in general files.

The contractor receiving funds under this Part shall be primarily responsible for contract compliance. The records retained in any claim or expenditure that has been questioned shall be further maintained until final determination has been made on the matter; and all documents pertaining to administrative action shall be made available by the contractor. The contractor shall provide, free of charge, one copy of all documents upon request.

§ 274.41 Audit and inspection.
(a) During the term of a contract under this Part for three years after the contract has been terminated, the Comptroller General and the Secretary, or any of their duly authorized representatives, shall have access for audit and examination purposes to any of the contractor's books, documents, papers, and records which, in their opinion, may be related or pertinent to the contract or any subcontract.
(b) The contractor will be responsible for maintaining all documents such as invoices, purchase orders, cancelled checks, balance statements, and all records relating to financial transactions in a manner which will facilitate auditing. The contractor will be responsible for maintaining files of correspondence and other documents relating to the administration of the program under the contract properly segregated from general records or cross-referenced, in general files.
(c) The contractor receiving funds under this Part shall be primarily responsible for contract compliance.
(d) The records retained in any claim or expenditure that has been questioned shall be further maintained until final determination has been made on the matter; and all documents pertaining to administrative action shall be made available by the contractor. The contractor shall provide, free of charge, one copy of all documents upon request.

§ 274.42 Cancellation of a contract for cause.
(a) Any contract entered into under this Part may be cancelled for cause when the contractor fails to perform the work called for under the contract.
(b) Before cancelling the contract, the Bureau will address the contractor in writing of the following:
(1) The reasons why the Bureau is considering cancelling the contract.
(2) That the contractor will be given an opportunity to bring its work up to an acceptable level.
(3) That the Bureau may furnish technical advice and assistance to help overcome the deficiencies in the contract performance, when requested.
(c) If the contractor does not overcome the deficiencies in its contract performance, the Bureau will cancel the contract for cause. The Bureau will notify the contractor, in writing, of the cancellation. The notice shall state the reasons for the cancellation and the right of the contractor to appeal under Subpart C of 43 CFR Part 4.
(d) When a contract is cancelled for cause, the Bureau will either perform the work with its own forces or by another contractor, as appropriate. However, when the contractor is with other than the Indian tribes, the advice of the Indian tribes shall be obtained to determine how they wish the work to be performed.

§ 274.43 Reporting.
(a) A contractor under this Part shall make a detailed report to the Commissioner after construction is completed. The report shall include, but shall not be limited to, an accounting of the amounts and purposes for which the contract funds were expended.
(b) The contractor shall furnish other contractor-related reports when and as required by the Commissioner.

§ 274.44 Repayment of funds.
Any funds paid under a contract entered into under this Part which are not expended, obligated or used for the purpose of the contract during its term shall be returned to the Bureau.

§ 274.45 Pensions.
If any officer, director, agent, or employee of, or connected with, any contractor or subcontractor under this Part, embezzles, willfully misapplies, steals, or is guilty of fraud in any of the funds or property connected with the contract or subcontract, he shall be subject to the following penalties:

1. If the amount involved does not exceed $100, he shall be fined not more than $1,000 or imprisoned for not more than one year, or both.
2. If the amount involved exceeds $100, he shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

§ 274.46 Applicable procurement regulations.
41 CFR Part 1445-70 provides the contract clauses which shall be included in contracts made with tribal organizations under this Part and places some requirements on them in addition to those given in this Subpart.

§ 274.47 Contract revision or amendment.
(a) Any contract made under this Part may be revised or amended as deemed necessary to carry out the purposes of the contract. No revision or amendment shall be made without the consent of the contractor. A contractor may make a written request for a revision or amendment of a contract to the Bureau contracting officer.
(b) If the contracting officer disapproves the proposed revision or amendment of the contract, he will notify the contractor in writing within 30 days after receiving the request. The notice shall state:
(1) The objections to the requested revision or amendment.
(2) The right of the contractor to appeal as provided in Subpart C of 43 CFR Part 4.
§ 275.2 Staffing.

(a) An Indian tribal organization may use any of the following methods to employ or obtain the services of Bureau employees:

(1) A contract in accordance with the Intergovernmental Personnel Act of 1978 (5 U.S.C. 3323). A contract may be made with the Bureau of Indian Affairs Office, an area division, or an area office of the Bureau of Indian Affairs Areas Office.

(b) The agreement may provide for: (a) the employment of Bureau employees on or before December 31, 1985, when acting in accordance with the 1834 Act (25 U.S.C. 1223); (b) the agreement will be worked out between the tribe, the Superintendent, and the Area Director and forwarded to the Commissioner for final approval.

(c) When a contract application under Part 271 of this chapter does not include a proposal agreement for direction of Bureau employees, the application must be submitted at least 100 days in advance of the proposed effective date of the contract to allow time for placement of affected employees.

§ 275.3 Methods for staffing.

(a) An Indian tribal organization may request in writing an agreement with the Bureau to serve as a liaison between the Bureau and the tribal organization and to provide assistance in the preparation and submission of the tribal organization's request for services of Bureau employees.

(b) The agreement may provide for: (a) the employment of Bureau employees on or before December 31, 1985, when acting in accordance with the 1834 Act (25 U.S.C. 1223); (b) the agreement will be worked out between the tribe, the Superintendent, and the Area Director and forwarded to the Commissioner for final approval.

(c) When a contract application under Part 271 of this chapter does not include a proposal agreement for direction of Bureau employees, the application must be submitted at least 100 days in advance of the proposed effective date of the contract to allow time for placement of affected employees.

§ 275.4 Implementing regulations.

Regulations to implement section 105 of the Act will be issued by the Civil Service Commission. The regulations will cover the situations described in paragraphs (a) (1) and (a) (2) of § 275.3.

PART 276—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS

§ 276.1 Purpose and scope.

(1) The purpose of the regulations in this Part is to give the uniform administrative requirements for grants awarded by the Bureau of Indian Affairs.

(2) The regulations in this Part shall apply to all grants awarded by the Bureau of Indian Affairs under the Part which gives the application process and special requirements for the specific type of grants otherwise.

§ 276.2 Definitions.

(a) Advance by Treasury check means a payment made by a Treasury check to a grantee upon its request or through the use of predetermined payment schedules before payments are made by the grantees.

(b) Approval as used in this Part means final approval as defined in section 105 of the Act.

(c) Budget area means an area of the United States Government budget for the Secretary for the special programs and services provided by the

(d) (1) The agreement may provide for: (a) the employment of Bureau employees on or before December 31, 1985, when acting in accordance with the 1834 Act (25 U.S.C. 1223); (b) the agreement will be worked out between the tribe, the Superintendent, and the Area Director and forwarded to the Commissioner for final approval.

(e) When a contract application under Part 271 of this chapter does not include a proposal agreement for direction of Bureau employees, the application must be submitted at least 100 days in advance of the proposed effective date of the contract to allow time for placement of affected employees.

§ 275.1 Purpose and scope.

(a) The purpose of this Part is to outline methods available to tribes for utilizing the services of Bureau employees. These regulations are not intended to prevent an Indian tribe or tribal organization from staffing their programs by other methods if their feel appropriate. However, when an Indian tribe or tribal organization wishes to provide its programs to the public under Bureau regulations, the program must be made available to the Bureau of Indian Affairs Office.

(b) The agreement may provide for: (a) the employment of Bureau employees on or before December 31, 1985, when acting in accordance with the 1834 Act (25 U.S.C. 1223); (b) the agreement will be worked out between the tribe, the Superintendent, and the Area Director and forwarded to the Commissioner for final approval.

(c) When a contract application under Part 271 of this chapter does not include a proposal agreement for direction of Bureau employees, the application must be submitted at least 100 days in advance of the proposed effective date of the contract to allow time for placement of affected employees.

§ 275.3 Methods for staffing.

(a) An Indian tribal organization may request in writing an agreement with the Bureau to serve as a liaison between the Bureau and the tribal organization and to provide assistance in the preparation and submission of the tribal organization's request for services of Bureau employees.

(b) The agreement may provide for: (a) the employment of Bureau employees on or before December 31, 1985, when acting in accordance with the 1834 Act (25 U.S.C. 1223); (b) the agreement will be worked out between the tribe, the Superintendent, and the Area Director and forwarded to the Commissioner for final approval.

(c) When a contract application under Part 271 of this chapter does not include a proposal agreement for direction of Bureau employees, the application must be submitted at least 100 days in advance of the proposed effective date of the contract to allow time for placement of affected employees.

§ 275.4 Implementing regulations.

Regulations to implement section 105 of the Act will be issued by the Civil Service Commission. The regulations will cover the situations described in paragraphs (a) (1) and (a) (2) of § 275.3.

PART 276—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS

§ 276.1 Purpose and scope.

(a) The purpose of the regulations in this Part is to give the uniform administrative requirements for grants awarded by the Bureau of Indian Affairs.

(b) The regulations in this Part shall apply to all grants awarded by the Bureau of Indian Affairs under the Part which gives the application process and special requirements for the specific type of grants otherwise.

§ 276.2 Definitions.

(a) Advance by Treasury check means a payment made by a Treasury check to a grantee upon its request or through the use of predetermined payment schedules before payments are made by the grantees.

(b) Approval as used in this Part means final approval as defined in section 105 of the Act.

(c) Budget area means an area of the United States Government budget for the Secretary for the special programs and services provided by the

(d) (1) The agreement may provide for: (a) the employment of Bureau employees on or before December 31, 1985, when acting in accordance with the 1834 Act (25 U.S.C. 1223); (b) the agreement will be worked out between the tribe, the Superintendent, and the Area Director and forwarded to the Commissioner for final approval.

