

### § 273.3

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

(s) "Superintendent" means the official in charge of a Bureau of Indian Affairs Agency Office.

(t) "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 parents, from cultural or language differences or other factors, and as provided by §273.34(b).

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

(v) "Tribal organization," means the recognized governing body of any Indian tribe or any legally established organization of Indians or tribes which is controlled, sanctioned, or chartered by such governing body or bodies, or which is democratically 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; *Provided*, That a request for a contract must be made by the Indian tribe that will receive services under the contract; *Provided further*, That in any case where a contract is let to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting of such contract.

(w) "Assistant Secretary—Indian Affairs" means the Assistant Secretary—Indian Affairs who discharges the responsibility of the Secretary for activities pertaining to Indians and Indian Affairs.

[40 FR 51303, Nov. 4, 1975, as amended at 41 FR 5098, Feb. 4, 1976; 43 FR 37445, Aug. 23, 1978; 45 FR 13451, Feb. 29, 1980]

### § 273.3 Revision or amendment of regulations.

In order to make any substantive revision or amendments to regulations in 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

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and consider their views in preparing the proposed revision or amendment.

(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 less than 30 days before the date 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 amendment.

(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), and (c) 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 requisite for success. Such participation not only enhances program responsiveness to the needs of those served, but also provides them with the opportunity to determine and affect the desired level of educational achievement and satisfaction which education can and should provide. Consistent with this concept, maximum Indian participation in the development, approval and implementation of all programs contracted under this part shall be required.

## 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, previously private schools as defined in §273.2(n) are considered tribal organizations.

(b) States, school districts, or Indian corporations shall apply for contracts

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for supplemental or operational support programs as required in this part.

(c) Tribal organizations must comply with the following requirements to obtain contracts for supplemental programs or operational support:

(1) The application submitted by the tribal organization shall meet the requirements in §273.20 in addition to those in §271.14 of this chapter.

(2) The requirements in §§271.1 through 271.27, 271.41 through 271.52, 271.54, 271.61 through 271.66, and 271.81 through 271.84 shall apply to such contracts with tribal organizations.

(3) The provisions in §§271.71 through 271.77 of this chapter concerning retrocession and reassumption of programs do not apply to a tribal organization retroceding a contract for supplemental programs or operational support as the Bureau does not operate education programs authorized to be contracted under the Johnson-O'Malley Act. However, the tribal organization may retrocede such a contract and the Bureau will then contract with a State, school district, or Indian corporation under this part for the supplemental programs or operational support.

(4) The requirements in §§273.12 through 273.18, 273.20, 273.21, 273.31 through 273.38, 273.41, 273.51 and 273.52 shall apply to such contracts with tribal organizations.

(5) The requirements in 41 CFR part 14H-70 shall apply to such contracts with tribal organizations.

[40 FR 51303, Nov. 4, 1975, as amended at 41 FR 5098, Feb. 4, 1976]

### § 273.12 Eligible students.

Indian students, from age 3 years through grade(s) 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  $\frac{1}{4}$  or more degree Indian blood and recognized by the Secretary as being eligible for Bureau services. Priority shall be given to contracts (a) which would serve Indian students on or near reservations and (b) where a majority of such Indian students will be members of the tribe(s) of such reservations (as defined in §273.2(o)).

### § 273.13 Proposals eligible for contracts.

(a) Any proposal to contract for funding a program which meets the definition of a supplemental program given in §273.2(t) will be considered an eligible proposal under this part.

(b)(1) To contract for operational support, a public school district shall be required to establish as part of the proposal that:

(i) It cannot meet the applicable minimum State standards or requirements without such funds.

(ii) It has made a reasonable tax effort with a mill levy at least equal to the State average in support of educational programs.

(iii) It has fully utilized all other sources of financial aid, including all forms of State aid and Pub. L. 874 payments. The State aid contribution per pupil must be at least equal to the State average.

(iv) There is at least 70 percent eligible Indian enrollment within the school district.

(v) It shall clearly identify the educational needs of the students intended to benefit from the contract.

(vi) It has made a good faith effort in computing State and local contributions without regard to contract funds pursuant to this part.

(vii) It shall not budget or project a deficit by using contract funds pursuant to this part.

(2) The requirements given in paragraph (b)(1) of this section do not apply to previously private schools.

(c) At his discretion, the Commissioner may consider as eligible a proposal to contract under which a school district will be reimbursed for the full per capita costs of educating Indian students who meet all of the following:

(1) Are members of recognized Indian tribes.

(2) Do not normally reside in the State in which the school district is located.

(3) Are residing in Federal boarding facilities for the purpose of attending public schools within the school district.