

## Bureau of Indian Affairs, Interior

## § 273.2

shall be subject to the provisions of part 900 of this chapter and 41 CFR part 14H-70, except as provided in § 273.11.

(d) Nothing in these regulations shall be construed as:

(1) Affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian tribe;

(2) Authorizing or requiring the termination of any existing trust responsibility 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.

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

[40 FR 51303, Nov. 4, 1975, as amended at 64 FR 13896, Mar. 23, 1999]

### § 273.2 Definitions.

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, under the direction and supervision of the Assistant Secretary—Indian Affairs, who is responsible for the direction of day-to-day operations of the Bureau 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 and fiscal services of and accountability by a contractor for the education of eligible Indian students under this part.

(g) "Indian tribe" means any Indian tribe, band, nation, rancheria, 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 (85 Stat. 688) which is federally recognized as eligible by the U.S. Government through

the Secretary for the special programs and services provided by the Secretary to Indians because of their status as Indians.

(h) "Indian corporation" means a legally established organization of Indians chartered under State or Federal law and which is not included within the definition of "tribal organization" given in paragraph (v) of this section.

(i) "Indian Education Committee" means one of the entities specified by § 273.15.

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

(k) "Johnson-O'Malley Act" means the Act of April 16, 1934 (48 Stat. 596), as amended by the Act of June 4, 1936 (49 Stat. 1458, 25 U.S.C. 452-456), and further amended by the Act of January 4, 1975 (88 Stat. 2203).

(l) "Operational support" means those expenditures for school operational costs in order to meet established State educational standards or State-wide requirements.

(m) "Pub. L. 93-638" means the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638; 88 Stat. 2203).

(n) "Previously private school" means a school (other than a Federal school formerly operated by the Bureau) that is operated primarily for Indian students from age 3 years through grades 12; and, which at the time of application is controlled, sanctioned, or chartered by the government body(s) of an Indian tribe(s).

(o) "Reservation" or "Indian reservation" means any Indian tribe's reservation, pueblo, colony, or rancheria, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments.

(p) "School district" or "local education agency" means that subdivision 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 assembly.

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

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(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