(e) When a contract application under Part 271 of this chapter does not include a proposal agreement for direction of Bureau employees, the application must be submitted at least 100 days in advance of the proposed effective date of the contract to allow time for placement of affected employees.

§ 275.1 Purpose and scope.

(a) The purpose of this Part is to outline methods available to tribes for utilizing the services of Bureau employees. These regulations are not intended to prevent an Indian tribe or tribal organization from staffing their programs by other methods if their feel appropriate. However, when an Indian tribe or tribal organization wishes to provide its programs to the public under Bureau regulations, the program must be made available to the Bureau of Indian Affairs Office.

(b) The agreement may provide for: (a) the employment of Bureau employees on or before December 31, 1985, when acting in accordance with the 1834 Act (25 U.S.C. 1223); (b) the agreement will be worked out between the tribe, the Superintendent, and the Area Director and forwarded to the Commissioner for final approval.

(c) When a contract application under Part 271 of this chapter does not include a proposal agreement for direction of Bureau employees, the application must be submitted at least 100 days in advance of the proposed effective date of the contract to allow time for placement of affected employees.

§ 275.3 Methods for staffing.

(a) An Indian tribal organization may request in writing an agreement with the Bureau to serve as a liaison between the Bureau and the tribal organization and to provide assistance in the preparation and submission of the tribal organization's request for services of Bureau employees.

(b) The agreement may provide for: (a) the employment of Bureau employees on or before December 31, 1985, when acting in accordance with the 1834 Act (25 U.S.C. 1223); (b) the agreement will be worked out between the tribe, the Superintendent, and the Area Director and forwarded to the Commissioner for final approval.

(c) When a contract application under Part 271 of this chapter does not include a proposal agreement for direction of Bureau employees, the application must be submitted at least 100 days in advance of the proposed effective date of the contract to allow time for placement of affected employees.

§ 275.4 Implementing regulations.

Regulations to implement section 105 of the Act will be issued by the Civil Service Commission. The regulations will cover the situations described in paragraphs (a) (1) and (a) (2) of § 275.3.
(b) "Date of completion" means the date when all work under a grant is completed or the date in the grant or award document, or any supplement or amendment thereto, on which Federal assistance ends.

(c) "Delinquent" means those charges to a grant which the Bureau or its representative determines to be unallowable.

(d) "Economic enterprise" means any commercial, industrial, agricultural, or business activity that is at least 51 percent Indian owned, established or organized for the purpose of profit.

(e) "Excess property" means property under the control of the Bureau which, as determined by the Commissioner, is no longer required for its needs.

(f) "Expendable personal property" means all tangible personal property other than nonexpendable property.

(g) "Grant" means the entity which is responsible for administration of the grant.

(h) "Indian tribe" means any Indian Tribe, Band, Nation, Bandeau, Pueblo, Colony, Community, including any Alaska Native Village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (86 Stat. 2014) which is federally recognized as eligible by the United States Government through the Secretary for the award of programs and services provided by the Bureau.

(i) "Indian tribe or band, nation, bandeau, pueblo, colony, community" includes, but is not limited to, any tribe, corporation: (1) A Band or tribal council of Indians as defined in the Act of October 3, 1924, 43 Stat. 906; (2) A corporation organized and incorporated under State laws; (3) A corporation chartered by the United States under the Act of February 8, 1851, 9 Stat. 638, as amended; (4) A corporation organized and incorporated under the laws of any other State or Territory; (5) A corporation organized and incorporated under the laws of any foreign country or political subdivision thereof; (6) A corporation organized and incorporated under the laws of any Indian tribe or tribal council; (7) A corporation organized and incorporated under the laws of any State or Territory of the United States, having useful life, including any corporation established by the Secretary for the administration of a Federal grant as provided by law; and (8) A corporation organized and incorporated under the laws of any foreign country or political subdivision thereof, having useful life, including any corporation established by a grantee to receive Federal grants and carry on projects or activities consistent with the purpose of the Federal grant.

(j) "Nonexpendable personal property" means all personal property having useful life, but not including any item of personal property the value of which is captured in the acquisition cost of real property.

(k) "Nonexpendable personal property" means all personal property having useful life, but not including any item of personal property the value of which is captured in the acquisition cost of real property.

(l) "Personal property" means tangible personal property having useful life, but not including any item of personal property the value of which is captured in the acquisition cost of real property.

(m) "Reimbursement by Treasury check" means a payment made to a grantee with a Treasury check upon request for reimbursement from the grantee.

(n) "Satisfaction of a grant" means an action by the Bureau which permanently extinguishes the grant, pending corrective action by the grantee.

(o) "Satisfaction of a grant" means the cancellation of Federal assistance, in whole or in part, under a grant at any time prior to the date of completion.

(p) "Satisfaction of a grant" means the recognition governing body of an Indian tribe.

(q) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(r) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(s) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(t) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(u) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(v) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(w) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(x) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(y) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(z) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(aa) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(bb) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(cc) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(dd) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(ee) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(ff) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(gg) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(hh) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(ii) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(jj) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(kk) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(ll) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(mm) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(nn) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(oo) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(pp) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(qq) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(rr) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(ss) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(tt) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( uu) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( vv) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(ww) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(xx) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(yy) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

(zz) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( bbb) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( ccc) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( ddd) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( eee) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( fff) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( ggg) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( hhh) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( i ii) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( jjj) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( kkk) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( lll) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( mmm) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( nnn) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( ooo) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( ppp) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( qqq) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( rrr) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( sss) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( ttt) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( uuu) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( vvv) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( www) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( xxx) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( yyyy) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.

( zzz) "Suspension of a grant" means the Bureau determines that one or more requirements of a grant are not being met.
program for the purpose of making audit, examination, excerpts, transcripts and copies as government expense.

(b) Grantees shall submit a perform-

come known:

must be held accountable for

ment for

are

and

in accordance with the

RULES AND REGULATIONS

portant activities to assure that adequate progress is being made toward achieving

grant's requirements. Except when specifically required by law, the Bureau shall not require financial reporting on the accrual basis from tribal organizations whose records are not maintained on that basis. However, when accrual re-

reporting is required by law, tribal organizations whose records are not maintained on that basis will not be required to con-

their accounting systems to the acc-

eral basis; they may develop the accrual information through an analysis of the documentation on hand or on the basis of best estimates.

(c) Records which identify adequately

source and application of funds for

mentary required by statute or Execu-

tive Order be kept secret;

(d) Between the required

Appendix B> when that

examination. excerpts, transcripts and

Executive

remain

§ 276.6 Program income.

(a) No grantee receiving a grant shall

be held accountable for interest earned

on grant funds, pending their disburse-

ment for program purposes.

(b) Proceeds from the sale of real or

personal property, either provided by the

Federal Government or purchased in

whole or in part with Federal funds, shall

be handled in accordance with § 278.11.

(c) Royalties received from copyright

and patents produced under the grant

during the grant period shall be retained

by the grantee and, in accordance with the

grant agreement, be either added to the funds already committed to the pro-

gram or deducted from total allowable

project costs for the purpose of deter-

mining the net costs on which the Bureau

share of costs will be based. After termi-

nation or conclusion of the grant, the

Bureau share of royalties in excess of

$500.00, U.S. Treasury and any other

amounts which will be returned to the Bureau in the absence of other specifi-

c provisions between the Bureau and the

grantee. The Bureau share of royalty costs

shall be shared on a pro-rata basis as the

Bureau share of the total costs.

(d) All other program income earned

during the grant period shall be either

(1) Added to funds committed to the

project by the grantee and can be used

by the grantee and, in accordance with the

grant agreement, be either added to the

funds already committed to the project or

used to meet project objectives,

(2) Deducted from the total project

costs for the purpose of determining the

net costs on which the Bureau share of costs

will be based.

(3) Grantees shall record the receipt

and expenditures of revenues (such as tax-

ation, fines, etc.) as a part of grant project

transactions, when expenditures exceed the

amounts earmarked for a grant project in accord-

ance with grant agreements.

§ 276.7 Standards for grantee financial

management systems.

(a) Grantee financial management systems for grants and subgrant

management systems for sub-

grants shall provide for:

(1) Accurate, current, and com-

plete disclosure of the financial results of each

grant program in accordance with Fed-

eral reporting requirements and for each

subgrant in accordance with the

grantee's requirements. Except when

specifically required by law, the Bureau

shall not require financial reporting on

the accrual basis from tribal organizations

whose records are not maintained

on that basis. However, when accrual

reporting is required by law, tribal organi-

zations whose records are not maintained

on that basis will not be required to con-

vert their accounting systems to the acc-

rual basis; they may develop the accrual

information through an analysis of the

documentation on hand or on the basis of

best estimates.

(2) Records which identify adequately

the source and application of funds for

grant or subgrant-supported activities.

These records shall contain informa-

tion pertaining to grant or subgrant

awards and authorizations, obligations,

understood expenses, assets, liabilities,

outlays, and income.

(3) Effective control over and account-

ability for all grant or subgrant funds,

and real and personal property acquired

with grant or subgrant funds. Grantees

and subgrantees shall adequately safegu-

ard all such property and shall assure

that it is used solely for authorized

purposes.

(4) Comparison of actual with budgeted

amounts for each grant or subgrant,

and, when specifically required by the

performance reporting requirements

of the grant or subgrant, relation of fi-

nancial information with performance

or productivity data, including the pro-

duction of unit cost information.

(5) Procedures to minimize the time

elapsing between the transfer of funds

from the U.S. Treasury and the disburse-

ment by the grantee, whenever funds

are advanced by the Federal Govern-

ment. When advances are made by a

non-cash receipts method, the grantee

shall make drawings from the U.S. Treasury

account as possible to the time of making

the disbursements. Subgrantees shall in-

clude similar procedures when funds are

advanced by the grantee.

