

§ 900.45

25 CFR Ch. V (4-1-10 Edition)

statute that applies to the self-determination contract.

§ 900.45 What specific minimum requirements shall an Indian tribe or tribal organization's financial management system contain to meet these standards?

An Indian tribe or tribal organization's financial management system shall include provisions for the following seven elements.

(a) *Financial reports.* The financial management system shall provide for accurate, current, and complete disclosure of the financial results of self-determination contract activities. This includes providing the Secretary a completed Financial Status Report, SF 269A, as negotiated and agreed to in the self-determination contract.

(b) *Accounting records.* The financial management system shall maintain records sufficiently detailed to identify the source and application of self-determination contract funds received by the Indian tribe or tribal organization. The system shall contain sufficient information to identify contract awards, obligations and unobligated balances, assets, liabilities, outlays, or expenditures and income.

(c) *Internal controls.* The financial management system shall maintain effective control and accountability for all self-determination contract funds received and for all Federal real property, personal property, and other assets furnished for use by the Indian tribe or tribal organization under the self-determination contract.

(d) *Budget controls.* The financial management system shall permit the comparison of actual expenditures or outlays with the amounts budgeted by the Indian tribe or tribal organization for each self-determination contract.

(e) *Allowable costs.* The financial management system shall be sufficient to determine the reasonableness, allowability, and allocability of self-determination contract costs based upon the terms of the self-determination contract and the Indian tribe or tribal organization's applicable OMB cost principles, as amended by the Act and these regulations. (The following chart lists certain OMB Circulars and suggests the entities that may use each, but the final selection of the applicable

circular may differ from those shown, as agreed to by the Indian tribe or tribal organization and the Secretary. Agreements between an Indian tribe or tribal organization and the Secretary currently in place do not require renegotiation.) Copies of these circulars are available from the Executive Office of the President, Publications Service, 725 17th Street N. W., Washington, D. C. 20503.

Type of tribal organization	Applicable OMB cost circular
Tribal Government	A-87, "Cost Principles for State, Local and Indian Tribal Governments."
Tribal private non-profit other than: (1) an institution of higher education, (2) a hospital, or (3) an organization named in OMB Circular A-122 as not subject to that circular.	A-122, "Cost Principles for Non-Profit Organizations."
Tribal educational institution ..	A-21, "Cost Principles for Educational Institutions."

(f) *Source documentation.* The financial management system shall contain accounting records that are supported by source documentation, e.g., canceled checks, paid bills, payroll records, time and attendance records, contract award documents, purchase orders, and other primary records that support self-determination contract fund expenditures.

(g) *Cash management.* The financial management system shall provide for accurate, current, and complete disclosure of cash revenues disbursements, cash-on-hand balances, and obligations by source and application for each Indian tribe or tribal organization, and subcontractor if applicable, so that complete and accurate cash transactions may be prepared as required by the self-determination contract.

§ 900.46 What requirements are imposed upon the Secretary for financial management by these standards?

The Secretary shall establish procedures, consistent with Treasury regulations as modified by the Act, for the transfer of funds from the United States to the Indian tribe or tribal organization in strict compliance with the self-determination contract and the annual funding agreement.

PROCUREMENT MANAGEMENT SYSTEM
STANDARDS

§ 900.47 When procuring property or services with self-determination contract funds, can an Indian tribe or tribal organization follow the same procurement policies and procedures applicable to other Indian tribe or tribal organization funds?

Indian tribes and tribal organizations shall have standards that conform to the standards in this subpart. If the Indian tribe or tribal organization relies upon standards different than those described below, it shall identify the standards it will use as a proposed waiver in the initial contract proposal or as a waiver request to an existing contract.

§ 900.48 If the Indian tribe or tribal organization does not propose different standards, what basic standards shall the Indian tribe or tribal organization follow?

(a) The Indian tribe or tribal organization shall ensure that its vendors and/or subcontractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(b) The Indian tribe or tribal organization shall maintain written standards of conduct governing the performance of its employees who award and administer contracts.

(1) No employee, officer, elected official, or agent of the Indian tribe or tribal organization shall participate in the selection, award, or administration of a procurement supported by Federal funds if a conflict of interest, real or apparent, would be involved.

(2) An employee, officer, elected official, or agent of an Indian tribe or tribal organization, or of a subcontractor of the Indian tribe or tribal organization, is not allowed to solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements, with the following exemptions. The Indian tribe or tribal organization may exempt a financial interest that is not substantial or a gift that is an unsolicited item of nominal value.

(3) These standards shall also provide for penalties, sanctions, or other dis-

ciplinary actions for violations of the standards.

(c) The Indian tribe or tribal organization shall review proposed procurements to avoid buying unnecessary or duplicative items and ensure the reasonableness of the price. The Indian tribe or tribal organization should consider consolidating or breaking out procurement to obtain more economical purchases. Where appropriate, the Indian tribe or tribal organization shall compare leasing and purchasing alternatives to determine which is more economical.

(d) The Indian tribe or tribal organization shall conduct all major procurement transactions by providing full and open competition, to the extent necessary to assure efficient expenditure of contract funds and to the extent feasible in the local area.

(1) Indian tribes or tribal organizations shall develop their own definition for "major procurement transactions."

(2) As provided in sections 7 (b) and (c) of the Act, Indian preference and tribal preferences shall be applied in any procurement award.

(e) The Indian tribe or tribal organization shall make procurement awards only to responsible entities who have the ability to perform successfully under the terms and conditions of the proposed procurement. In making this judgment, the Indian tribe or tribal organization will consider such matters as the contractor's integrity, its compliance with public policy, its record of past performance, and its financial and technical resources.

(f) The Indian tribe or tribal organization shall maintain records on the significant history of all major procurement transactions. These records may include, but are not limited to, the rationale for the method of procurement, the selection of contract type, the contract selection or rejection, and the basis for the contract price.

(g) The Indian tribe or tribal organization is solely responsible, using good administrative practice and sound business judgment, for processing and settling all contractual and administrative issues arising out of a procurement. These issues include, but are not