(6) Procedures for determining the

allowability and allocability of costs

shall be in accordance with the applicable cost

principles prescribed in Appendix A of

this Part.

(7) Accounting records which are sup-

port of source documentation.

(8) A systematic method to secure and

assure timely and appropriate resolution of au-

dit findings and recommendations.

(9) Grantees shall require subgranters

grants which are passed through by the grantee) to adopt all of

the standards in paragraphs (a) of this

section.

§ 276.8 Financial reporting require-

ments.

(a) Requirements for grantees to report

financial information to the Bureau, and

to request advances and reimbursement

under a list of credit method is not

used, are prescribed in Appendix B of

this Part.

§ 276.9 Maximizing and reporting pro-

gram performance.

(a) Grantees shall constantly moni-

tor the performance under grant-sup-

FEDERAL REGISTER, VOL. 40, NO. 213—TUESDAY, NOVEMBER 4, 1975
and the Bureau for at least a 12-month period and the total amount of advances to be received within that period from the Bureau shall not exceed $20,000, or more, as described by Treasury Circular No. 1075, or more, as described by the Bureau, or is the real property to be acquired in whole or in part from a Bureau grant under Part 272 of this chapter shall vest in one or more of the tribes or pursuant to the terms of the Act of June 23, 1975 (88 Stat. 1954) and title shall be taken in the name of the tribe. 

(c) The reimbursement by Treasury check shall be in accordance with the provisions of Treasury Circular No. 1075, the cases for the purpose of the authorized purposes and to the Bureau. When no longer needed for the purposes, disbursement of the title to be taken in the name of the tribe. When real property does not meet the requirements under the Act of January 12, 1975 (88 Stat. 1954), the tribe may elect to acquire title under applicable statutory authorities, or in the absence of applicable statutory authority, the property shall be held by the Federal government subject to the following restrictions on use and disposition of the property:

(1) The grantee shall retain the property acquired with Bureau funds in the grant program as long as there is a need for the property to accomplish the purpose of the grant program whether or not the program continues to be supported by Bureau funds. When there is no need for the property to accomplish the purpose of the grant program, the grantee shall use the property in connection with the other Federal funds it has received in the following order of priority:

(a) Other grants from the Bureau needed for the property.

(b) Grants from other Federal agencies needing the property.

(c) Grants from other Federal agencies acquiring the property.

(1) The grantee shall use the real property acquired for the purpose of the original grant as long as needed.

(2) The grantee shall obtain approval by the Bureau for the use of the real property in other projects when the grantee determines that the property is no longer needed for the original grant purpose. Use in other projects shall be limited to those under other Federal grant programs, or programs that have purposes consistent with those authorized for support by the grantee.

(3) When the real property is no longer needed as provided in paragraphs (e) (1) and (2) of this section, the grantee shall retain all real property furnished or purchased wholly with Bureau funds in the name of the Bureau. In the case of property purchased in part with Bureau grant funds, the grantee may be permitted to take title to the Federal interest therein upon compensating the Federal Government for its fair share of the property. The Federal share of the property shall be the amount computed by applying the percentage of the Federal participation in the total cost of the grant program for which the property was acquired to the current fair market value of the property.

(2) Standards and procedures governing ownership, use, and disposition of nonexpendable personal property furnished by the Bureau or acquired with Bureau funds are set forth below:

(a) Nonexpendable personal property acquired with Bureau funds. When nonexpendable personal property is acquired by a grantee wholly or in part from Bureau funds, title shall not be taken by the Bureau except as provided in paragraphs (f) (1) and (4) of this section and shall be vested in the grantee subject to the following restrictions on use and disposition of the property:

(1) The grantee shall retain the property acquired with Bureau funds in the grant program as long as there is a need for the property to accomplish the purpose of the grant program whether or not the program continues to be supported by Bureau funds. When there is no need for the property to accomplish the purpose of the grant program, the grantee shall use the property in connection with the other Federal funds it has received in the following order of priority:

(a) Other grants from the Bureau needed for the property.

(b) Grants from other Federal agencies needing the property.

(c) Grants from other Federal agencies acquiring the property.

(1) The grantee shall use the real property acquired for the purpose of the original grant as long as needed.

(2) The grantee shall obtain approval by the Bureau for the use of the real property in other projects when the grantee determines that the property is no longer needed for the original grant purpose. Use in other projects shall be limited to those under other Federal grant programs, or programs that have purposes consistent with those authorized for support by the grantee.

(3) When the real property is no longer needed as provided in paragraphs (e) (1) and (2) of this section, the grantee shall retain all real property furnished or purchased wholly with Bureau funds in the name of the Bureau. In the case of property purchased in part with Bureau grant funds, the grantee may be permitted to take title to the Federal interest therein upon compensating the Federal Government for its fair share of the property. The Federal share of the property shall be the amount computed by applying the percentage of the Federal participation in the total cost of the grant program for which the property was acquired to the current fair market value of the property.
RULES AND REGULATIONS

The following provisions are in addition to, or supersede, existing provisions of the same nature.

1. The grantee is required to transfer title to the Bureau for the property to be used in the public interest in the manner prescribed by law. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

2. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

3. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

4. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

5. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

6. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

7. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

8. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

9. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

10. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

11. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

12. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

13. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

14. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

15. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

16. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

17. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

18. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

19. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

20. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

21. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

22. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

23. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

24. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

25. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

26. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

27. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

28. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

29. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

30. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

31. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

32. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

33. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

34. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

35. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

36. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

37. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

38. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

39. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

40. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

41. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

42. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

43. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

44. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

45. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

46. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

47. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

48. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

49. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

50. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

51. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

52. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

53. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

54. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

55. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

56. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

57. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

58. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

59. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

60. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

61. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

62. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

63. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

64. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

65. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

66. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

67. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

68. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

69. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

70. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

71. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

72. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

73. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

74. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

75. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

76. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

77. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

78. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

79. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

80. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

81. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

82. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

83. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

84. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

85. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

86. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

87. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

88. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

89. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

90. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

91. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

92. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

93. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

94. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

95. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

96. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

97. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

98. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

99. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

100. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

101. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

102. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

103. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

104. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

105. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.

106. The property shall be delivered to the Bureau in such a condition as to be usable for its intended purpose.
RULES AND REGULATIONS

avoid purchasing unnecessary or duplicative items. Where appropriate, an analyst shall be made of leases and purchase alternatives to determine which will be the most economical, practical procurement.

(1) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. In competitive procurements, such description shall not contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. When used, the specific features of the named brand which must be met by offers should be clearly specified.

(2) Positive efforts shall be made by the grantee to use small business and minority-owned business sources of supplies and services. Such efforts should allow those sources the maximum feasible opportunity to compete for contracts to be performed using Bureau grant funds. However, this provision will apply only after the Indian preference requirements prescribed in § 276.13 have been met.

(3) The type of procuring instruments used (i.e., fixed price contracts, cost reimbursement contracts, etc.) shall be appropriate for the particular procurement and for promoting the best interest of the grant program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(4) Formal advertising, with adequate purchase descriptions, sealed bids, and public openings shall be the required method of solicitation pursuant to paragraph (b) (3) (vi) of § 276.13, except where it is necessary to accomplish sound procurement. However, procurements under this section may be made by negotiation, sealed bids or advertisement. Where such advertised bids are obtained, the awards shall be made to the lowest responsible bidder whose bid is responsive and in accordance with, and in no way violative of, the procurement limits, quality, price and other factors specified in the advertisement; in the case of sealed bids, on a competitive bid basis, and in the case of advertisement, by means of competitive sealed bids. Invitations for bids shall clearly state the time and place when bids are to be opened. The grantee's award shall be final and binding on the grantee. Non-responsible offers may be rejected when it is in the grantee's best interest to so do.

(5) Procurements may be negotiated if it is impracticable and unfeasible to use formal advertising. Generally, procurements of materials, supplies, or services up to $5,000 shall be negotiated.

(C) The total amount involved does not exceed $10,000.

(5) The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institutions:

(6) The contract is for highly perishable materials or medical supplies;

(7) The contract is for materials or supplies used to support a substantial initial investment in equipment for manufacturing;

(8) Otherwise authorized by law, rules or regulations. Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.

(9) Invitations for bids or requests for proposals shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources.

(10) The procurement of services where the prices of such services are expected to vary shall be based upon competitive bids, sealed bids, or other competitive techniques.

(11) In addition to provisions to define a sound and complete agreement, the contract shall contain the following provisions in all contracts and subcontracts:

(1) Contracts shall contain such contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, annul requirements for such solicitation and penalties as may be appropriate.

(2) All contracts, awards, or orders which are over $10,000 shall contain suitable provisions for termination by the grantee including the manner by which it is to be effected and the basis for settlement. In addition, such contracts shall describe conditions where the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) In all contracts for construction or facility improvement, awarded over $100,000, grantees shall observe the bonding requirements provided in § 276.4.

(4) All construction contracts awarded by grantees or subgrantees having a value of more than $100,000 shall contain a provision requiring compliance with Executive Order No.

12144, entitled "Equal Employment Opportunity," as amended by Labor Regulations (41 CFR Part 50). However, this Equal Employment Opportunity provision will apply only after the Indian preference requirements prescribed in § 276.13 have been met.

(5) All contracts and subcontracts for construction or repair shall include a provision for compliance with the Executive Order "Anti-Kick Back" Act (18 U.S.C. 3751 et seq.) as supplemented in Department of Labor regulations (29 CFR Part 5). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give any part of the compensation to which he is otherwise entitled. The grantees shall report any suspected or reported violations to the Bureau.

(6) When required by the Federal grant program legislation, all construction contracts awarded by grantees and subgrantees over $10,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a et seq. and as supplemented by Department of Labor regulations (29 CFR Part 5)). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The grantees shall also pay the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The grantees shall report all suspected or reported violations to the Bureau.

(7) Where applicable, all contracts awarded by grantees and subgrantees over $2,500 for construction contracts, and over $5,000 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with sections 276.20 and 197 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 276a et seq. and as supplemented by Department of Labor regulations (29 CFR Part 5)). Under section 197 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard work week is permissible when the contractor is compensated at a rate of not less than 1½ times the basic rate for pay for all hours worked over 40 hours in any calendar week or 60 hours in the work year. Section 197 of the Act applies to construction work and provides that no contractor or laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies or materials or articles

FEDERAL REGISTER, VOL. 49, NO. 213—DECEMBER 6, 1974
ordianly available on the open market, or contracts for transportation or transmis-
sion of intelligence.

§ 276.13 Indian preference in grant ad-
(d) Contracts or agreements, the prin-
cipal purpose of which is to create, de-
velop, or improve products, processes or methods, or for exploration into fields
which directly concern public health, safety, or welfare; or contracts in the
field of science or technology in which
there has been little significant experi-
ence outside of work funded by Federal
assistance, shall contain a notice to the
recipient informing him of the
contract's intention to maintain or
enlarge on previous work. The con-
tract shall be considered a procure-
mant contract whenever the amount
of the contract exceeds $100,000.

§ 276.14 Bud8ft revision. •

(a) Funding. The Bureau shall
make budget revisions in response to
requests from grantees in the course
of the normal administrative proc-
(1) Upon receipt of a request for a
budget revision, the Bureau shall
make an initial determination of the
grant programs, if any, in which the
requester is participating. The
Bureau shall then determine the
reasonableness of the request and
the effect of the request on the
grant program.

(c) Suspension. When a grantee has
historically failed to comply with its
grant obligations, the Bureau may
determine that a suspension is neces-
sary. The Bureau shall notify the
grantee of its decision to suspend the
grant and shall provide the grantees
with an opportunity to be heard.

§ 276.15 Grant database.

(a) In closing out Bureau grants,
the following shall be observed:

(1) Grant applications. When a
grant application is submitted,
the Bureau shall maintain a record of
the application and its disposition.

(2) Grant agreements. When a
grant agreement is finalized,
the Bureau shall maintain a record
of the agreement and its enforce-
ment.

(3) Grant activities. When a
grant is ongoing, the Bureau shall
maintain a record of the activities
under the grant.

§ 276.16 Budget revision.

(a) The Bureau shall make
budget revisions in response to
requests from grantees in the course
of the normal administrative proc-

(b) The Bureau shall make
budget revisions in response to
requests from grantees in the course
of the normal administrative proc-

(c) The Bureau shall make
budget revisions in response to
requests from grantees in the course
of the normal administrative proc-

§ 276.17 Suspension.

(a) The Bureau shall
suspend the grant when necessary to
protect the public interest. A sus-
pending the grant shall be
immediate and effective upon
receipt by the Bureau of a
notice of suspension.

(b) The Bureau shall
suspend the grant when necessary to
protect the public interest. A sus-
pending the grant shall be
immediate and effective upon
receipt by the Bureau of a
notice of suspension.

§ 276.18 Indian preference in grant ad-
(d) Contracts or agreements, the prin-
cipal purpose of which is to create, de-
velop, or improve products, processes or methods, or for exploration into fields
which directly concern public health, safety, or welfare; or contracts in the
field of science or technology in which
there has been little significant experi-
ence outside of work funded by Federal
assistance, shall contain a notice to the
recipient informing him of the
contract's intention to maintain or
enlarge on previous work. The con-
tract shall be considered a procure-
mant contract whenever the amount
of the contract exceeds $100,000.

§ 276.14 Bud8ft revision. •

(a) Funding. The Bureau shall
make budget revisions in response to
requests from grantees in the course
of the normal administrative proc-
(1) Upon receipt of a request for a
budget revision, the Bureau shall
make an initial determination of the
grant programs, if any, in which the
requester is participating. The
Bureau shall then determine the
reasonableness of the request and
the effect of the request on the
grant program.

(c) Suspension. When a grantee has
historically failed to comply with its
grant obligations, the Bureau may
determine that a suspension is neces-
sary. The Bureau shall notify the
grantee of its decision to suspend the
grant and shall provide the grantees
with an opportunity to be heard.

§ 276.15 Grant database.

(a) In closing out Bureau grants,
the following shall be observed:

(1) Grant applications. When a
grant application is submitted,
the Bureau shall maintain a record of
the application and its disposition.

(2) Grant agreements. When a
grant agreement is finalized,
the Bureau shall maintain a record
of the agreement and its enforce-
ment.

(3) Grant activities. When a
grant is ongoing, the Bureau shall
maintain a record of the activities
under the grant.

§ 276.16 Budget revision.

(a) The Bureau shall make
budget revisions in response to
requests from grantees in the course
of the normal administrative proc-

(b) The Bureau shall make
budget revisions in response to
requests from grantees in the course
of the normal administrative proc-

(c) The Bureau shall make
budget revisions in response to
requests from grantees in the course
of the normal administrative proc-

§ 276.17 Suspension.

(a) The Bureau shall
suspend the grant when necessary to
protect the public interest. A sus-
pending the grant shall be
immediate and effective upon
receipt by the Bureau of a
notice of suspension.

(b) The Bureau shall
suspend the grant when necessary to
protect the public interest. A sus-
pending the grant shall be
immediate and effective upon
receipt by the Bureau of a
notice of suspension.

§ 276.18 Indian preference in grant ad-
(d) Contracts or agreements, the prin-
cipal purpose of which is to create, de-
velop, or improve products, processes or methods, or for exploration into fields
which directly concern public health, safety, or welfare; or contracts in the
field of science or technology in which
there has been little significant experi-
ence outside of work funded by Federal
assistance, shall contain a notice to the
recipient informing him of the
contract's intention to maintain or
enlarge on previous work. The con-
tract shall be considered a procure-
mant contract whenever the amount
of the contract exceeds $100,000.
effect until the grantee has taken corrective action to the satisfaction of the Bureau or given assurances satisfactory to the Bureau that corrective action will be taken, or until the Bureau cancels the grant.

(2) Cancellation for cause. The Bureau may cancel any grant in whole, or in part, at any time before the date of cancellation. This written notice shall advise the grantee of the reason for the possible cancellation and the corrective action necessary to avoid cancellation. The Bureau shall also offer, and provide if requested by the grantee, any technical assistance which may be required to effect the corrective action. The grantee shall have 60 days in which to effect this corrective action before the Bureau provides notice of intent to cancel the grant as provided in paragraph (1) of this section.

(3) Upon deciding to cancel for cause, the Bureau shall promptly notify the grantee in writing of that decision, the reasons for the cancellation, and the effective date. The Bureau shall also provide a hearing for the grantee before cancellation. However, the Bureau may immediately cancel the grant, upon notice to the grantee, if the Bureau determines that continuance of the grant poses an immediate threat to safety. In this event, the Bureau shall provide a hearing for the grantee within 10 days of the cancellation.

(4) Payments made to grantees or reagents by the Bureau for funds cancelled shall be returned for cause shall be in accordance with the refund and disbursement provisions of the parties to the grant agreements.

(b) Cancellation on other grounds. Except as provided in paragraph (c) of this section, all funds may be cancelled in whole or in part only as follows: (i) By the Bureau with the written notice to the grantee, setting forth the effective date, and, in the case of partial cancellation, the portion to be cancelled; or (ii) Upon the written notice to the Bureau, by the grantee, offering to return the portion to be cancelled after the effective date, and shall cancel any unexpended balance of the portion to be cancelled.

When a grant is cancelled in accordance with paragraph (a) of this section, the grantee shall not incur new obligations for the cancelled portion after the effective date, and shall cancel such new obligations in the event of further cancellations.

The Bureau shall allow full credit for the grant for the Bureau share of the noncancellable obligations properly incurred by the grantee before cancellation.

§ 276.16 Subgrants and subcontracts to non-profit organizations.

The uniform administrative requirements in this part, including the cost principles in Appendix A, to this part, are applicable to all subgrants or subcontracts made to non-profit organizations. The grantee is required to include such portions of the rule as applicable to the subgrants or subcontracts made to non-profit organizations.

Appendix A--Principles for Determining Costs Applicable to Grants

A. Purpose and scope. 1. Objectives. This attachment sets forth principles for determining the allowable costs of programs administered by grantees under grants from the Bureau. The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Bureau or other participation in the costs of grants.

2. Policy. The object of this Appendix is to provide that Bureau grants be used in a manner that achieves the objectives of cost efficiency and effective management.

3. Scope. This Appendix applies only to programs administered by grantees under grants from the Bureau and shall not apply to any other Federal agency, bureau, or commission or to any State agency, political subdivision, or non-profit organization except as herein stated.

B. General.

1. Grantee responsibility.

a. The grantee is responsible for the efficient and effective administration of grantees through the application of sound management principles.

b. The grantee is responsible for the accumulation of cost.

c. The grantee is responsible for the efficient management of grant funds.

2. Grantee's content.

a. The grantee is responsible for the maintenance of internal controls.

b. The grantee is responsible for the maintenance of financial records.

C. Costs.

1. Allocable costs.

a. Costs that are allocable to the grant are allowable.

b. Costs that are allocable to other purposes may be allowable if otherwise allowable under the grant.

2. Nonallowable costs.

a. Costs that are nonallowable under the grant shall be allocable to the grant.

b. Costs that are nonallowable under the grant shall be allocable to the grant and shall be allocable to the grantee.

3. Costs that are nonallowable under the grant shall be allocable to the grantee.

4. Costs that are nonallowable under the grant shall be allocable to the grantee and shall be allocable to the grantee.

5. Costs that are nonallowable under the grant shall be allocable to the grantee and shall be allocable to the grantee.

6. Costs that are nonallowable under the grant shall be allocable to the grantee and shall be allocable to the grantee.

7. Costs that are nonallowable under the grant shall be allocable to the grantee and shall be allocable to the grantee.

D. Termination.

1. Grantee responsibility.

a. The grantee is responsible for the maintenance of internal controls.

b. The grantee is responsible for the maintenance of financial records.

2. Costs.

a. Costs that are allocable to the grant shall be allocable to the grantee.

b. Costs that are allocable to the grant shall be allocable to the grantee.

3. Costs that are allocable to the grant shall be allocable to the grantee.

4. Costs that are allocable to the grant shall be allocable to the grantee.

5. Costs that are allocable to the grant shall be allocable to the grantee.

6. Costs that are allocable to the grant shall be allocable to the grantee.

7. Costs that are allocable to the grant shall be allocable to the grantee.

8. Costs that are allocable to the grant shall be allocable to the grantee.
from sources other than the grant program
involving the same activities or items of the
grantees. This includes costs charged to a
program by an agency, in accordance with
policies governing the development of the
program. It also includes the costs of
determining the rates or amounts apply-
From the use of depreciation of items
involved in the activities or items of the
grant program. These types of costs should be
used in the manner required for determining
in the grant program, plus the allocable portion
of allowable indirect costs, less applicable
costs.

2. Classification of costs. There is no uni-
versal rule for classifying certain costs as
direct or indirect in the grant program.
A cost may be direct or indirect with
respect to some specific service or function
of the grantee, but indirect with respect to
other services or functions. It is essential
that all direct costs be treated consistently
as direct or indirect costs. This principle
should be followed. Direct costs may also
be charged to cost objectives used for the other
indirect cost objectives.

3. Application. Typical direct costs chargeable
to grant programs are:

a. Compensation of teaching assistants
and effort devoted specifically to the execu-
tion of the grant program.
b. Cost of materials acquired, consumed,
or expended in operations for the purpose
of the grant.
c. Equipment and other approved capital
expenditures.

4. Indirect costs. All costs of the grant program
are indirect unless the program is a self-
sustaining program, such as that involved in
an agricultural experiment station, a
university extension service, or a similar
organization.

1. Predetermined rates for indirect costs. An
amount or rate for indirect costs is predeter-
mined annually or other time intervals
by organizations other than the
grantee. The amount or rate is
based, in part, on the
amount of indirect costs that are
distributed to the grantee. This
amount or rate is determined by
procedures which will assure that the
amount or rate for indirect costs under
certain cost objectives is not in excess
of the allowable indirect costs, and
the determination is based on
allowable indirect costs. In
other cases, such as the
allowable indirect costs for
grantees, the allowable indirect
costs are determined on the
basis of the allowable indirect
costs for the grantee department.

2. Predetermined rates for indirect costs. An
amount or rate for indirect costs is predeter-
mined annually or other time intervals
by organizations other than the
grantee. The amount or rate is
based, in part, on the
amount of indirect costs that are
distributed to the grantee. This
amount or rate is determined by
procedures which will assure that the
amount or rate for indirect costs under
certain cost objectives is not in excess
of the allowable indirect costs, and
the determination is based on
allowable indirect costs. In
other cases, such as the
allowable indirect costs for
grantees, the allowable indirect
costs are determined on the
basis of the allowable indirect
costs for the grantee department.

3. Application. Typical direct costs chargeable
to grant programs are:

a. Compensation of teaching assistants
and effort devoted specifically to the execu-
tion of the grant program.
b. Cost of materials acquired, consumed,
or expended in operations for the purpose
of the grant.
c. Equipment and other approved capital
expenditures.

4. Indirect costs. All costs of the grant program
are indirect unless the program is a self-
sustaining program, such as that involved in
an agricultural experiment station, a
university extension service, or a similar
organization.

1. Predetermined rates for indirect costs. An
amount or rate for indirect costs is predeter-
mired annually or other time intervals
by organizations other than the
grantee. The amount or rate is
based, in part, on the
amount of indirect costs that are
distributed to the grantee. This
amount or rate is determined by
procedures which will assure that the
amount or rate for indirect costs under
certain cost objectives is not in excess
of the allowable indirect costs, and
the determination is based on
allowable indirect costs. In
other cases, such as the
allowable indirect costs for
grantees, the allowable indirect
costs are determined on the
basis of the allowable indirect
costs for the grantee department.

FEDERAL REGISTER, VOL. 40, NO. 213—TUESDAY, NOVEMBER 4, 1975

2. Predetermined rates for indirect costs. An
amount or rate for indirect costs is predeter-
mired annually or other time intervals
by organizations other than the
grantee. The amount or rate is
based, in part, on the
amount of indirect costs that are
distributed to the grantee. This
amount or rate is determined by
procedures which will assure that the
amount or rate for indirect costs under
certain cost objectives is not in excess
of the allowable indirect costs, and
the determination is based on
allowable indirect costs. In
other cases, such as the
allowable indirect costs for
grantees, the allowable indirect
costs are determined on the
basis of the allowable indirect
costs for the grantee department.

3. Application. Typical direct costs chargeable
to grant programs are:

a. Compensation of teaching assistants
and effort devoted specifically to the execu-
tion of the grant program.
b. Cost of materials acquired, consumed,
or expended in operations for the purpose
of the grant.
c. Equipment and other approved capital
expenditures.

4. Indirect costs. All costs of the grant program
are indirect unless the program is a self-
sustaining program, such as that involved in
an agricultural experiment station, a
university extension service, or a similar
organization.

1. Predetermined rates for indirect costs. An
amount or rate for indirect costs is predeter-
mired annually or other time intervals
by organizations other than the
grantee. The amount or rate is
based, in part, on the
amount of indirect costs that are
distributed to the grantee. This
amount or rate is determined by
procedures which will assure that the
amount or rate for indirect costs under
certain cost objectives is not in excess
of the allowable indirect costs, and
the determination is based on
allowable indirect costs. In
other cases, such as the
allowable indirect costs for
grantees, the allowable indirect
costs are determined on the
basis of the allowable indirect
costs for the grantee department.

2. Predetermined rates for indirect costs. An
amount or rate for indirect costs is predeter-
mired annually or other time intervals
by organizations other than the
grantee. The amount or rate is
based, in part, on the
amount of indirect costs that are
distributed to the grantee. This
amount or rate is determined by
procedures which will assure that the
amount or rate for indirect costs under
certain cost objectives is not in excess
of the allowable indirect costs, and
the determination is based on
allowable indirect costs. In
other cases, such as the
allowable indirect costs for
grantees, the allowable indirect
costs are determined on the
basis of the allowable indirect
costs for the grantee department.

3. Application. Typical direct costs chargeable
to grant programs are:

a. Compensation of teaching assistants
and effort devoted specifically to the execu-
tion of the grant program.
b. Cost of materials acquired, consumed,
or expended in operations for the purpose
of the grant.
c. Equipment and other approved capital
expenditures.

4. Indirect costs. All costs of the grant program
are indirect unless the program is a self-
sustaining program, such as that involved in
an agricultural experiment station, a
university extension service, or a similar
organization.

1. Predetermined rates for indirect costs. An
amount or rate for indirect costs is predeter-
mired annually or other time intervals
by organizations other than the
grantee. The amount or rate is
based, in part, on the
amount of indirect costs that are
distributed to the grantee. This
amount or rate is determined by
procedures which will assure that the
amount or rate for indirect costs under
certain cost objectives is not in excess
of the allowable indirect costs, and
the determination is based on
allowable indirect costs. In
other cases, such as the
allowable indirect costs for
grantees, the allowable indirect
costs are determined on the
basis of the allowable indirect
costs for the grantee department.
3. Advisory councils. Costs incurred by grantee advisory councils or committees established pursuant to Bureau requirements to carry out grant programs are allowable, if they are within the grant agreement.

4. Legal services. The cost of audit services, legal fees, and the like for the grantee to meet its responsibilities under the grant agreement, including the defense of any claims against the grantee, are allowable. Costs for any other type of counsel are generally not allowable since these are costs of any normal business activity, and hence are not allowable if incurred in the normal course of business activities.

5. Bonding. Costs of premiums on bonds covering employees who handle grantee funds are allowable.

6. Budgeting. Costs incurred for the development of a budget proposal, presentation, and execution of budgets are allowable. Costs for any other type of budget are generally not allowable since these are costs of any normal business activity, and hence are not allowable if incurred in the normal course of business activities.

7. Building leases. Management fees for the occupancy of real property, which includes review of lease proposals, maintenance of a lease plan, and maintenance of a lease register for lease, and related activities are allowable.

8. General stores. The cost of maintaining and operating a central store's organization for supplies and equipment, equipment used either directly or indirectly for grant programs is allowable.

9. Communications. Communication costs incurred for telephone calls or service, telegrams, telex service, facsimile service, and related services are allowable. Telephone calls to local telephone exchanges are generally considered as a direct charge. An indirect charge is made for telephone calls to long distance exchanges and to special telephone numbers.

10. Compensation for personal services. a. General. Compensation for personal services includes all remuneration, paid currently or accrued and paid in arrears, for services actually rendered during the entire period of performance of the grant agreement, including salaries, wages, fees, and commissions. Payment may be in money, property, or combination of these. Compensation for all employees, inclusive of management, must be paid at a rate which is consistent with that paid for similar work in similar circumstances by others in the same or similar line of business. The kinds of services required for the federal government vary with the needs and services of the tribal government, and the extent to which the federal government is the employer of the employee and that to which the employee is the employer of the employee. The federal government may pay the employee's salary or the employer may pay the employee's salary to the federal government for the kind of services required. Compensation for personal services which are the result of the application of the labor market will be an allowable cost.

b. Payroll and related distributions. At the close of each pay period, or at intervals of 15 days, the aggregate of all applicable payroll distributions (salary, wages, fees, and commissions) paid to employees during the pay period will be determined. The method used should provide reasonable assurance that all costs are within the allowable limits and that the costs are not inflationary. For employees who are paid directly or indirect costs, they may be paid at a rate which is consistent with the cost of comparable employees who are paid directly or indirectly.

c. Deductions and work allowance. Grants may be computed for the use of their own buildings, capital improvements, and equipment through use allowance or depreciation. Use allowances are the means of providing compensation in lieu of depreciation or other equivalent costs. However, a use allowance may be used in connection with a single class of fixed assets.

4. Depreciation and work allowance. Grants may be computed for the use of their own buildings, capital improvements, and equipment through use allowance or depreciation. Use allowances are the means of providing compensation in lieu of depreciation or other equivalent costs. However, a use allowance may be used in connection with a single class of fixed assets.

5. Legal expenses. The cost of legal expenses, required in the administration of the grant programs is allowable. Legal expenses incurred for the prosecution of claims against third parties, as well as for defense claims, are allowable.
RULING'S AND REGULATIONS

55. Taxes. In general, taxes or payments in lieu of taxes which the grantees is required to pay are allowable.

56. Travel and attendance. The cost of in-service training, customarily provided for employee development which directly or indirectly contributes to the efficiency of the Federal Government's activities, is allowable. Out-of-service training involving extended absences from Federal Government work is not allowable.

57. Transportation. Costs incurred for freight, carriage, express, postage and other transportation costs relating either to goods purchased, delivered, or moved from one location to another are allowable. Costs incurred for express for transportation, mailing, sub-contracting, and similar items incurred by employees who are in travel status on official business orders to a grant program, such costs may be charged on an actual basis on a per mi or mileage rate in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to all items of this nature in all of the Bureau's activities with those normally allowed in the circumstances in non-Federally sponsored activities. The difference in cost between first-class air accommodations and less-than-first-class air accommodations is not reasonably available. - See Bureau 2, Automatic data processing. The cost of data processing services in grant programs is allowable. This cost includes rental of equipments or leasings on grantee-owned equipment. The acquisition of equipment, whether by outright purchase, rental-purchase agreement or other method of purchase, is allowable only upon approval by the Bureau. The acquisition of equipment is allowable under the intended items for capital costs.

58. Building space and related facilities. The cost of space in privately or publicly owned buildings used for the benefit of the Federal Government is allowable if the space is reasonably related to the conduct of the work or the activities of the Bureau. The cost of space procured for the Federal Government's work is allowable only when space is unobtainable. The cost of space procured for Federal Government's work is unallowable to the extent that space is unobtainable as required by Federal regulation.

59. Rental cost. The rental cost of space in privately or publicly owned buildings used for the benefit of the Federal Government is allowable only upon approval by the Bureau. The cost of space procured for Federal Government's work is allowable only when space is unobtainable. The cost of space procured for Federal Government's work is unallowable to the extent that space is unobtainable as required by Federal regulation.

60. Bevurances and alterations. Cost of insuring or the repair or alteration of buildings, land, equipment and other facilities for the benefit of the Federal Government is allowable only when such expenses are directly related to the management of the grant program. The cost of insurance required, or approved and maintained pursuant to the grant agreement, is allowable.

61. Depreciation and use allowances. Costs of depreciable or expiring facilities required specifically for the benefit of the Federal Government programs are allowable when such expenses are directly related to the management of the grant program. Depreciation and use allowances are allowable only when specifically approved by the Bureau. Depreciation or use allowances are allowable only when specifically approved by the Bureau.

62. Capital expenditures. The cost of facilities, equipment, services, or commodities, which are intended to be of useful life to capital assets is allowable when such procurement is specifically approved by the Bureau. When assets acquired with Bureau grant funds are (a) used, and (b) no longer available for use in a Federally sponsored program or (c) used for purposes not authorized by the Bureau, the Bureau's equity in the asset will be refunded in the same proportion as Bureau participation in the cost of the asset is refunded. The amount of the newly acquired assets is allowable.

63. Insurance. Costs of insurance required, or approved and maintained pursuant to the grant agreement, is allowable.

64. Entertainments. Costs of entertainments, social activities, and incidental costs relating thereto, such as meals, beverages, lodge, rooms rental, transportation, and gratuities, are unallowable.

65. Fines and penalties. Costs resulting from violations of, or failure to comply with, Federal, State and local laws and regulations, are unallowable.

66. Tribal officer salaries and expenses. The salaries and expenses of tribal government officers are considered a cost of general tribal government and are unallowable except as prescribed in Section 8.B.3.

67. Interest and other financial interest. Interest on borrowing (however required), bond discounts, cost of financing and related services rendered by individuals or organizations in a capacity other than Federal, Government property, are allowable when authorized by Federal regulation.

68. Under recovery of costs under grant agreements. Any excess of cost over the Federally contributed under one grant agreement is unallowable under other grant agreements.

69. Expenditures. Expenditures are allowable only when specifically approved by the Bureau.

70. Purpose of grants. This appendix precludes requirements for grants to report financial information to the Bureau and to request advances and reimbursement when a letter-of-credit method is not used.

71. Definitions. 1. A doored expenditure. Accrued expenditures are the charges incurred by the grantees during a given period regarding the provisions of Funds Earned (1) from purchase of services performed by employees, contractors, subgrantees, and other persons and (2) amounts becoming owed under programs for which no current services or performance are required.

72. Allowable expenditures. Disbursements are payments in cash or in kind.

73. Bureau funds authorized. Funds authorized for use in the conduct of a grant program are the funds which are authorized and disbursements authorized and approved by the Bureau. The Bureau's balance of funds authorized and disbursements authorized by the Bureau is the balance authorized and disbursements authorized by the Bureau.

74. Appropriations. The amount of funds approved and disbursements authorized by the Bureau are the amounts of Federal funds authorized for use in the conduct of a grant program.

75. Authorization. The Bureau's balance of funds authorized and disbursements authorized by the Bureau is the balance authorized and disbursements authorized by the Bureau.

76. Obligated Balance. The obligated balance is the portion of the funds authorized by the Bureau which has not been obligated by the grantees and is determined in accordance with the obligations from the funds authorized.

77. Unexpended balances. Unexpended balances represent the amount of obligations incurred by the grantees which have not been paid.

FEDERAL REGISTER, VOL. 40, NO. 215—SUNDAY, NOVEMBER 4, 1975
RULES AND REGULATIONS

PART 277—SCHOOL CONSTRUCTION CONTRACTS FOR PUBLIC SCHOOLS

Appendix A—General Provisions

277.1 Purpose.

277.4 Definitions.

277.5 Suspension or amendment of regulations.

277.9 Application process.

277.17 Final determinations.

277.21 Cancellation of contracts.

277.22 Costs included in contracts.

277.24 Selecting initial equipment.

277.26 Use and transfer of Government property.

277.27 Wages and labor standards.

277.29 Indian preference.

277.31 Audits and inspections.

277.32 Freedom of information.

1975-277-17 Federal Register, Vol. 40, No. 213—Tuesday, November 4, 1975

51227
(e) "Days" means calendar days.
(f) "Economic enterprise" means any commercial, industrial, agricultural, or business activity that is engaged in for profit or orga-
nized for the purpose of profit.
(g) "Indian tribe" means any Indian tribal, tribal, or regional Indian organization recognized by state or federal law that is capable of conducting business, and includes the Alaska Native village corporations, and any corporation as defined in or established pursuant to the Alaska Native Corporations Act of 1984, which is recognized as an Indian tribe by the United States Government through the Secretary for the purpose of the administration of this part.
(h) "Indian" means a person who is a member of an Indian tribe.
(i) "Public" means a public body of the State which contains the public elementary and secondary educational institutions providing educational services and is controlled by a duly elected board, commission or similarly constituted as-
tion.
"Secretary" means the Secretary of the Interior.
(j) "State" means a State of the United States of America or any political subdivision thereof of a State.
(k) "State education agency" means the State educational agency or office primarily responsible for the education of pupils in primary and secondary schools, or, if there is no such office or agency designated by the State, the office or agency designated by the Governor of the State.
(l) "Tribe" means a tribe of the United States, or any national governmental unit or regional Indian organization recognized, or a community, or any corporation, or association, or corporation existing, under any law or instrumentality of the United States.
(2) "School district" or "local education agency" means any governmental unit which contains or is comprised of the recognized governing body of an Indian tribe.

§ 277.4 Revision of or amendment of regulations.
In order to make any substantive revisions or amendments to regulations in this Part, the Secretary shall take the following actions:
(a) Consult with Indian tribes and other local and Indian organizations to determine whether the need for revision or amendment exists and consider their views in determining the need for revision or amendment.
(b) Publish any proposed revisions or amendments to the Federal Register as proposed rulemaking to provide adequate notice to, and receive comments from, all interested parties.
(c) After consideration of all comments received, publish the final rule in the Federal Register in final form not less than 30 days before the date the rule is made effective.
(d) Annually consult with Indian tribes and other local and Indian organizations about the need for revis-
ion or amendment, and consider their views in preparing the revision or amendment.

§ 277.6 Application procedures for project specifications.
(a) Applications for school public construc-
tion assistance under this Part will be submitted and processed in accordance with procedures outlined in 20 U.S.C. 611-613 and 45 CFR 114. Application informa-
tion, instructions, advice, and assis-
tance in accordance with 20 U.S.C. 611 and 45 CFR 114 may be obtained from

§ 277.11 Eligible applicants.
(a) Any school district may apply for a contract with the Bureau to assist the agency or district in acquiring or constructing, acquiring, or renovating facilities (including all necessary equipment in school districts) on an adjacent or in close proximity to any Indian reservation or other land held in trust by the United States for Indians.
(b) The project for which the applicant is requesting funding must meet the eligibility requirements under sub-
sections (a) and (b) of section 14 of Pub. L. 91-815.
(c) Consultation with Indians.
(1) Except where there is a majority of Indians on an elected public school board, the Commissioner of Indian Af-
airs shall consult with the local Indian Edu-
cation Committee and the tribal govern-
ing body of the local Indian tribe affected before the application for funding public school construction is submitted to the Commissioner of Education.
(2) This requirement will be deemed satisfied when the official tribal governing body of the Indian tribe to be benefited by the application notify the Commissioner of Education, in writing, within 60 days after the date of the application that the tribe or the Indian tribe has disapproved the application. The notice of disappro-
val must state specific stated objec-
tions to the application. A copy of the notice of disapproval shall be delivered or mailed to the Commissioner of Indian Affairs and/or the Secretary of the Interior at the same time as the notice is delivered or mailed to the Commis-
sioner of Education.
(d) After being notified that the tribe or the Indian tribe has disapproved a proposed applica-
tion, the Commissioner of Indian Af-
airs or his designated representatives shall meet with the Indian tribe, public school officials, and the Indian Education Commis-
sion to provide assistance in resolving the stated objectives to the Indian tribe. The Commissioner of Indian Affairs shall notify the Commissioner of Education in writing in advance of the date, place, and time of such meetings and shall invite the Commissioner of Education or his repre-
sentatives to attend.

§ 277.13 Application procedures for project specifications.
(a) Applications for school public construc-
tion assistance under this Part will be submitted and processed in accordance with procedures outlined in 20 U.S.C. 611-613 and 45 CFR 114. Application informa-
tion, instructions, advice, and assis-
tance in accordance with 20 U.S.C. 611 and 45 CFR 114 may be obtained from each State education agency. All ques-
tions pertaining to the preparation and filing of applications, procedures, and request for materials should be di-
rected to the State Representative for School Assistance, who will respond or may forward the inquiries, where ap-
propriate, to the Commissioner of Education.
(b) Section 204 (b) of Pub. L. 93-638 assigns responsibility for the application processing, determination of eligibility and establishment of project priority to the Commissioner of Education. Such ap-
lication and review and determination processes include the following:
(1) Field and site review by the Commis-
sioner of Education notified by the Commissioner of Indian Affairs to determine:
(i) Tentative cost estimate for budget purposes. The Commissioner of Indian Af-
airs or his representative will assist the Commissioner in conducting the on-site inspection to deter-
mine which buildings need to be retained, demolished or removed and to gather initial information required for development of the planning document. From this information, a tentative cost estimate for design, construction, and equipment will be made for budget pur-
poses.
(ii) Equal quality and standard of edu-
cation. While assisting in the on-site in-
spection, the Commissioner of Indian Af-
airs or his representative must deter-
mine whether the quality and standard of education (including facilities and auxiliary services) for Indian students enrolled in the school at least equal to that provided all other students from resources, other than resources provided under this Part, which are available to the local school district. If it is deter-
mined that the quality and standard of education for Indian students is not at least equal to that given all other stu-
dents enrolled in the schools, the Commis-
sioner of Indian Affairs or his repre-
sentative shall recommend that the proj-
ect not be placed on the priority list. Such a project will not be placed on the Bureau's commitment-to-list basis which is prepared under § 277.13.
(2) Discussion and consultation with State and local education agencies to de-
termine the exact nature of the project to be constructed, including existing structures renovation or replacement.
(3) Presentation of program develop-
ment for review and approval by the State and/or local education representa-
tives and a current and updated project cost estimate.
(c) The Commissioner of Indian Af-
airs participates in the application proc-
ess by furnishing technical assistance to the Commissioner of Education. The Commissioner of Indian Affairs consults with Indians and assists with the preparation of the program, cost estimates, etc. as part of the data needed in order for the Commissioner of Education to prepare the priority listing of eligible applicants.
(d) The projects will be ranked by priority based on criteria established by
§ 277.14 Submitting priority list to the Commissioner of Indian Affairs

(a) When the Commissioner of Indian Affairs receives the priority list from the Commissioner of Education, the Commissioner of Indian Affairs shall place the project highest on the priority list if the project is part of the school facilities under the Commissioner of Indian Affairs. Projects will be added to the commitment-to-fund list in the same order as they are on the priority list. Each project on the commitment-to-fund list as a whole, including the total of the tentative cost estimates is less than the amount of funds appropriated for public school construction under this Part for the new fiscal year. However, a project shall not be placed on the commitment-to-fund list if the Commissioner of Indian Affairs or his representative determines that the quality and standard of instruction for Indian students enrolled in the schools are not at least equal to that provided to all other students from other resources, other than resources provided under this Part, which are available to the local school district.

(b) The Commissioner of Indian Affairs shall notify in writing when the project has been placed on the commitment-to-fund list.

§ 277.15 Negotiating a contract.

When a project has been placed on the commitment-to-fund list, a contract will be negotiated by a Bureau contracting officer with the applicant. The project drawings and specifications will be provided in accordance with the requirements of Part 14 of Title II, Part B, Section 204 of Pub. L. 93-413 on those projects which meet the eligibility requirements under paragraphs (a) and (b) of section 14 of Pub. L. 93-413.

(c) Projects which are partially funded shall be given first consideration for the additional funds necessary to complete the projects.

(d) Any contract under this Part shall be made available by any Federal agency directly to other than public agencies. However, school districts and other public agencies assisted by this Part may use funds provided under this Part to contract for necessary services with any appropriate individual, organization, or corporation.

§ 277.16 Funding provisions.

(a) The Commissioner of Indian Affairs shall not, except as noted, fund the cost of appropriated funds authorized by Title II, Part B, Section 204 of Pub. L. 93-413 on those projects which meet the eligibility requirements under paragraphs (a) and (b) of section 14 of Pub. L. 93-413.

(b) Funds approved for public school construction under this Part may not exceed the Federal share of the total cost of the proposed school facilities, as such facilities are defined within the meaning of Pub. L. 93-413, to build both Indian and non-Indian children with the invention of children to be as prescribed by Pub. L. 93-413.

(c) When non-Federal funds are included, a local school district shall have 120 days from receipt of the notice that the project has been placed on the commitment-to-fund list to assemble the funds from the local and Federal sources before the contract negotiations are completed. An extension may be granted by the Commissioner of Indian Affairs for unusual circumstances.

Subpart C—General Contract Requirements

§ 277.21 Costs included in contracts.

A contract with a school district under this Part may include costs for architectural services, facility construction, and equipment in accordance with the approved project description.

§ 277.22 Architectural design.

(a) Drawings and specifications for a project shall comply with such Federal, State, and local laws, codes, ordinances and regulations pertaining to standards of construction and safety requirements, as may be applicable.

§ 277.23 Facility construction.

The contractor usually bids, awards, and administers the construction contract.
RULES AND REGULATIONS

777.27 Wage and labor standards.

All laborers and mechanics employed by contractors or subcontractors in constructing, altering, or repairing buildings or other facilities in connection with contracts under this Part shall be paid wages not less than those on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act of March 3, 1931 (46 Stat. 1449), as amended.

777.28 Indian preference.

(a) Any contract made by the Bureau with a State or school district shall provide that the contractor shall, to the greatest extent practicable, give preference in employment and training to Indians.

(b) Any contract made by the Bureau with a State or school district shall provide that the contractor shall, to the greatest extent practicable, give preference in the award of subcontractors to Indian organizations or Indian economic enterprises.

(c) Any employee employed by the contractor shall, to the greatest extent practicable, be employed or trained and be retained for the maximum time for the duration of the contract.

(d) In the performance of contracts under this Part, the Bureau shall give preference to States or school districts that give preference to Indians.

777.29 Liability and motor vehicle insurance.

(a) States and school districts shall obtain public liability and motor vehicle insurance covering each contract entered into with the Bureau under this Part. However, where the Bureau contracting officer determines that the risk of death, personal injury or property damage under the contract is small and that the time and cost of purchasing this insurance is great in relation to the risks, the contractor may be exempted from this requirement.

(b) Any notwithstanding paragraph (a) of this section, any contract which requires or authorizes any exempted coverage by implication, the use of motor vehicles must contain a provision requiring the State or school district to provide liability insurance, regardless of how small the risk may be.

(c) If the State or public school authority is self-insured and can present evidence of that fact to the Commissioner of Indian Affairs, insurance for lost or damaged property will not be required.

(d) If the State or school authority is self-insured and can present evidence of that fact to the Commissioner of Indian Affairs, liability and motor vehicle insurance will not be required.

777.30 Recordkeeping.

A contractor will be required to design and maintain a recordkeeping system which will:

(a) Fully reflect all financial transactions involving the receipt and expenditure of fund provided under the contract in a manner which will provide assurance current and complete disclosure of financial status, correlation with budget or allowable cost schedules; and clear audit facilitating data.

(b) Reflect the amounts and sources of funds other than Bureau contract funds which may be included in the construction project.

(c) Provide for the creation, maintenance and safeguarding of records of lasting value.

777.31 Audit and inspection.

(a) During the term of a contract under this Part and for three years after the project or undertaking is completed, the Comptroller General and the Secretary, or any of their duly authorized representatives, shall have access, for audit and examination purposes, to any of the contractor's books, documents, and records which, in their opinion, may be related or pertinent to the contract or any subcontract.

(b) The contractor will be responsible for maintaining proper records of ownership and disposition of property connected with the contract or any subcontract.

(c) Any document obtained or financial reports relating to financial transactions in connection with the contract will facilitate audit.

(d) The contractor will be responsible for maintaining proper records of ownership and disposition of property connected with the contract or any subcontract.

(e) The contractor receiving funds under this Part shall be primarily responsible for the accuracy of the financial reports.

(f) The records involved in any claim for expenditure that has been questioned shall be further maintained until final determination has been made on the questioned expenditure.

777.32 Freedom of information.

(a) Unless otherwise required by law, the Board shall not place restrictions on requesting which exempt public access to the contractor's records except reports or documents exempted from disclosure as privileged or confidential basis.

(b) In furthering a contract under this Part shall be required to make reports and information concerning the contract available to the

777.33 Reporting.

(a) A contractor under this Part shall make a detailed report to the Commissioner of Indian Affairs after construction is completed. The report shall include, but not be limited to, an accounting of the amounts and purposes for which the funds were expended.

(b) The contractor shall furnish other contractors-related reports when and as required by the Commissioner of Indian Affairs.

(c) A contractor under this Part shall send copies of the reports required by paragraphs (a) and (b) of this section to the tribe(s) affected by the construction at the same time the reports are sent to the Bureau.

777.54 Repayment of funds.

Any funds paid under a contract entered into under this Part which are not expended, obligated or used for the purposes of the contract during its term shall be returned to the Bureau.

777.35 Penalties.

If any officer, director, agent, or employee of, or connected with, any contractor or subcontractor under this Part embezzles, willfully misapplies, steals from, or obtains by fraud any of the funds or property connected with the contract or any subcontract, he shall be subject to the following penalties:

(a) If the amount involved does not exceed $100, he shall be fined not more...
than $1,000 or imprisoned not more than one year, or both.

(b) If the amount involved exceeds $10,000, he shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

§ 277.36 Applicable procurement regulations

States or local districts wanting to contract with the Bureau under this Part must comply with the applicable requirements in the Federal Procurement Regulations (41 CFR 1.17), as supplemented by the Interior Procurement Regulations (41 CFR 140) and the Bureau of Indian Affairs Procurement Regulations (41 CFR 148), except 44 CFR Part 145-70.

§ 277.37 Privacy Act requirements.

(a) When a contractor operates a system of records to accomplish a Bureau function, the contractor shall comply with Subpart D of 43 CFR Part 3 which implements the Privacy Act (5 U.S.C. 552a). The contractor's responsibilities are:

(1) To continue maintaining those systems of records declared by the Bureau to be subject to the Privacy Act as published in the Federal Register;

(2) To make such records available to individuals involved;

(3) To disclose an individual's record to third parties only after receiving permission from the individual to whom the record pertains. 43 CFR 3.56 lists exceptions to this procedure;

(4) To establish a procedure to account for access, disclosures, denials, and amendments to such records;

(5) To provide safeguards for the protection of the records.

(b) The contractor may not:

(1) Disclose or alter any established systems of records without prior approval of the appropriate Bureau systems manager;

(2) Deny request for notification or access of records without prior approval of the appropriate Bureau systems manager.

Subpart D—Contract Revision or Cancellation

§ 277.41 Contract revision or amendment.

Any contract made under this Part may be revised or amended as necessary to carry out the purposes of the contract. In revising or amending a contract, a contractor may make a written request for a revision or amendment of a contract to the contracting officer.

§ 277.42 Canceling a contract for cause.

(a) Any contract made under this Part may be canceled for cause when the contractor fails to perform the work called for under the contract.

(b) When canceling the contract, the Bureau will advise the contractor in writing of the reasons for the cancellation.

(c) The contractor will be given an opportunity to bring its work up to an acceptable level.

(d) If the contractor does not overcome the deficiencies in its contract performance, the Bureau shall cancel the contract for cause. The Bureau will notify the contractor, in writing, of the cancellation. The notice shall give the reason for the cancellation and the right of the contractor to appeal under Subpart C of 43 CFR Part 4.

Subpart E—Appeals

§ 277.51 Contract appeal.

A contractor may appeal an adverse decision or action of a Bureau contracting officer regarding a contract under this Part as provided in Subpart C of 43 CFR Part 4.

§ 277.53 Appeal from decision to cancel contract for cause.

A contractor may appeal the decision of a Bureau official to cancel a contract under this Part for cause. The appeal shall be made as provided in Subpart C of 43 CFR Part 4.

§ 277.53 Other appeals.

Any decision or action taken by a Bureau official under this Part, other than those given in §§ 277.51 and 277.52, may be appealed only as provided in Part 2 of this chapter.

Title 41—Public Contracts and Property Management

CHAPTER 149—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

§ 149.4-70—CONTRACTING WITH INDIAN ORGANIZATIONS PURSUANT TO THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT (25 U.S.C. 1501-1530)

October 24, 1975.

Beginning on page 18295 of the September 6, 1975, Federal Register (40 FR 18295), there was published a notice of proposed rulemaking to amend Chapter 46 of Title 41 of the Code of Federal Regulations by adding a new Part 149-70. This amendment was proposed pursuant to the authority contained in the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638; 88 Stat. 2203).

The purpose of the amendment is to consolidate in one Part all of the contracting requirements which Indian tribal and Alaska Native organizations must follow in contracting with the Bureau of Indian Affairs under the Indian Self-Determination and Education Assistance Act. In preparing the regulations in new Part 149-70, waivers were made of some of the standard Federal Procurement Regulations as authorized by section 1114(a) of the Act. Certain requirements were waived in an effort to simplify contracting procedures for Indian tribal and Alaska Native organizations. Additional waivers may be made on a case-by-case basis as the Commissioner considers such waivers appropriate.

The Bureau of Indian Affairs has sought to be responsive to the recommendations of Indian and Alaska Native governing bodies who are, or have contemplated, operating Bureau programs under contract. For some time, these groups have been critical of the complexities inherent in implementing contracts under the standard Federal Procurement Regulations. In many instances, an unfavorable psychological climate was created that inhibited local desires for more meaningful Sovereignities based on their own needs and goals.

Through experience, the Bureau of Indian Affairs and its constituents have found the standard procurement regulations to contain unnecessary requirements that have little if any applicability to contracts. For this reason, the Bureau has evolved what, in essence, is a set of "Indian" Procurement Regulations for dealing with tribal and Alaska Native groups as the new Part 149-70.

These regulations reflect the Bureau's attempt to follow the recommendations of Indian and Alaska Native people to place in one part all pertinent contracting regulations or references to such regulations affecting contracts with tribal organizations; to reduce referencing regulations contained in other CFR Parts; if possible, to make the regulations as comprehensive and clear as possible; to assure that both parties to the contract know their rights, rules and responsibilities; and to remove any unnecessary or insipid requirements found in the standard procurement rules which would not apply to self-determination contracts with tribal organizations.

The contractual approach is one of several voluntary options available to Indian and Alaska Native governing bodies to assist them in the self-development process. Depending on their local needs and goals, they may want to use the contract mechanism in their self-development process. If so, Part 149-70 seeks to simplify the contracting procedures for them.

The public was given until October 4, 1975, to submit written comments, suggestions, or objections regarding the proposed amendment. All comments received with respect to the proposed amendment were given due consideration.

A. Changes made due to comments received. As a result of comments received, the following changes in the regulations are made in addition to language changes for clarification:

1. A new § 149-70.132 is added to describe what is considered an Indian reservation and the former § 149-70.144 and 149-70.154 are redesignated as §§ 149-70.144 and 149-70.154, respectively.

2. Section 149-70.603 is revised to make it clear that an Indian tribe has the right to determine the tribal organization that will provide services to it under a contract and that, in such a case, the tribe's determination constitutes the Bureau's justification for
FOR IMMEDIATE RELEASE  
JANUARY 4, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I have signed into law S. 1017, the Indian Self-Determination and Education Assistance Act. My Administration is committed to furthering the self-determination of Indian communities without terminating the special relationships between the Federal Government and the Indian people.

The Congress is to be congratulated for its passage of this legislation. It will enhance our efforts to implement this policy of Indian self-determination.

Title I of this act gives the permanence and stature of law to the objective of my Administration of allowing -- indeed encouraging -- Indian tribes to operate programs serving them under contract to the Federal Government. Furthermore, with the passage of this act, Indian communities and their leaders now share with the Federal Government the responsibility for the full realization of this objective. It will be through the initiatives of Indian communities that the authorities provided in this Act will be implemented. I urge these communities to make the fullest possible use of them and pledge the support of this Administration.

In addition to making this kind of contracting a right, the act does much to make it feasible and practical.

For example, it authorizes the Bureau of Indian Affairs to make grants to tribal organizations to help them develop the abilities of potential workers -- through training and other means -- to operate these programs. At the request of the tribe, it also allows Federal employees who work in programs transferred to tribal operation to continue working without losing Federal fringe benefits, thus making it possible for the tribe to begin operation with a nucleus of experienced employees.

The granting authority provided in this act can also be used to strengthen tribal governments and tribally funded programs.

Title II, the Indian Education Assistance Act, amends the Johnson O'Malley Act to give the Indian community a stronger role in approving or disapproving the use of funds for children in public schools. It also provides for better planning in the use of these funds to meet the educational needs of the Indian students.

The enactment of this legislation marks a milestone for Indian people. It will enable this Administration to work more closely and effectively with the tribes for the betterment of all the Indian people by assisting them in meeting goals they themselves have set.